



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: HB0441.01: Align provisional water rights with final decrees

Primary Sponsor: Russ Miner Status: As Introduced

☐ Included in the Executive Budget ☒ Needs to be included in HB 2 ☐ Significant Local Gov Impact
☐ Significant Long-Term Impacts ☐ Technical Concerns ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
Expenditures				
General Fund (01)	\$1,255,304	\$1,052,734	\$1,070,850	\$1,613,788
State Special Revenue (02)	\$0	\$0	\$0	\$0
Water Adjudication Transfer reduction from GF	(\$807,902)	(\$807,902)	(\$820,020)	\$0
Revenues				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$3,000	\$3,000	\$3,000	\$3,000
Net Impact	<u>(\$1,255,304)</u>	<u>(\$1,052,734)</u>	<u>(\$1,070,850)</u>	<u>(\$1,613,788)</u>
General Fund Balance				

Description of fiscal impact

HB 441 defines the process for pre-1973 adjudicated water right holders to petition the Department of Natural Resources and Conservation (DNRC) to reduce, modify, or revoke a provisional permit based on the findings of the final decree issued by the water court. Once final decrees are issued and the petition process has been completed, DNRC can complete verification of permits and changes within the decreed basin. This allows DNRC to issue certificates of water right for provisional permits and change authorizations after considering the findings of the final decree. The agency will require additional staff to implement the changes in HB 441. These changes will also require updates to the Water Rights Information System (WRIS) database and printing and postage costs.

FISCAL ANALYSIS

Assumptions

Department of Natural Resources and Conservation

1. There are 85 basins in the state which will receive a notice of final decree issued by the Water Court. It is anticipated that this process will be complete in 2035. Each basin varies in the number of water right owners of record. Fifteen final decrees have been issued as of 2025. There are 224,867 water right owners of record in the State of Montana.
2. DNRC has issued approximately 12,000 permits prior to final decrees. It is estimated that five percent of these are likely to have a petition for reduction, modification, or revocation filed against them under HB 441. DNRC assumes that 600 total petitions could be received over the next 10 years, resulting in 60 petitions per year.

3. The Water Rights Bureau (WRB) will need an additional 2.00 FTE, compliance specialist 3, to complete the petition work, including initial set-up, new rule implementation, updating the verification manuals, answering questions from internal and external customers, and reviewing the petitions.
 - a. 2.00 FTE, compliance specialist 3, will cost \$217,161 per year in FY 2026 and FY 2027, \$220,419 in FY 2028 and \$223,726 in FY 2029 including salary and benefits. A 1.5% inflationary increase is applied in FY 2028 and FY 2029.
 - b. One-time-only costs for office set-up for 2.00 FTE will cost \$5,600 in FY 2026 (\$2,800 per FTE).
 - c. The 2.00 FTE will require network service at a cost of \$3,070 in FY 2026 and FY 2027 and phone service at a cost of \$536 in FY 2026 and FY 2027. An inflationary rate of 1.5% is applied in FY 2028 and FY 2029 for these operating expenditures for a cost of \$3,660 and \$3,715, respectively.
 - d. Supplies and travel for these positions will be \$1,000 in FY 2026 and FY 2027. An inflationary rate of 1.5% is applied in FY 2028 and FY 2029 for an operating expense of \$1,015 and \$1,030, respectively.
4. DNRC has issued approximately 4,900 change authorizations prior to final decrees. After issuance of a final decree in a basin and completion of the petition process, DNRC will be required to verify the permits and changes in each respective basin. After completion of verification for each permit or change, DNRC will issue a certificate of water right.
 - a. This verification work will occur within the same 10-year period anticipated for final decree issuance.
 - b. In total, DNRC is required to verify all 12,000 permits and 4,900 changes to ensure they are completed in substantial accordance with terms and conditions of the petition process and final decree.
 - c. DNRC needs 15 staff to verify the permits and changes and issue certificates of water right in a timely manner. These staff are spread throughout DNRC regional offices. The verification work will be coordinated by a supervisor to ensure work is organized by priority of the basin, assigned to staff, and ensure work is completed in a timely fashion.
5. There are currently 16.00 FTE in the Water Resources Regional Offices funded through the water adjudication state special revenue account, which is set to sunset on June 30, 2028. The adjudication benchmark requirements will be completed on June 30, 2025, allowing these staff to support HB 441, in addition to the ongoing work required through the sunset date of the adjudication funding. The water adjudication state special revenue account is funded through a general fund transfer each year. The 16.00 FTE will split their time, with 60% going to the permit and change verification process in HB 441. There is no current funding for this permit and change verification process, so state general fund will be required.
6. To fund the current 16.00 FTE for work on HB 441, a total of \$807,902 in state general fund will be needed in FY 2026 and FY 2027; and \$822,691 in FY 2028. A 1.5% inflationary factor is applied in FY 2028. Forty percent of the adjudication staff time will continue to be funded by the adjudication state special revenue account due to the ongoing work in adjudication through June 30, 2028.
 - a. 60% of 15.00 FTE, water conservation specialist 1, will cost \$741,550 including salary and benefits. These positions will be utilized to complete the permit and change verification.
 - b. 60% of 1.00 FTE, water conservation supervisor, will cost \$66,352 for salary and benefits. This position will supervise and coordinate staff work.
7. The 60% of the 16.00 FTE will increase the general fund appropriation needed for HB 441; however, it will reduce the general fund transfer into the water adjudication state special revenue account, resulting in a funding shift through FY 2028 and a net zero impact to the general fund.
8. The work required in HB 441 will go beyond the water adjudication state special revenue account sunset date of June 30, 2028. At that time, the funding will need to be switched from 40% adjudication funding and 60% general fund to 100% general fund for the permit and change verification process.
9. In FY 2029, all costs associated with the 16.00 FTE will need to be funded 100% from the state general fund. This will equal \$1,362,252.
10. Enhancements will be necessary to the Water Rights Information System (WRIS) due to the changes under HB 441. This database work will occur under the current IT contract. The cost will be \$207,750 in FY 2026 and will require state general fund. (1385 hours of work at \$150 per hour).

