

HOUSE BILL NO. 114

INTRODUCED BY Z. BROWN

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WATER MEDIATOR LAWS; CLARIFYING THE PURPOSE FOR APPOINTMENT OF A WATER MEDIATOR; CLARIFYING WATER MEDIATOR DUTIES; AMENDING SECTION 85-5-110, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 85-5-110, MCA, is amended to read:

"85-5-110. Appointment of water mediators -- duties -- definition. (1) Except as provided in 85-20-1902, the judge of the district court may appoint a water mediator to mediate a water ~~controversy~~ right distribution dispute in a decreed or nondecreed basin under the following circumstances:

- (a) upon request of the governor;
- (b) upon petition by at least 15% of the owners of water rights in a decreed or nondecreed basin; or
- (c) in the discretion of the district court having jurisdiction.

(2) A water mediator appointed under this section may:

(a) discuss proposed solutions to a water ~~controversy~~ right distribution dispute with affected water right holders;

(b) review options related to scheduling and coordinating water use with affected water right holders;

(c) discuss water use and water needs with persons and entities affected by ~~the existing water use~~ a water right distribution dispute;

(d) meet with principal parties to mediate differences over ~~the use of a~~ water right distribution dispute;

and
(e) hold public meetings and conferences to discuss and negotiate potential solutions to ~~controversies over use of water~~ water right distribution disputes.

(3) If the governor requests or a state agency petitions for a water mediator, the governor or agency shall pay all or a majority of the costs of the water mediator as determined equitable by the district court having jurisdiction.



1 (4) The governor may use funds appropriated under 75-1-1101 to pay the costs of a water mediator.

2 (5) This section does not allow a water mediator to require any valid water right holder to compromise
3 or reduce any of the holder's existing water rights.

4 (6) If an appropriator voluntarily ceases to use all or part of an appropriation right or voluntarily ceases
5 to use an appropriation right according to its terms and conditions as a result of the efforts of a mediator
6 appointed under this section, the appropriator may not be considered to have abandoned all or any portion of the
7 appropriation right.

8 (7) For purposes of this section, "water right distribution dispute" means a dispute among different water
9 right holders over the distribution of water."

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11 NEW SECTION. Section 2. Applicability. [This act] applies to the appointment of a water mediator on
12 or after [the effective date of this act].

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