

SENATE BILL NO. 92

INTRODUCED BY STIMATZ, ECK, ABRAMS, MARKS, BRADLEY, GALT,
SPAETH, IVERSON, YELLOWTAIL, GAGE, HIRSCH, JERGESON, LYBECK,
BENGTSON, REGAN, LYNCH, B. WILLIAMS, MANNING, WEEDING,
JACOBSON, VAN VALKENBURG, HALLIGAN, VAUGHN, WALKER, MAZUREK,
KOLSTAD, HARDING, HOFMAN, ANDERSON, THAYER, PHILLIPS,
HANSON, NATHE, RUSSELL, KENNERLY, BACHINI, ASAY

BY REQUEST OF THE WATER POLICY COMMITTEE

IN THE SENATE

JANUARY 13, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON NATURAL RESOURCES.

JANUARY 24, 1987 ON MOTION BY CHIEF SPONSOR, SENATORS
YELLOWTAIL, GAGE, HIRSCH, JERGESON,
LYBECK, BENGTSON, REGAN, LYNCH,
WILLIAMS, MANNING, WEEDING, VAUGHN,
JACOBSON, VAN VALKENBURG, HALLIGAN,
WALKER, MAZUREK, KOLSTAD, HARDING,
HOFMAN, ANDERSON, AND THAYER, AND
REPRESENTATIVES PHILLIPS, HANSON,
NATHE, RUSSELL, KENNERLY, BACHINI,
AND ASAY ADDED AS SPONSORS.

JANUARY 31, 1987 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 2, 1987 PRINTING REPORT.

FEBRUARY 4, 1987 SECOND READING, DO PASS.

FEBRUARY 5, 1987 ENGROSSING REPORT.

FEBRUARY 6, 1987 THIRD READING, PASSED.
AYES, 47; NOES, 1.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

MARCH 19, 1987

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 27, 1987

SECOND READING, CONCURRED IN.

MARCH 28, 1987

THIRD READING, CONCURRED IN.
AYES, 88; NOES, 4.

RETURNED TO SENATE.

IN THE SENATE

MARCH 30, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1
 2 *Smith* BILL NO. *92*
 3 INTRODUCED BY *Smith, Adams, Williams, Mackay, Bradley*
 4 BY REQUEST OF THE WATER POLICY COMMITTEE *Smith*

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE AUTHORITY
 6 OF THE RESERVED WATER RIGHTS COMPACT COMMISSION TO CONTINUE
 7 NEGOTIATIONS WITH THE INDIAN TRIBES UNTIL JULY 1, 1993;
 8 AMENDING SECTIONS 85-2-217 AND 85-2-702, MCA; AND PROVIDING
 9 AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 85-2-217, MCA, is amended to read:
 13 "85-2-217. Suspension of adjudication. While
 14 negotiations for the conclusion of a compact under part 7
 15 are being pursued, all proceedings to generally adjudicate
 16 reserved Indian water rights and federal reserved water
 17 rights of those tribes and federal agencies which are
 18 negotiating are suspended. The obligation to file water
 19 rights claims for those reserved rights is also suspended.
 20 This suspension shall be effective until July 1, ~~1987~~ 1993,
 21 as long as negotiations are continuing or ratification of a
 22 completed compact is being sought. If approval by the state
 23 legislature and tribes or federal agencies has not been
 24 accomplished by July 1, ~~1987~~ 1993, the suspension shall
 25 terminate on that date. Upon termination of the suspension

1 of this part, the tribes and the federal agencies shall be
 2 subject to the special filing requirements of 85-2-702(3)
 3 and all other requirements of the state water adjudication
 4 system provided for in Title 85, chapter 2. Those tribes and
 5 federal agencies that choose not to negotiate their reserved
 6 water rights shall be subject to the full operation of the
 7 state adjudication system and may not benefit from the
 8 suspension provisions of this section."

