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## Water Policy Interim Committee

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### 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:<sup>1</sup>

Date: September 8, 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.

An electronic copy of these minutes and the audio recording may be accessed from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side column of the home page, select *Committees*, then *Interim*, and then the appropriate committee.

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. BOB STORY  
SEN DAVID WANZENRIED (Chair)  
REP. CAROL LAMBERT  
REP. WALTER MCNUTT (via conference call)

#### **COMMITTEE MEMBERS EXCUSED**

SEN. GARY PERRY

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<sup>1</sup>These minutes were completed after the interim recessed and were not approved by the subcommittee.

## **STAFF PRESENT**

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

## **Visitors**

Visitors' list ([Attachment 1](#))  
Agenda ([Attachment 2](#))

## **COMMITTEE ACTION**

- The Joint Subcommittee voted to approve and recommend LC 5016 to the full EQC and WPIC.

## **CALL TO ORDER AND ROLL CALL**

00:00:03 Sen. David Wanzenried, Chairman of the Environmental Quality Council/Water Policy Interim Committee Joint Subcommittee (Joint Subcommittee) called the meeting to order at 11:03 a.m. The secretary noted the roll ([Attachment 3](#)).

## **AGENDA**

### **CONSIDERATION OF LEGISLATIVE ADMINISTRATIVE OPTIONS FOR FUTURE WATER POLICY DEVELOPMENT**

#### **Presentation of Bill Drafts - Mr. Kolman**

00:00:59 Joe Kolman, Legislative Research Analyst, explained LC 5016 would create a separate Water Policy Interim Committee (WPIC), but would have no administrative oversight ([EXHIBIT 1](#)); LC 5017 would create a completely separate WPIC and would strip the EQC's current duties regarding water policy ([EXHIBIT 2](#)); and LC 5018 would create a statutory subcommittee of the Environmental Quality Council (EQC) ([EXHIBIT 3](#)).

#### **Joint Subcommittee Questions**

00:04:51 Rep. McNutt addressed LC 5016 and wondered how an interim committee would work without rule review or oversight of the agency.

00:05:20 Todd Everts, Staff Attorney, explained LC 5016 would leave the administrative functions with the EQC, and the WPIC would have jurisdiction over specific interim study issues related to water.

00:05:54 Mr. Kolman clarified the WPIC would essentially function as the WPIC is currently performing.

## **Public Comment**

No public comment was offered.

## **Subcommittee Recommendation**

- 00:06:43 Sen. Elliott suggested polling each Joint Subcommittee member regarding specific recommendations. Sen. Elliott favored LC 5016, which would establish the WPIC as a permanent interim committee with essentially the same responsibilities as the current WPIC.
- 00:07:26 Sen. Story agreed LC 5016 would be a better solution than LC 5017. Sen. Story believed the WPIC should start out as a policy-focused immediate issue committee, as opposed to a committee that deals with ongoing administrative issues. Sen. Story stated he still had interest in LC 5018 and acknowledged the subcommittee would need to be included in the EQC work plan. Sen. Story pointed out that membership makeup would need to be decided by the Legislature.
- 00:09:25 Rep. McNutt supported LC 5016 and thought a separate WPIC would be needed in the future. Rep. McNutt believed agency oversight should remain with the EQC. Rep. McNutt expressed confusion regarding LC 5018 and the membership.
- 00:10:52 Rep. Lambert preferred LC 5018 and did not believe anyone would be precluded from serving on the Water Policy Subcommittee of the EQC. Rep. Lambert requested clarification regarding whether under LC 5016 that oversight would still fall with the EQC.
- 00:11:46 Mr. Kolman clarified oversight by the EQC would be for the agencies, and the WPIC would operate as an independent interim committee and would not be overseen by the EQC.
- 00:12:11 Rep. Lambert stated she could support LC 5016.
- 00:12:26 Chairman Wanzonried supported LC 5018, but acknowledged the term limits on the EQC membership needed to be resolved. Chairman Wanzonried wanted to ensure that a stand alone committee takes on as many responsibilities as possible. Rep. McNutt relayed that Sen. Perry agrees with LC 5016.
- 00:14:30 Sen. Elliott stated a Joint Subcommittee vote needs to be reported to both the EQC and the WPIC. Sen. Elliott suggested there are territorial issues involved and stated that leaving the jurisdiction with the EQC and creating the WPIC would be viewed as a minimal infringement upon the duties of the EQC. Sen. Elliott moved the Joint Subcommittee recommend LC 5016 to the EQC and the WPIC.
- 00:16:21 Sen. Story did not disagree that LC 5018 was a plausible way to handle the issue, but believed LC 5018 should be more detailed for further consideration by

the EQC. Sen. Story noted the current WPIC would stand behind LC 5016 and suggested both proposals could move forward.

