

SENATE BILL NO. 59

INTRODUCED BY SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE PERIOD FOR SUSPENSION OF ADJUDICATION PROCEEDINGS DURING NEGOTIATIONS OF FEDERAL INDIAN AND NON-INDIAN RESERVED WATER RIGHTS; 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~~ that are negotiating are suspended. The obligation to file water rights claims for those reserved rights is also suspended. This suspension ~~shall be~~ is effective until July 1, ~~1999~~ 2005, 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, ~~1999~~ 2005, the suspension ~~shall~~ must terminate on that date. Upon termination of the suspension of this part, the tribes and the federal agencies ~~shall be~~ are 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 are 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~~ must 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 Compact~~

1 negotiations commence upon receipt of such the written designation from the governing body of a tribe,
2 ~~compact negotiations shall be considered to have commenced.~~

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

9 (3) Upon its ratification by the Montana legislature and the tribe, the terms of a compact must be
10 included in the preliminary decree as provided by 85-2-231, and unless an objection to the compact is
11 sustained under 85-2-233, the terms of the compact must be included in the final decree without alteration.
12 However, if approval of the state legislature and the tribe has not been accomplished by July 1, ~~1999~~
13 2005, all Indian claims for reserved water rights that have not been resolved by a compact must be filed
14 with the department within 6 months. These new filings ~~shall~~ must be used in the formulation of the
15 preliminary decree and ~~shall~~ must be given treatment similar to that given to all other filings."

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17 NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send
18 a copy of [this act] to each tribal government located on the seven Montana reservations.

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20 NEW SECTION. Section 4. Effective date. [This act] is effective on July 1, 1997.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0059, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act extending the period for suspension of adjudication proceedings during negotiations of federal Indian and non-Indian reserved water rights.

ASSUMPTIONS:

1. The extension begins July 1, 1999.
2. The Reserved Water Rights Compact Commission (RWRCC) will operate as it currently does. There will be no changes in budgeted expenditures or revenues.

FISCAL IMPACT:

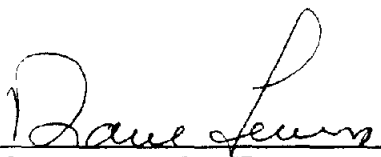
None for the 1999 biennium.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:


None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The legislation will continue the State of Montana's policy of promoting negotiation of complex state litigation. The legislation commits the state to an additional six years of program funding for the RWRCC. Current funding is approximately \$550,000 a year.

 1-7-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-9-97

CHUCK SWYSGOOD, PRIMARY SPONSOR DATE

Fiscal Note for SB0059, as introduced

SB 59

APPROVED BY COM ON
NATURAL RESOURCES

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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~~ must 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 Compact~~

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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~~ must 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 Compact~~

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