

SENATE BILL NO. 265

INTRODUCED BY JACKSON

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A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE SUSPENSION OF WATER RIGHT ADJUDICATION DURING NEGOTIATIONS OF INDIAN AND FEDERAL RESERVED WATER RIGHTS; REQUIRING AN INTERIM STUDY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 85-2-217 AND 85-2-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. SECTION 1. INTERIM STUDY. (1) THE WATER POLICY INTERIM COMMITTEE, PROVIDED FOR IN 5-5-231, SHALL CONDUCT A STUDY OF ISSUES RELATED TO THE FEBRUARY 26, 2013, WATER RIGHTS SETTLEMENT BETWEEN THE CONFEDERATED SALISH AND KOOTENAI TRIBES, THE STATE, AND THE UNITED STATES. THE REVIEW MUST INCLUDE BUT IS NOT LIMITED TO AN ANALYSIS OF WATER RIGHTS CLAIMED BY THE TRIBES.

(2) THE COMMITTEE MAY REQUEST RESEARCH AND LEGAL ANALYSIS FROM STAFF OF THE LEGISLATIVE SERVICES DIVISION, THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, AND ANY OTHER INDIVIDUAL OR ENTITY.

(3) THE COMMITTEE SHALL SOLICIT INFORMATION FROM THE CONFEDERATED SALISH AND KOOTENAI TRIBES, THE STATE, THE UNITED STATES, THE FLATHEAD JOINT BOARD OF CONTROL, EXISTING WATER RIGHT OWNERS, AND OTHER STAKEHOLDERS.

(4) THE COMMITTEE SHALL MEET AT LEAST ONCE IN FLATHEAD COUNTY, LAKE COUNTY, LINCOLN COUNTY, AND SANDERS COUNTY. THE COMMITTEE MAY HOLD OTHER MEETINGS OUTSIDE OF HELENA.

(5) THE COMMITTEE MAY PROVIDE RECOMMENDATIONS TO THE RESERVED WATER RIGHTS COMPACT COMMISSION.

(6) THE COMMITTEE SHALL PREPARE A REPORT TO SUBMIT TO THE 64TH LEGISLATURE AND PROVIDE A RECOMMENDATION ON THE ADOPTION OF THE COMPACT AND THE CONTINUED SUSPENSION OF WATER RIGHTS ADJUDICATION.

(7) THE COMMITTEE MAY PROPOSE NECESSARY LEGISLATION TO IMPLEMENT A WATER RIGHTS SETTLEMENT BETWEEN THE CONFEDERATED SALISH AND KOOTENAI TRIBES, THE STATE, AND THE UNITED STATES.

(8) ALL ASPECTS OF THE STUDY, INCLUDING PRESENTATION AND REVIEW REQUIREMENTS, MUST BE CONCLUDED PRIOR TO SEPTEMBER 15, 2014.



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2 **Section 2.** Section 85-2-217, MCA, is amended to read:
3 **"85-2-217. Suspension of adjudication.** While negotiations for the conclusion of a compact under part
4 7 are being pursued, all proceedings to generally adjudicate reserved Indian water rights and federal reserved
5 water rights of those tribes and federal agencies that are negotiating are suspended. The obligation to file water
6 rights claims for those federal non-Indian and Indian reserved rights is also suspended. This suspension is
7 effective until July 1, ~~2013~~ 2015, as long as negotiations are continuing or ratification of a completed compact
8 is being sought. If approval by the state legislature and tribes or federal agencies has not been accomplished by
9 July 1, ~~2013~~ 2015, the suspension must terminate on that date. Upon termination of the suspension of this part,
10 the tribes and the federal agencies are subject to the special filing requirements of 85-2-702(3) and all other
11 requirements of the state water adjudication system provided for in Title 85, chapter 2. Those tribes and federal
12 agencies that choose not to negotiate their federal non-Indian and Indian reserved water rights are subject to the
13 full operation of the state adjudication system and may not benefit from the suspension provisions of this section."
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15 **Section 3.** Section 85-2-702, MCA, is amended to read:
16 **"85-2-702. Negotiation with Indian tribes.** (1) The reserved water rights compact commission, created
17 by 2-15-212, may negotiate with the Indian tribes or their authorized representatives jointly or severally to
18 conclude compacts authorized under 85-2-701. Compact proceedings must be commenced by the commission.
19 The commission shall serve by certified mail directed to the governing body of each tribe a written request for the
20 initiation of negotiations under this part and a request for the designation of an authorized representative of the
21 tribe to conduct compact negotiations. Compact negotiations commence upon receipt of the written designation
22 from the governing body of a tribe.

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

28 (3) Upon its ratification by the Montana legislature and the tribe, the terms of a compact must be included
29 in the preliminary decree as provided by 85-2-231, and unless an objection to the compact is sustained under
30 85-2-233, the terms of the compact must be included in the final decree without alteration. However, if approval

1 of the state legislature and the tribe has not been accomplished by July 1, 2013 2015, all Indian claims for
2 reserved water rights that have not been resolved by a compact must be filed with the department within 24
3 months. These new filings must be used in the formulation of the preliminary decree and must be given treatment
4 similar to that given to all other filings."

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6 NEW SECTION. SECTION 4. APPROPRIATION. THERE IS APPROPRIATED \$40,000 FROM THE GENERAL FUND
7 FOR THE BIENNIUM BEGINNING JULY 1, 2013, TO THE LEGISLATIVE BRANCH FOR THE PURPOSES DESCRIBED IN [SECTION
8 11.

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10 NEW SECTION. Section 5. Notification to tribal governments. The secretary of state shall send a
11 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
12 Chippewa tribe.

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

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