

HOUSE BILL REPORT

SSB 5783

As Reported By House Committee On:

Agriculture & Ecology

Title: An act relating to public water systems.

Brief Description: Changing provisions relating to public water systems.

Sponsors: Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Haugen, Anderson, Rasmussen and Morton).

Brief History:

Committee Activity:

Agriculture & Ecology: 3/31/97, 4/3/97 [DPA].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Bill Lynch (786-7092).

Background: When a person with a water right permit demonstrates to the Department of Ecology's (DOE) satisfaction that the appropriation of water has been perfected, the department issues the permit holder a certificate for that water right. The certificate constitutes a vested right in the use of the water.

The process for perfecting a water right includes the requirements that actual construction work for a project be commenced within a reasonable time, pursued with diligence, and completed within the time prescribed by the department. In determining what constitutes a reasonable amount of time under a water permit to commence and complete a project and put the water to a beneficial use, the DOE is required to take into consideration the cost and magnitude of the project and the engineering and physical features to be encountered and allow such time as is reasonable and just after considering existing conditions and the public interest.

A water right for irrigation may only be perfected after the water has been applied for a beneficial use for that purpose. Historically, appropriations by municipal water

systems have been perfected in Washington based upon when pumps and pipes— are installed to meet the requirements for increases in population. In 1994, the DOE interpreted the law to require municipal water systems to perfect their water rights in the same manner as irrigation rights. Municipal water rights, therefore, are only perfected once the water has been put to actual use.

A number of municipalities have expressed concern that they have not fully utilized the maximum amount of water authorized under their permits, but might need the water to serve future population growth.

Summary of Amended Bill: In fixing public water system construction schedules and the time for applying water to a beneficial use for municipal water supply purposes, the DOE must consider the term and amount of financing required to complete the project, delays resulting from conservation and efficiency measures installed by the public water system, and the supply needs of the public water system's service area consistent with an approved comprehensive plan and related water demand projections.

For public water supplies that fulfill municipal water supply purposes and are designed to accommodate future growth as defined by a state-approved water system plan, the amount of instantaneous diversion or withdrawal of water that is being applied to beneficial use is based upon the capacity of the diversion structures and mainlines or withdrawal facilities and mainlines installed at the time. The amount of annual appropriation of water considered to be applied to a beneficial use at the time of perfection is based upon the growth projection contained in the most current state-approved water system plan. The DOE may not issue a certificate for quantities of water which exceed those contained in any permit that has been issued. Water rights subject to the terms of a final adjudication decree are not subject to these provisions.

Municipal water supply purposes are defined to mean water distributed by a Group A public water system and includes domestic, commercial, and industrial water uses as an integral part of the system, as well as industrial water uses provided by a public utility district on the effective date of this legislation and included in a comprehensive water plan. Other water systems not designated for potable water use are excluded. Water uses will only be considered as efficient uses of water if they are in full compliance with the Department of Health conservation guidelines.

Amended Bill Compared to Substitute Bill: A definition of municipal water supply purposes is added. References to urban growth areas and 20-year projections are deleted. The capacity of mainlines or withdrawal facilities and mainlines must also be considered when determining the amount of water applied to beneficial use.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This reinstates previous interpretations of the law. Municipalities need this to plan for population growth and to fund infrastructure.

Testimony Against: References to urban growth areas and 20-year projections are too restrictive. A definition of municipal water supply purposes should be added. The bill includes "pumps" but not "pipes." Municipal water is being favored.

Testified: Karla Kay Fullerton, Washington Cattlemen's Association; Judy Turpin, Washington Environmental Council; and Dave Arbaugh and John Kounts, Washington Public Utilities District Association (opposed to original bill). Steve Lindstrom, Sno-King Water District Coalition; and John Woodring, Washington Association of Realtors (in favor).