



Water Policy Interim Committee 60th Montana Legislature

SENATE MEMBERS

JIM ELLIOTT--Chair
GARY PERRY--Vice Chair
LARRY JENT
TERRY MURPHY

HOUSE MEMBERS

SCOTT BOGGIO
JILL COHENOUR
BILL MCCHESENEY
WALTER MCNUTT

COMMITTEE STAFF

JOE KOLMAN, Lead Staff
GREG PETESCH, Staff Attorney

ENVIRONMENTAL QUALITY COUNCIL/ WATER POLICY JOINT SUBCOMMITTEE MINUTES

Date Approved: ¹

July 14, 2008

Room 102
State Capitol Building

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. JIM ELLIOTT
SEN. GARY PERRY
SEN. BOB STORY
SEN. DAVID WANZENRIED (Chair)
REP. CAROL LAMBERT

¹These minutes were completed after the interim recessed and were not approved by the subcommittee.

COMMITTEE MEMBERS ABSENT/EXCUSED

REP. WALTER MCNUTT

STAFF PRESENT

JOE KOLMAN, Lead Staff
TODD EVERTS, Staff Attorney
CYNTHIA PETERSON, Committee Secretary

Visitors

Agenda ([Attachment 1](#))

COMMITTEE ACTION

There was no committee action taken.

CALL TO ORDER AND ROLL CALL

00:00:03 Sen. David Wanzenried, Chairman of the Water Policy/Environmental Quality Council Joint Subcommittee (Joint Subcommittee), called the meeting to order at 12:05 p.m. The secretary noted the roll ([Attachment 2](#)). Sen. Jim Elliott participated via telephone.

AGENDA

CONSIDERATION OF LEGISLATIVE ADMINISTRATIVE OPTIONS FOR FUTURE WATER POLICY DEVELOPMENT

Overview of Options - Mr. Everts/Mr. Kolman

00:00:36 Mr. Everts summarized the purpose of the Joint Subcommittee meeting and reviewed the Joint Subcommittee's options, including: (1) taking no action and allowing the Water Policy Interim Committee (WPIC) to terminate; (2) eliminating the current WPIC's termination date and making the WPIC permanent; (3) maintaining the water policy development authority within the Environmental Quality Council (EQC) and allowing the EQC to create a standing subcommittee; (4) maintaining the water policy development authority within the EQC and statutorily creating a standing Water Policy Subcommittee of the EQC; or (5) assigning water policy development authority to another interim committee.

Joint Subcommittee Questions

00:02:44 Sen. Perry asked whether a subcommittee formed from the EQC would consist of only EQC members. Mr. Everts responded a statutory subcommittee of the EQC could be formed that contained other legislators or public members.

- 00:03:59 Sen. Elliott addressed the division of water quality and water quantity issues between the Department of Environmental Quality (DEQ) and the Department of Natural Resources and Conservation (DNRC). Sen. Elliott noted the substantial amount of knowledge to be gained by studying Montana water issues. Sen. Elliott favored having a permanent WPIC to bridge the two issues and gain knowledge of all water issues.
- 00:05:48 Rep. Lambert agreed with Sen. Elliott and the need to maintain the WPIC. Chairman Wanzenried asked Rep. Lambert whether she supported having a stand-alone separate committee and keeping the EQC's authority intact. Rep. Lambert agreed.
- 00:06:50 Sen. Story also saw the need for a forum to educate legislators about water issues in Montana, but believed it could be problematic to create a separate committee when the oversight for DEQ, DNRC, and FWP lies with the EQC. Sen. Story saw a need to coordinate the two committees.
- 00:09:21 Sen. Perry thought the EQC already had enough responsibility and did not believe the EQC could delve into the detail that the WPIC did during the past interim. Sen. Perry envisioned a need to create a permanent interim committee to address water policy issues. Sen. Perry recalled a past Senate debate regarding who should serve on the WPIC. Sen. Perry agreed it is good to involve more legislators. Sen. Perry stated he favored creating a separate WPIC, but would be satisfied with creating a permanent subcommittee of the EQC, which would include members not on the EQC, but who have expertise in water.
- 00:13:25 Mr. Everts summarized Rep. McNutt's position and stated Rep. McNutt favors a statutorily created subcommittee of the EQC and removing the statutory term limits for EQC members to allow for participation. Rep. McNutt was worried about duplication of efforts and efficiency issues.
- 00:14:58 Chairman Wanzenried summarized the agreement that water quality and water quantity need to be the focus, and there needs to be a process to educate members of the Legislature. Chairman Wanzenried believed there should be a standing subcommittee within the EQC, and the subcommittee should include members with water expertise. Chairman Wanzenried suggested a need to ensure four EQC members serve on the subcommittee.
- 00:19:13 Chairman Elliott addressed the area of overlap and identified subdivision laws, the location of wells to septic systems, and septic treatment plants as specific water quality issues. Chairman Elliott would like to see the creation of a separate interim committee, which would be closely related to the EQC. Chairman Elliott stated he would like to see a specific proposal on the creation of a permanent standing subcommittee of the EQC.
- 00:20:55 Sen. Story suggested addressing the size and make up of the proposed subcommittee. Sen. Story thought it would be best to have an eight-member committee. Sen. Story reminded the Joint Subcommittee that consideration should also be given to staff resources.

