



Montana Legislative Services Division

Legislative Environmental Policy Office

Memorandum

To: Parties interested in HB 22 (2005)

From: Krista Lee Evans, Research Analyst

RE: Contingent voidness in HB 22

Date: April 28, 2005

During the codification process it was determined that the contingent voidness contained in Section 15 of HB 22 (2005) is applicable. I have attached a legal opinion from Mr. Petesch, Chief Legal Counsel that explains it in more detail.

There are other issues however that are associated with HB 22 that I want to try to clarify so that you understand the impact of HB 22 being void.

(1) Appropriations in HB 2 that are tied to the "passage and approval" of HB 22.

HB 22 was passed and approved. It simply became void after HB 2 was passed without a line item of at least \$2 Million for each fiscal year. Therefore, the appropriations in HB 2 are still intact.

(2) Transfers from FWP and DEQ to fund their portions of the fee.

The DEQ transfer is a line item that is directly tied to HB 22 -- this transfer can't happen unless the contingent voidness in HB 22 is fixed.

The FWP transfer is not directly tied to HB 22 in language in HB 2. However it is directed to the "water adjudication account" which is established in HB 22. Therefore that transfer can't happen unless the contingent voidness in HB 22 is fixed.

(3) HB 782 -- Require issue remarks to be resolved before issuing a final decree .

HB 782 has a coordination instruction at the end that states that if HB 22 is not "passed and approved" HB 782 is void. HB 22 was passed and approved so when or if the Governor signs HB 782 it will become law.

Representative McNutt is committed to trying to fix this problem in a special session - either by including it in any other call that might go out from the Governor's office or through the petition process. If this issue is made part of a call for a special session Rep. McNutt would make sure that the contingent voidness is amended so that it would work with what is in HB 2 right now. It would also be amended to make sure that the contingent voidness portion is codified so that it ensures that the fee doesn't become the sole source of funding for water adjudication in the future. If this issue is not made part of a special session or is not successfully amended in a special session then HB 22 would remain void and provisions of the bill would not go into effect.

The Environmental Quality Council will be addressing this issue at its meeting on May 23, 2005.

If you have questions please do not hesitate to contact me at 444-1640 or kevans@mt.gov or visit the EQC website at http://leg.mt.gov/css/lepo/2005_2006/default.asp