9 Section 2. Section 85-2-702, MCA, is amended to read:
 10 "85-2-702. Negotiation with Indian tribes. (1) The
 11 reserved water rights compact commission, created by
 12 2-15-212, may negotiate with the Indian tribes or their
 13 authorized representatives jointly or severally to conclude
 14 compacts authorized under 85-2-701. Compact proceedings
 15 shall be commenced by the commission. The commission shall
 16 serve by certified mail directed to the governing body of
 17 each tribe a written request for the initiation of
 18 negotiations under this part and a request for the
 19 designation of an authorized representative of the tribe to
 20 conduct compact negotiations. Upon receipt of such written
 21 designation from the governing body of a tribe, compact
 22 negotiations shall be considered to have commenced.
 23 (2) When the compact commission and the Indian tribes
 24 or their authorized representatives have agreed to a
 25 compact, they shall sign a copy and file an original copy



-2- INTRODUCED BILL
 SB 92

1 with the department of state of the United States of America
2 and copies with the secretary of state of Montana and with
3 the governing body for the tribe involved. The compact is
4 effective and binding upon all parties upon ratification by
5 the legislature of Montana and any affected tribal governing
6 body, and approval by the appropriate federal authority.

7 (3) Upon its ratification by the Montana legislature
8 and the tribe, the terms of a compact must be included in
9 the preliminary decree as provided by 85-2-231, and unless
10 an objection to the compact is sustained under 85-2-233, the
11 terms of the compact must be included in the final decree
12 without alteration. However, if approval of the state
13 legislature and tribe has not been accomplished by July 1,
14 ~~1987~~ 1993, all Indian claims for reserved water rights that
15 have not been resolved by a compact must be filed with the
16 department within 6 months. These new filings shall be used
17 in the formulation of the preliminary decree and shall be
18 given treatment similar to that given to all other filings."

19 NEW SECTION. Section 3. Effective date. This act is
20 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB092, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

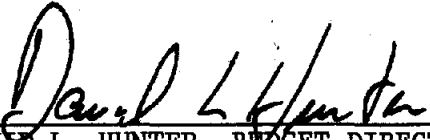
This bill would extend the authority of the Reserved Water Rights Compact Commission to continue negotiations with the Indian tribes until July 1, 1993.


ASSUMPTIONS:

1. A meeting of the full commission will be held approximately every other month. Meetings are usually held in Helena, and six of the nine members travel an average of 350 miles to attend.
2. One negotiating session or negotiating team meeting will be held monthly. Approximately one-half of the meetings are in Helena, one half at other locations in Montana, and one out-of-state meeting a year.
3. Technical and legal staff will be required at existing levels.
4. Contracted services will be required for special counsel, economic analysis, computer analysis and transcripts to support negotiations.
5. Personnel costs reflect the FY87 reorganization of the commission which promotes reliance on staff rather than contract services.

FISCAL IMPACT:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	\$ 0	\$170,961	\$170,961	\$ 0	\$170,698	\$170,698
Operating Expense	0	58,806	58,806	0	58,781	58,781
TOTAL	\$ 0	\$229,767	\$229,767	\$ 0	\$229,479	\$229,479
<u>Funding:</u>						
General Fund	\$ 0	\$114,884	\$114,884	\$ 0	\$114,740	\$114,740
State Special Revenue	0	114,883	114,883	0	114,739	114,739
TOTAL	\$ 0	\$229,767	\$229,767	\$ 0	\$229,479	\$229,479

 DATE 1/20/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 1-21-87
 LAWRENCE G. STIMATZ, PRIMARY SPONSOR

Fiscal Note for SB092, as introduced.

