

SENATE BILL NO. 32

INTRODUCED BY J. SESSO

BY REQUEST OF THE WATER POLICY INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A STREAM GAUGE OVERSIGHT WORK GROUP; AMENDING SECTION 2-15-3308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. **Section 1. Policy considerations.** (1) Article IX, section 3(3), of the Montana constitution declares that all surface, underground, flood, and atmospheric waters within the boundaries of the state are the property of the state for the use of its people and are subject to appropriation for beneficial uses as provided by law.

(2) The legal appropriation of water requires that the water be legally and physically available for appropriation.

(3) Measurement and monitoring of streamflow supports the state's ability to determine when water is physically and legally available to meet new demands while protecting existing water rights.

(4) The effective management and distribution of water depends on accurate real-time measurement of streamflow.

NEW SECTION. **Section 2. Purpose.** (1) The 2015 state water plan recognizes that improving Montana's water supply and distribution monitoring network will improve the ability of water managers and water users to adjust to seasonal supply and demand imbalances as well as plan for longer term imbalances associated with climate variability.

(2) It is the intent of the legislature to support local, state, and federal efforts and programs to collect and distribute timely and accurate information on Montana streamflows.

(3) The legislature recognizes that streamflow information is collected by numerous state and federal agencies and tribes to meet their statutory responsibilities.

(4) The legislature recognizes that streamflow information collected by state, tribal, and federal entities

1 is critical to administration of the Montana Water Use Act, distribution of water by decree, water supply planning
 2 for municipalities, and implementation of plans and agreements that address locally developed drought, fish
 3 habitat, or water supply objectives.

4 (5) The legislature recognizes it is in the public interest to support and encourage coordination in the
 5 collection and distribution of streamflow information.

6 (6) The purpose of [sections 1 through 3] is to establish a stream gauge oversight work group supported
 7 by the department of natural resources and conservation.

8
 9 **NEW SECTION. Section 3. Stream gauge oversight work group.** (1) There is a stream gauge
 10 oversight work group supported by the department of natural resources and conservation.

11 (2) The work group is composed of those with a stake in the collection and distribution of streamflow
 12 information, ~~including but not limited to state and federal agencies, conservation districts, irrigators, municipalities,~~
 13 ~~tribes, water commissioners, watershed groups, and citizens~~ WITH NO FEWER THAN 12 MEMBERS AND NO MORE THAN
 14 20 MEMBERS, INCLUDING NO MORE THAN:

15 (A) TWO MEMBERS FROM STATE AGENCIES;

16 (B) TWO MEMBERS FROM FEDERAL GOVERNMENT AGENCIES;

17 (C) TWO MEMBERS FROM CONSERVATION DISTRICTS;

18 (D) TWO MEMBERS WHO ARE IRRIGATORS;

19 (E) TWO MEMBERS FROM MUNICIPALITIES;

20 (F) TWO MEMBERS FROM INDIAN TRIBES;

21 (G) TWO WATER COMMISSIONERS;

22 (H) TWO MEMBERS FROM WATERSHED GROUPS;

23 (I) TWO MEMBERS OF THE RECREATION INDUSTRY; AND

24 (J) TWO CITIZEN MEMBERS.

25 (3) The work group shall meet at least semiannually to review:

26 (a) locations, uses, and funding arrangements for the stream gauge network of the U.S. geological
 27 survey; and

28 (b) priorities, needs, and expectations of those funding the maintenance and operations of these stream
 29 gauges and those using data measured by these stream gauges.

