

SENATE BILL NO. 41

Introduced: 1/3/83

Referred to Committee on Agriculture, Livestock, & Irrigation:
1/3/83

Rereferred to Committee on Judiciary: 01/04/83

Hearing: 1/12/83

Report: 02/04/83, Do Pass, As Amended

2nd Reading: 02/08/83

3rd Reading: 02/10/83

Transmitted to House: 2/10/83

Referred to Committee on Agriculture, Livestock, & Irrigation:
02/11/83

Rereferred to Committee on Judiciary: 03/02/83

Hearing: 3/15/83

Report: 03/15/83, Be Concurred In

Referred to Committee on Natural Resources: 03/17/83

Died in House Committee.

SENATE BILL NO. 41

INTRODUCED BY HAGER

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE ORDERLY PROCESSING OF TRANSFER OF WATER RIGHTS CLAIMS AND TO REVISE THE LAW RELATING TO THE ISSUANCE OF CERTIFICATES OF WATER RIGHTS IN THE GENERAL ADJUDICATION OF WATER RIGHTS; AMENDING SECTIONS 85-2-221 AND 85-2-236, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-221, MCA, is amended to read:

"85-2-221. Filing of claim of existing water right.

(1) A person claiming an existing right, unless exempted under 85-2-222 or unless an earlier filing date is ordered as provided in 85-2-212, shall file with the department no later than June 30, 1983, a statement of claim for each water right asserted on a form provided by the department.

(2) The department shall file a copy of each statement of claim with the clerk of the district court for the judicial district in which the diversion is made or, if there is a claimed right with no diversion, the department shall file a copy of the statement of claim with the clerk of the district court of the judicial district in which the use occurs.

(3) A person who, after filing a claim of existing

~~water right in accordance with subsection (1), transfers any portion of that claimed right shall file with the water court a notice of transfer. The filing shall be made in the manner and at the place directed by the water court."~~

Section 2. Section 85-2-236, MCA, is amended to read:

"85-2-236. Certificate of water right. When a final decree is entered, the water judge shall send a copy to the department. The department shall on the basis of the final decree issue a certificate of water right to each person decreed an existing right. ~~The water court shall prescribe the content and form of the certificate.~~ The original of the certificate shall be sent to the ~~person to whom the right is decreed.~~ The department shall send a court-approved copy of the final decree to the county clerk and recorder of the county where the point of diversion or place of use is located for recordation. The department shall keep a copy of the certificate in its office in Helena. ~~After recordation, the clerk and recorder shall send the certificate to the person to whom the right is decreed."~~

-End-

INTRODUCED BILL

STATE OF MONTANA

REQUEST NO. 012-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 41 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 41 provides for orderly processing of the transfer of water-right claims and amends water-right recordation and issuance of certificates (amends Section 85-2-221 and 85-2-236 MCA).

ASSUMPTION:

- 1) No decreases will be recorded during this biennium.

FISCAL IMPACT:

None.

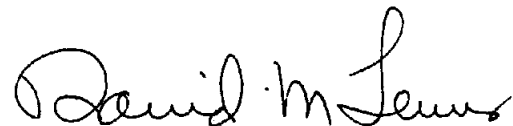
LONG-RANGE IMPACT:

Additional costs to the Department of Natural Resources for recordation over the length of the program is projected at \$19,555.

TECHNICAL NOTES:

- 1) Does the court intend all decrees be recorded or are they just to be provided?
- 2) The transfer portion of this bill, 85-2-221, 1(3), is at least in part a duplication of 85-2-403. Perhaps the latter does not provide the court with all the information required, but the legislation is unclear.

FISCAL NOTE2:Q/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83

Rereferred and

Approved by Committee
on State Administration

SENATE BILL NO. 41

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judicial district in which the diversion is made or, if there is no claimed right with no diversion, the department shall file a copy of the statement of claim with the clerk of the district court of the judicial district in which the use occurs.

(3) A person who, after filing a claim of existing water right in accordance with subsection (1), transfers any portion of that claimed right shall file with the water court a notice of transfer. The filing shall be made in the manner and at the place directed by the water courts."

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1 TO WHOM THE CERTIFICATE IS ISSUED, THE AMOUNT OF WATER TO BE
 2 APPROPRIATED, THE PURPOSE OF THE APPROPRIATION, AND SUCH
 3 OTHER FACTS OR MATTERS AS THE DEPARTMENT FEELS ARE
 4 APPROPRIATE. THE DEPARTMENT SHALL SEND A COPY OF EACH FINAL
 5 DECREE AND COPIES OF THE REPORTS TO THE CLERK AND RECORDER
 6 OF EACH COUNTY IN THE STATE. THE CLERK SHALL DEPOSIT THE
 7 DECREE AND REPORTS IN A STORAGE VAULT AND MAKE THEM
 8 AVAILABLE FOR PUBLIC INSPECTION DURING THE REGULAR OFFICE
 9 HOURS. THE county clerk and recorder of the county where the
 10 point of diversion or place of use is located for
 11 recordation. The department shall keep a copy of the
 12 certificate in its office in Helena. ~~After recordation, the~~
 13 ~~clerk and recorder shall send the certificate to the person~~
 14 ~~to whom the right is decreed."~~

-End-

Approved by Committee
on Judiciary

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