APPROVED BY COMM. ON
NATURAL RESOURCES

SENATE BILL NO. 92

INTRODUCED BY STIMATZ, ECK, ABRAMS, MARKS, BRADLEY, GALT,
SPAETH, IVERSON, YELLOWTAIL, GAGE, HIRSCH, JERGESON, LYBECK,
BENGTSON, REGAN, LYNCH, B. WILLIAMS, MANNING, WEEDING,
JACOBSON, VAN VALKENBURG, HALLIGAN, VAUGHN, WALKER, MAZUREK,
KOLSTAD, HARDING, HOFMAN, ANDERSON, THAYER, PHILLIPS,
HANSON, NATHE, RUSSELL, KENNERLY, BACHINI, ASAY
BY REQUEST OF THE WATER POLICY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE AUTHORITY
OF THE RESERVED WATER RIGHTS COMPACT COMMISSION TO CONTINUE
NEGOTIATIONS WITH THE INDIAN TRIBES UNTIL JULY 1, 1993;
AMENDING SECTIONS 85-2-217 AND 85-2-702, MCA; AND PROVIDING
AN EFFECTIVE DATE."

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

Section 1. Section 85-2-217, MCA, is amended to read:

"85-2-217. Suspension of adjudication. While negotiations for the conclusion of a compact under part 7 are being pursued, all proceedings to generally adjudicate reserved Indian water rights and federal reserved water rights of those tribes and federal agencies which are negotiating are suspended. The obligation to file water rights claims for those reserved rights is also suspended. This suspension shall be effective until July 1, ~~1987~~ 1993,

as long as negotiations are continuing or ratification of a completed compact is being sought. If approval by the state legislature and tribes or federal agencies has not been accomplished by July 1, ~~1987~~ 1993, the suspension shall terminate on that date. Upon termination of the suspension of this part, the tribes and the federal agencies shall be subject to the special filing requirements of 85-2-702(3) and all other requirements of the state water adjudication system provided for in Title 85, chapter 2. Those tribes and federal agencies that choose not to negotiate their reserved water rights shall be subject to the full operation of the state adjudication system and may not benefit from the suspension provisions of this section."

Section 2. Section 85-2-702, MCA, is amended to read:

"85-2-702. Negotiation with Indian tribes. (1) The reserved water rights compact commission, created by 2-15-212, may negotiate with the Indian tribes or their authorized representatives jointly or severally to conclude compacts authorized under 85-2-701. Compact proceedings shall be commenced by the commission. The commission shall serve by certified mail directed to the governing body of each tribe a written request for the initiation of negotiations under this part and a request for the designation of an authorized representative of the tribe to conduct compact negotiations. Upon receipt of such written

1 designation from the governing body of a tribe, compact
2 negotiations shall be considered to have commenced.

3 (2) When the compact commission and the Indian tribes
4 or their authorized representatives have agreed to a
5 compact, they shall sign a copy and file an original copy
6 with the department of state of the United States of America
7 and copies with the secretary of state of Montana and with
8 the governing body for the tribe involved. The compact is
9 effective and binding upon all parties upon ratification by
10 the legislature of Montana and any affected tribal governing
11 body, and approval by the appropriate federal authority.

12 (3) Upon its ratification by the Montana legislature
13 and the tribe, the terms of a compact must be included in
14 the preliminary decree as provided by 85-2-231, and unless
15 an objection to the compact is sustained under 85-2-233, the
16 terms of the compact must be included in the final decree
17 without alteration. However, if approval of the state
18 legislature and tribe has not been accomplished by July 1,
19 ~~1987~~ 1993, all Indian claims for reserved water rights that
20 have not been resolved by a compact must be filed with the
21 department within 6 months. These new filings shall be used
22 in the formulation of the preliminary decree and shall be
23 given treatment similar to that given to all other filings."

24 NEW SECTION. Section 1. Effective date. This act is
25 effective July 1, 1987.

-End-

1 SENATE BILL NO. 92

2 INTRODUCED BY STIMATZ, ECK, ABRAMS, MARKS, BRADLEY, GALT,
 3 SPAETH, IVERSON, YELLOWTAIL, GAGE, HIRSCH, JERGESON, LYBECK,
 4 BENGTON, REGAN, LYNCH, B. WILLIAMS, MANNING, WEEDING,
 5 JACOBSON, VAN VALKENBURG, HALLIGAN, VAUGHN, WALKER, MAZUREK,
 6 KOLSTAD, HARDING, HOFMAN, ANDERSON, THAYER, PHILLIPS,
 7 HANSON, NATHE, RUSSELL, KENNERLY, BACHINI, ASAY
 8 BY REQUEST OF THE WATER POLICY COMMITTEE