00:23:15 Mr. Kolman reminded the Joint Subcommittee that not all members need to be legislators.

00:24:33 Sen. Elliott thought all the members should be legislators because of the knowledge base that would be gained. Sen. Elliott wondered who would have authority to set the agenda and how decisions would be made. Sen. Elliott believed the subcommittee should have autonomy within the EQC.

00:27:09 Sen. Perry asked how the non-legislative appointments were made on the Split Estates Subcommittee. Mr. Kolman explained applications were solicited and members were chosen by the six EQC Split Estates Subcommittee members.

00:28:12 Sen. Elliott reiterated that he preferred not to include public members for fear that those members may bring a vested interest to the table.

00:29:19 Mr. Everts provided a history of past EQC subcommittees. Mr. Everts explained the EQC assigns subcommittee chairs and vice chairs who set the subcommittee agendas based on the EQC Work Plan. The subcommittees work on details and report to the full EQC at every meeting. Subcommittees also create draft reports and legislative proposals for consideration by the full EQC. Mr. Everts suggested most EQC members will already have knowledge of water issues.

00:33:16 Sen. Perry noted there are 17 members on the EQC and asked how many members would be present at the meeting to be held that afternoon. Mr. Everts responded everyone would be present except Sen. McGee and Mr. Cebull, and Ms. Conradi would be late. Mr. Everts depicted attendance at the EQC meetings as impeccable throughout the interim.

00:34:05 Sen. Elliott wondered why the WPIC was created as a separate committee if its functions could have been carried out by the EQC. Sen. Elliott thought it was important to know the answer.

00:34:55 Mr. Everts recalled HB 831, which created the WPIC and the WPIC termination date, and the need for attention to be given to water policy issues. Mr. Everts stated all water policy authority still lies with the EQC.

00:36:44 Sen. Elliott envisioned the WPIC would not have any oversight authority and stated he did not want to take any responsibility from the EQC.

00:37:21 Sen. Perry supported Sen. Elliott and expressed concern about the EQC's having the time to address water policy issues. Sen. Perry thought water policy would be better left with a separate interim committee.

00:40:18 Mr. Kolman reminded the Joint Subcommittee of the other options available for consideration.

00:41:03 Sen. Elliott addressed the overlap between the EQC and the WPIC and agreed water is an issue for other agencies that are provided oversight by the EQC, and that there would always be duplication.

- 00:42:10 Sen. Story proposed having staff look at all the enumerated water responsibilities of the EQC and determine where those would lie between EQC and a separate water policy committee. Sen. Story suggested it might be time for the DNRC to get back into water planning.
- 00:44:10 Sen. Perry noted the Law and Justice Interim Committee addresses issues also being discussed by the Children, Families, Health, and Human Services Interim Committee and the coordination that occurs between the two interim committees.

Public Comment

There was no public comment offered.

Joint Subcommittee Recommendations

- 00:46:03 Chairman Wanzenried asked staff to bring forward options dividing the issues between the EQC and the WPIC.
- 00:47:15 Sen. Elliott asked whether the staff's enumeration would consist of a bill draft or a list.
- 00:47:48 Mr. Kolman responded it could be done either way.
- 00:48:15 Sen. Story would like to see a bill draft to get started.
- 00:48:46 Chairman Wanzenried inquired about the scope of the WPIC's responsibilities. Sen. Elliott explained the WPIC had very specific responsibilities, including closed basins, water adjudication, the issuance of water rights, the use of exempt wells and septics, water quality, and land use planning. Chairman Wanzenried asked whether having an enumerated list of responsibilities would be difficult since the current WPIC was unable to cover all the issues. Sen. Elliott emphasized the importance of accumulating knowledge over time and stated he doubted all the issues could be handled by a subcommittee. Sen. Elliott directed Chairman Wanzenried to HB 304 which outlined the plethora of issues to be addressed by the WPIC. Chairman Wanzenried suggested rather than specific assignments, the duties could be the responsibility of both the EQC and the WPIC and knowledge would be accumulated on both levels.
- 00:54:08 Chairman Wanzenried requested Mr. Kolman to prepare bill drafts for consideration by the Joint Subcommittee.
- 00:54:23 Sen. Story addressed the term limits of the EQC members and suggested not eliminating the term limits.
- 00:56:20 Chairman Elliott requested an opportunity to present proposals to the full WPIC.
- 00:57:07 Sen. Perry warned about designing something for the future and being too cautious. Sen. Perry suggested removing some of the water issues from the

EQC could make the EQC more efficient and productive. Sen. Perry urged the Joint Subcommittee members to approach the issue with an open mind.

00:58:35 Sen. Elliott suggested the EQC and WPIC alternate chairing the Joint Subcommittee. Chairman Wanzenried agreed.

ADJOURN

There being no further business to come before the Joint Subcommittee, the meeting adjourned at 1:04 p.m.