30 (4) The work group shall create annually a stream gauge infrastructure work plan, which may include:

- 1 (a) a comprehensive overview of the existing stream gauge network;
- 2 (b) a review of options for funding the maintenance and operations of the stream gauge network,
3 including use of private funds, consolidated agreements, or multipayer payments;
- 4 (c) a proposal for stream gauge priorities;
- 5 (d) cost-effective and reasonable alternatives to stream gauges, including gauges that are not part of
6 the U.S. geological survey's stream gauge network, if applicable;
- 7 (e) oversight of recommendations and activities related to any legislative study of stream gauges; and
- 8 (f) coordination of information regarding stream gauge funding recommendations and requests from state
9 and federal agencies.
- 10 (5) The work group shall report to every meeting of the water policy interim committee established in
11 5-5-231 and at least semiannually to the drought and water supply advisory committee established in 2-15-3308.
- 12 (6) The department shall provide staff support to the stream gauge oversight work group. The
13 department may designate a professional consultant or advisor to convene and facilitate the work group's
14 activities. The department ~~and the consultant or advisor shall identify~~ SHALL APPOINT the individuals and
15 organizations to participate in the work group BASED ON RECOMMENDATIONS FROM THE GROUPS IDENTIFIED IN
16 SUBSECTION (2).

- 17
- 18 **Section 4.** Section 2-15-3308, MCA, is amended to read:
- 19 **"2-15-3308. Drought and water supply advisory committee.** (1) There is a drought and water supply
20 advisory committee in the department of natural resources and conservation.
- 21 (2) The drought and water supply advisory committee is chaired by a representative of the governor and
22 consists of representatives of the departments of natural resources and conservation; agriculture; commerce; fish,
23 wildlife, and parks; military affairs; environmental quality; and livestock. The governor's representative must be
24 appointed by the governor, and the representative of each department must be appointed by the head of that
25 department. Additional, nonvoting members who represent federal and local government agencies and public
26 and private interests affected by drought or flooding may also be appointed by the governor.
- 27 (3) The drought and water supply advisory committee shall:
- 28 (a) with the approval of the governor, develop and implement a state plan that considers drought and
29 flooding;
- 30 (b) review and report drought and water supply monitoring information to the public;

- 1 (c) coordinate timely drought and flooding impact assessments;
- 2 (d) identify areas of the state with a high probability of drought or flooding and target reporting and
3 assistance efforts to those areas;
- 4 (e) upon request, assist in organizing local advisory committees for the areas identified under subsection
5 (3)(d);
- 6 (f) request state agency staff to provide technical assistance to local advisory committees; ~~and~~
- 7 (g) promote ideas and activities for groups and individuals to consider that may reduce drought or
8 flooding vulnerability; and
- 9 (h) provide oversight of the stream gauge oversight work group provided for in [section 3].
- 10 (4) The drought and water supply advisory committee shall meet, at a minimum, on or around October
11 15 and March 15 of each year to assess moisture conditions and forecasts and, as appropriate, begin
12 preparations for drought or flood mitigation.
- 13 (5) By April 15 of each year, the drought and water supply advisory committee shall submit a report to
14 the governor describing the potential for drought or flooding in the coming year. If the potential for drought or
15 flooding merits additional activity by the drought and water supply advisory committee, the report must also
16 describe:
- 17 (a) activities to be taken by the drought and water supply advisory committee for informing the public
18 about the potential impacts of drought or flooding;
- 19 (b) a schedule for completing activities;
- 20 (c) geographic areas for which the creation of local drought and water supply advisory committees will
21 be suggested to local governments and citizens; and
- 22 (d) requests for the use of any available state resources that may be necessary to prevent or minimize
23 drought or flood impacts.
- 24 (6) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the
25 governor or the division of disaster and emergency services for disaster coordination and emergency response,
26 as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought and water supply advisory
27 committee supplement and are consistent with those of the division of disaster and emergency services for
28 drought or flood planning, preparation, coordination, and mitigation."

29
30 NEW SECTION. **Section 5. Notification to tribal governments.** The secretary of state shall send a

1 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
2 Chippewa tribe.

3
4 NEW SECTION. Section 6. Codification instruction. [Sections 1 through 3] are intended to be codified
5 as an integral part of Title 85, chapter 2, and the provisions of Title 85, chapter 2, apply to [sections 1 through 3].

6
7 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval.

8
9 NEW SECTION. SECTION 8. TERMINATION. [THIS ACT] TERMINATES JUNE 30, 2023.

10 - END -