9
 10 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE AUTHORITY
 11 OF THE RESERVED WATER RIGHTS COMPACT COMMISSION TO CONTINUE
 12 NEGOTIATIONS WITH THE INDIAN TRIBES UNTIL JULY 1, 1993;
 13 AMENDING SECTIONS 85-2-217 AND 85-2-702, MCA; AND PROVIDING
 14 AN EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 85-2-217, MCA, is amended to read:

18 "85-2-217. Suspension of adjudication. While
 19 negotiations for the conclusion of a compact under part 7
 20 are being pursued, all proceedings to generally adjudicate
 21 reserved Indian water rights and federal reserved water
 22 rights of those tribes and federal agencies which are
 23 negotiating are suspended. The obligation to file water
 24 rights claims for those reserved rights is also suspended.
 25 This suspension shall be effective until July 1, ~~1987~~ 1993,

1 as long as negotiations are continuing or ratification of a
 2 completed compact is being sought. If approval by the state
 3 legislature and tribes or federal agencies has not been
 4 accomplished by July 1, ~~1987~~ 1993, the suspension shall
 5 terminate on that date. Upon termination of the suspension
 6 of this part, the tribes and the federal agencies shall be
 7 subject to the special filing requirements of 85-2-702(3)
 8 and all other requirements of the state water adjudication
 9 system provided for in Title 85, chapter 2. Those tribes and
 10 federal agencies that choose not to negotiate their reserved
 11 water rights shall be subject to the full operation of the
 12 state adjudication system and may not benefit from the
 13 suspension provisions of this section."

14 Section 2. Section 85-2-702, MCA, is amended to read:

15 "85-2-702. Negotiation with Indian tribes. (1) The
 16 reserved water rights compact commission, created by
 17 2-15-212, may negotiate with the Indian tribes or their
 18 authorized representatives jointly or severally to conclude
 19 compacts authorized under 85-2-701. Compact proceedings
 20 shall be commenced by the commission. The commission shall
 21 serve by certified mail directed to the governing body of
 22 each tribe a written request for the initiation of
 23 negotiations under this part and a request for the
 24 designation of an authorized representative of the tribe to
 25 conduct compact negotiations. Upon receipt of such written

1 designation from the governing body of a tribe, compact
2 negotiations shall be considered to have commenced.

3 (2) When the compact commission and the Indian tribes
4 or their authorized representatives have agreed to a
5 compact, they shall sign a copy and file an original copy
6 with the department of state of the United States of America
7 and copies with the secretary of state of Montana and with
8 the governing body for the tribe involved. The compact is
9 effective and binding upon all parties upon ratification by
10 the legislature of Montana and any affected tribal governing
11 body, and approval by the appropriate federal authority.

12 (3) Upon its ratification by the Montana legislature
13 and the tribe, the terms of a compact must be included in
14 the preliminary decree as provided by 85-2-231, and unless
15 an objection to the compact is sustained under 85-2-233, the
16 terms of the compact must be included in the final decree
17 without alteration. However, if approval of the state
18 legislature and tribe has not been accomplished by July 1,
19 ~~1987~~ 1993, all Indian claims for reserved water rights that
20 have not been resolved by a compact must be filed with the
21 department within 6 months. These new filings shall be used
22 in the formulation of the preliminary decree and shall be
23 given treatment similar to that given to all other filings."

