

Amendment - 1st Reading-white - Requested by: Bruce "Butch" Gillespie - (S) Natural Resources

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0358.001.012

SENATE BILL NO. 358

INTRODUCED BY W. GALT, J. SECKINGER, K. WALSH, R. MINER, J. COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING GROUND WATER LAWS; REVISING EXCEPTIONS FROM WATER RIGHT PERMITTING; PROVIDING FOR CLOSURE AND MONITORING OF AQUIFERS; REVISING DESIGNATION OF CONTROLLED GROUND WATER AREAS; REVISING DEPARTMENT DUTIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 85-2-113, 85-2-306, 85-2-381, 85-2-506, AND 85-2-524, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 85-2-113, MCA, is amended to read:

"85-2-113. Department powers and duties. (1) The department may prescribe fees or service charges for any public service rendered by the department under this chapter, including fees for the filing of applications or for the issuance of permits and certificates, for rulemaking hearings under 85-2-319, for administrative hearings conducted under this chapter, for investigations concerning permit revocation, for field verification of issued and completed permits, and for all change approvals. There may not be fees for any action taken by the department at the request of the water judge or for the issuance of certificates of existing rights.

(2) The department may adopt rules necessary to implement and carry out the purposes and provisions of this chapter. These rules may include but are not limited to rules to:

(a) govern the issuance and terms of interim permits authorizing an applicant for a regular permit under this chapter to begin appropriating water immediately, pending final approval or denial by the department of the application for a regular permit;

(b) require the owner or operator of appropriation facilities to install and maintain suitable controlling and measuring devices, ~~except that the department may not require a meter on a water well outside of a controlled ground water area or proposed controlled ground water area unless the maximum appropriation~~

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- 1 (1) the submission of substantial credible evidence that one or more of the criteria provided in 85-
2 2-506~~(5)~~ are met;
- 3 (2) a description of proposed measures, if any, to mitigate effects of the criteria identified in 85-2-
4 506~~(5)~~;
- 5 (3) a description of proposed studies for a temporary controlled ground water area;
- 6 (4) a requirement that an application be supported by owners of at least one-fourth of the water
7 rights with a point of diversion of water within the boundaries of the proposed controlled ground water area;
- 8 (5) a requirement that an applicant pay an application or processing fee for the application; and
- 9 (6) a description of proposed funding for studies for a controlled ground water area."

NEW SECTION. Section 7. Department identification of noncompliant water use -- educational materials -- enforcement. (1) No later than December 31, 2026, the department shall:

(a) conduct a statewide analysis to identify suspected noncompliant water use by cross-referencing water right records with publicly available data including but not limited to:

- (i) inhabited dwellings not connected to a public water supply; and
- (ii) aerial imagery indicating irrigation or ponds with no associated water right; and
- (b) send individual mailings to landowners identified in subsection (1)(a) including:
 - (i) background information on Montana water law and illegal water use;
 - (ii) notice of the grace period described in subsection (2) for demonstrating that the water use is lawful; and
 - (iii) a description of the process to apply for a water permit or to perfect a permit exception.

(2) The department may not pursue judicial enforcement pursuant to 85-2-114 on water uses meeting the exception to the permit requirements pursuant to 85-2-306 before December 1, 2028, after which time the department shall pursue judicial enforcement pursuant to 85-2-114.

NEW SECTION. Section 8. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

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7 - END -