- 00:18:01 Sen. Elliott asked whether the EQC would favor LC 5018 and suggested the membership could be proposed by the EQC with input from the WPIC. Sen. Story identified the problem with LC 5018 as mathematical and believed the details should be worked out.
- 00:19:59 Sen. Elliott thought the better approach would be to support LC 5016 and emphasized the importance of coordination between the EQC and WPIC Chairmen.
- 00:21:35 Sen. Story suggested forwarding LC 5016 and noted the EQC could discuss the other proposals.
- 00:22:08 Rep. McNutt cautioned against spreading the issue of water too thin as a subcommittee of the EQC and expressed his desire to have substantial public comment.
- 00:22:50 Sen. Story recalled the Department of Natural Resources and Conservation (DNRC) and the Department of Environmental Quality (DEQ) were both pleased to bring their issues before the WPIC. Sen. Story wondered whether the EQC was providing that opportunity to the DNRC, the Department of Fish, Wildlife and Parks (FWP), and the DEQ.
- 00:24:30 Rep. McNutt responded there are far more than just water issues with the three agencies, and the WPIC focused only on water issues, so it made it easier for the agencies.
- 00:25:40 Sen. Elliott suggested the agencies would like the undivided attention of a separate committee. Sen. Elliott recalled the current WPIC brought the agencies together and let them understand the difficulties of other agencies. Sen. Elliott noted the time the current WPIC allotted to agencies to present their issues.
- 00:27:20 Mr. Everts commented the EQC's Agency Oversight Subcommittee had brought in multiple agencies to address specific issues.
- 00:28:37 Sen. Elliott's motion carried 5-1 with Chairman Wanzenried voting no and Sen. Perry voting yes by proxy.
- 00:29:10 Rep. Lambert moved to bring LC 5018 forward before the EQC as an alternative. Rep. Lambert did not have any specific recommendations for membership.
- 00:30:19 Mr. Kolman explained subsection (b) could specify who should be on the subcommittee or the EQC could decide the makeup.
- 00:30:51 Sen. Elliott requested an explanation of how the EQC divides into subcommittees.

- 00:31:21 Mr. Everts explained the EQC's work planning process and the prioritization of issues that need to be addressed. At the initial EQC meeting, the Chair and Vice Chair solicit interest on particular issues from its members. The EQC has had between one and four subcommittees during the interims. Public members participating on the EQC have equal status regarding voting and membership on subcommittees. Mr. Everts stated the EQC has attempted to be bipartisan.
- 00:33:20 Sen. Elliott suggested that water would have to compete with other issues being considered by the EQC. Sen. Elliott would like to see water issues prioritized by the subcommittee on water.
- 00:34:13 Sen. Story discussed how staff time is allocated on the various issues in the EQC's prioritization process. Sen. Story envisioned a need to decide how much staff time would be devoted to a Water Policy Subcommittee.
- 00:36:39 Mr. Everts emphasized that if a requirement is placed in statute, it cannot be ignored, and the EQC would have to devote a certain amount of resources.
- 00:37:25 Sen. Elliott deferred the LC 5018 issues of staffing and makeup to the other members and agreed allocation of staff time would be difficult. Sen. Elliott recalled the WPIC met for 160 hours during the past interim.
- 00:39:11 Sen. Story asked Mr. Everts to discuss staffing issues.
- 00:39:41 Mr. Everts agreed in the EQC's net allocation of staff time, WPIC staffing was taken into account since the EQC staff has always supported water issues. Mr. Everts stated traditionally he would have done the legal staffing for the WPIC; however, the WPIC responsibilities were taken on by Mr. Petesch. Mr. Everts emphasized water issues have always been staffed, but summarized the question as in what box the issues should be placed.
- 00:41:58 Chairman Wanzenried repeated the motion to advance LC 5018. Rep. Lambert believed the EQC should determine the particulars regarding membership of the subcommittee. Rep. Lambert's motion failed 3-3 by voice vote with Sen. Elliott, Rep. McNutt and Sen. Perry voting no. Sen. Perry voted by proxy. Chairman Elliott requested that the Chairman of both the EQC and the WPIC address their respective committees regarding the merits of each proposal.
- 00:44:23 Sen. Story addressed LC 5016 and noted the numbers that would serve on the committee were not mentioned. Mr. Everts confirmed the number was already in statute.
- 00:44:55 Rep. McNutt expressed his desire to not see the creation of a permanent WPIC become a turf battle. Rep. McNutt noted the importance of having a venue for water policy issues. Chairman Wanzenried agreed and stated he would not like to have dueling proposals.

**ADJOURN**

00:45:55 Meeting adjourned at 11:49 a.m.