24 NEW SECTION. Section 3. Effective date. This act is
25 effective July 1, 1987.

-End-

1 SENATE BILL NO. 92

2 INTRODUCED BY STIMATZ, ECK, ABRAMS, MARKS, BRADLEY, GALT,
 3 SPAETH, IVERSON, YELLOWTAIL, GAGE, HIRSCH, JERGESON, LYBECK,
 4 BENGTON, REGAN, LYNCH, B. WILLIAMS, MANNING, WEEDING,
 5 JACOBSON, VAN VALKENBURG, HALLIGAN, VAUGHN, WALKER, MAZUREK,
 6 KOLSTAD, HARDING, HOFMAN, ANDERSON, THAYER, PHILLIPS,
 7 HANSON, NATHE, RUSSELL, KENNERLY, BACHINI, ASAY
 8 BY REQUEST OF THE WATER POLICY COMMITTEE
 9

10 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE AUTHORITY
 11 OF THE RESERVED WATER RIGHTS COMPACT COMMISSION TO CONTINUE
 12 NEGOTIATIONS WITH THE INDIAN TRIBES UNTIL JULY 1, 1993;
 13 AMENDING SECTIONS 85-2-217 AND 85-2-702, MCA; AND PROVIDING
 14 AN EFFECTIVE DATE."
 15

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

17 Section 1. Section 85-2-217, MCA, is amended to read:
 18 "85-2-217. Suspension of adjudication. While
 19 negotiations for the conclusion of a compact under part 7
 20 are being pursued, all proceedings to generally adjudicate
 21 reserved Indian water rights and federal reserved water
 22 rights of those tribes and federal agencies which are
 23 negotiating are suspended. The obligation to file water
 24 rights claims for those reserved rights is also suspended.
 25 This suspension shall be effective until July 1, ~~1987~~ 1993,

1 as long as negotiations are continuing or ratification of a
 2 completed compact is being sought. If approval by the state
 3 legislature and tribes or federal agencies has not been
 4 accomplished by July 1, ~~1987~~ 1993, the suspension shall
 5 terminate on that date. Upon termination of the suspension
 6 of this part, the tribes and the federal agencies shall be
 7 subject to the special filing requirements of 85-2-702(3)
 8 and all other requirements of the state water adjudication
 9 system provided for in Title 85, chapter 2. Those tribes and
 10 federal agencies that choose not to negotiate their reserved
 11 water rights shall be subject to the full operation of the
 12 state adjudication system and may not benefit from the
 13 suspension provisions of this section."

14 Section 2. Section 85-2-702, MCA, is amended to read:

15 "85-2-702. Negotiation with Indian tribes. (1) The
 16 reserved water rights compact commission, created by
 17 2-15-212, may negotiate with the Indian tribes or their
 18 authorized representatives jointly or severally to conclude
 19 compacts authorized under 85-2-701. Compact proceedings
 20 shall be commenced by the commission. The commission shall
 21 serve by certified mail directed to the governing body of
 22 each tribe a written request for the initiation of
 23 negotiations under this part and a request for the
 24 designation of an authorized representative of the tribe to
 25 conduct compact negotiations. Upon receipt of such written

1 designation from the governing body of a tribe, compact
2 negotiations shall be considered to have commenced.

3 (2) When the compact commission and the Indian tribes
4 or their authorized representatives have agreed to a
5 compact, they shall sign a copy and file an original copy
6 with the department of state of the United States of America
7 and copies with the secretary of state of Montana and with
8 the governing body for the tribe involved. The compact is
9 effective and binding upon all parties upon ratification by
10 the legislature of Montana and any affected tribal governing
11 body, and approval by the appropriate federal authority.

12 (3) Upon its ratification by the Montana legislature
13 and the tribe, the terms of a compact must be included in
14 the preliminary decree as provided by 85-2-231, and unless
15 an objection to the compact is sustained under 85-2-233, the
16 terms of the compact must be included in the final decree
17 without alteration. However, if approval of the state
18 legislature and tribe has not been accomplished by July 1,
19 ~~1987~~ 1993, all Indian claims for reserved water rights that
20 have not been resolved by a compact must be filed with the
21 department within 6 months. These new filings shall be used
22 in the formulation of the preliminary decree and shall be
23 given treatment similar to that given to all other filings."

24 NEW SECTION. Section 3. Effective date. This act is
25 effective July 1, 1987.

--End--