11. Mailed notices are required to be sent to all water right owners in the basins that receive a petition. In FY 2026 12,000 notices will go out at a cost of \$.96 per notice, and a \$765 per fiscal year set-up fee, for a total of \$12,285. In FY 2027, 2028, and 2029, there will be 23,230 notices sent each year, for an annual cost of \$23,065. General fund will be required to fund these expenditures.
12. Enhancement to the department's IT System will be required. It is estimated the enhancement program, validation and verification, and testing will require 1,385 hours at the contract rate of \$150 per hour for a total cost of \$207,750 in FY 2026.
13. The revenue received from the petition filing fee of \$50 will be deposited in the water rights state special revenue fund for estimated revenue of \$3,000 each fiscal year. (\$50 x 60 = \$3,000)

Fiscal Analysis Table

Department of Natural Resources and Conservation				
	FY 2026 Difference	FY 2027 Difference	FY 2028 Difference	FY 2029 Difference
Fiscal Impact				
FTE	2.00	2.00	2.00	2.00
TOTAL Fiscal Impact	2.00	2.00	2.00	2.00
Expenditures				
Personal Services	\$1,025,063	\$1,025,063	\$1,043,110	\$1,585,978
Operating Expenses	\$230,241	\$27,671	\$27,740	\$27,810
Transfers	\$0	\$0	\$0	\$0
Reduction of General Fund	(\$807,902)	(\$807,902)	(\$820,020)	\$0
Transfer to Adjudication				
TOTAL Expenditures	\$447,402	\$244,832	\$250,830	\$1,613,788
Funding of Expenditures				
General Fund (01)	\$1,255,304	\$1,052,734	\$1,070,850	\$1,613,788
State Special Revenue (02)	\$0	\$0	\$0	\$0
Water Adjudication Transfer	(\$807,902)	(\$807,902)	(\$820,020)	\$0
reduction from GF				
TOTAL Funding of Expenditures	\$447,402	\$244,832	\$250,830	\$1,613,788
Revenues				
State Special Revenue (02)	\$3,000	\$3,000	\$3,000	\$3,000
TOTAL Revenues	\$3,000	\$3,000	\$3,000	\$3,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures)				
General Fund (01)	(\$1,255,304)	(\$1,052,734)	(\$1,070,850)	(\$1,613,788)
State Special Revenue (02)	\$3,000	\$3,000	\$3,000	\$3,000
Water Adjudication Transfer	\$807,902	\$807,902	\$820,020	\$0
reduction from GF				



Sponsor's Initials



Date



Budget Director's Initials

2/18/2025

Date