

DIVISIONAL COURT MODEL: Addendum A and B

Addendum A: MCA sections of note that apply but are not amended:

3-1-906. Senate confirmation -- exception -- nomination in interim -- appointment contingent on vacancy. (1) (a) Except as provided in subsection (2):

(i) each appointment must be confirmed by the senate; and

(ii) an appointment made while the senate is not in session is effective until the end of the next regular legislative session.

(b) If the appointment is subject to senate confirmation under subsection (1)(a) and is not confirmed, the office is vacant and another selection of nominees and appointment must be made.

(2) The following appointments are not subject to senate confirmation, and there must be an election for the office at the general election immediately preceding the scheduled expiration of the term or following the appointment, as applicable:

(a) an appointment made while the senate is not in session if the term to which the appointee is appointed expires prior to the next regular legislative session, regardless of the time of the appointment in relation to the candidate filing deadlines for the office; and

(b) an appointment made while the senate is not in session if a general election will be held prior to the next regular legislative session and the appointment is made prior to the candidate filing deadline for primary elections under 13-10-201(7), in which case the position is subject to election at the next primary and general elections.

(3) A nomination is not effective unless a vacancy in office occurs.

3-7-102. Water divisions boundaries. There are four water divisions whose boundaries are formed by the natural divides between drainages and the borders of the state of Montana and which are described as follows:

(1) The Yellowstone River basin water division consists of those areas drained by the Yellowstone and Little Missouri Rivers and any remaining areas in Carter County.

(2) The lower Missouri River basin water division consists of those areas drained by the Missouri River from below the mouth of the Marias River and any remaining areas in Glacier and Sheridan Counties.

(3) The upper Missouri River basin water division consists of those areas drained by the Missouri River to below the mouth of the Marias River.

(4) The Clark Fork River basin water division consists of the areas drained by the Clark Fork River, the Kootenai River, and any remaining areas in Lincoln County.

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Addendum B: Repealed MCA sections:

3-7-221. Appointment of chief water judge and associate water judge -- terms of office. (1) The chief justice of the Montana supreme court shall appoint a chief water judge as provided in Title 3, chapter 1, part 9. The chief justice of the Montana supreme court may appoint an associate water judge.

(2) To be eligible for the office of chief water judge or associate water judge, a person shall have the qualifications for district court or supreme court judges found in Article VII, section 9, of the Montana constitution.

(3) The term of office of the chief water judge and the associate water judge is 4 years, subject to continuation of the water divisions by the legislature.

3-7-222. Salary -- office space. (1) The chief water judge and the associate water judge must receive the same salary and expense allowance as provided for district judges in 3-5-211.

(2) The office of the chief water judge and the associate water judge must be at the location designated by the chief justice of the Montana supreme court. The Montana supreme court shall provide in its budget for the salary, expenses, and office and staff requirements of the chief water judge and the associate water judge. Money may be appropriated by the legislature from the general fund for these purposes.

3-7-224. (Temporary) Jurisdiction of chief water judge and associate water judge. (1) The chief water judge and the associate water judge may, at the discretion of the chief justice of the Montana supreme court, also serve as water judge for one of the water divisions.

(2) The chief water judge and the associate water judge have jurisdiction over cases certified to the district court under 85-2-309, all matters relating to the determination of existing water rights within the boundaries of the state of Montana, and all petitions for judicial review filed with the water court under 2-4-702.

(3) With regard to the consideration of a matter within the chief water judge's jurisdiction, the chief water judge and the associate water judge have the same powers as a district court judge. The chief water judge and the associate water judge may issue orders, on the motion of an interested party or on the judge's own motion, that may reasonably be required to allow the judge to fulfill the judge's responsibilities, including but not limited to requiring the joinder of persons not parties to the administrative hearing being conducted by the department pursuant to 85-2-309 or 85-2-402 as considered necessary to resolve any factual or legal issue certified pursuant to 85-2-309(2). (*Terminates September 30, 2025--sec. 6, Ch. 126, L. 2017.*)

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3-7-224. *(Effective October 1, 2025)* **Jurisdiction of chief water judge and associate water judge.** (1) The chief water judge and the associate water judge may, at the discretion of the chief justice of the Montana supreme court, also serve as water judge for one of the water divisions.

(2) The chief water judge and the associate water judge have jurisdiction over cases certified to the district court under 85-2-309 and all matters relating to the determination of existing water rights within the boundaries of the state of Montana.

(3) With regard to the consideration of a matter within the chief water judge's jurisdiction, the chief water judge and the associate water judge have the same powers as a district court judge. The chief water judge and the associate water judge may issue orders, on the motion of an interested party or on the judge's own motion, that may reasonably be required to allow the judge to fulfill the judge's responsibilities, including but not limited to requiring the joinder of persons not parties to the administrative hearing being conducted by the department pursuant to 85-2-309 or 85-2-402 as considered necessary to resolve any factual or legal issue certified pursuant to 85-2-309(2).

3-7-225. *(Temporary)* **Duties of associate water judge.** The duties of the associate water judge are the same as those assigned to the chief water judge pursuant to 3-7-223(1) through (3). *(Terminates September 30, 2025--sec. 6, Ch. 126, L. 2017.)*

3-7-225. *(Effective October 1, 2025)* **Duties of associate water judge.** The duties of the associate water judge are the same as those assigned to the chief water judge pursuant to 3-7-223(1) and (2).