

SENATE BILL REPORT

SB 5358

AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 11, 1991

Brief Description: Providing for exchanges of water through interties.

SPONSORS: Senators Barr and Madsen; by request of Jnt Sel Com on Water Resource Policy.

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

Majority Report: That Substitute Senate Bill No. 5358 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, Hansen, and Newhouse.

Staff: Ed Dee (786-7449)

Hearing Dates: February 12, 1991; March 5, 1991

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5358 be substituted therefor, and the second substitute bill do pass.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bailey, Bauer, Bluechel, Cantu, Gaspard, Hayner, Johnson, L. Kreidler, Matson, Murray, Newhouse, Niemi, Rinehart, L. Smith, Talmadge, West, Williams, and Wojahn.

Staff: Michael Groesch (786-7715)

Hearing Dates: March 11, 1991

BACKGROUND:

Interties are interconnections between existing public water systems permitting exchange of water between those systems on an intermittent or permanent basis. Interties are used by water utilities for various purposes. They can serve as backup supply sources during shortages due to system problems or primary source availability. Interties can be used as permanent supply sources to augment existing supplies rather than develop new sources at great expense. They can also be used to recharge groundwater supplies by importing water through an intertie.

Interties have been increasingly used by larger water utilities and water utilities in areas of rapid growth to ensure a reliable, safe supply of drinking water. Interties have been encouraged by the Department of Health when reliability, efficiency, and safety of supply can be advanced.

The Department of Health reviews intertie proposals for technical sufficiency and to ensure that desired outcomes are achieved. There is no specific process for public review of intertie proposals or review by the Department of Ecology for assessment of potential impacts on existing water rights.

The increasing use of interties has raised some issues concerning their legality under current water law. Water rights are granted through a permitting process which includes designation of the geographic area the water will be used. Exchange of water outside the specific parameters for place of use may be an expansion of the water right and thus illegal. The bill attempts to legitimize both present and future interties and set forth a process to ensure there is no impairment of existing water rights.

SUMMARY:

The value of interties is recognized and guidance for their approval is provided. Proposals for interties must be incorporated into water comprehensive plans requiring state approval. Proposals are reviewed by both the Department of Health and the Department of Ecology to assess the technical sufficiency of the proposal and to ensure existing water rights are not impaired. If the Department of Ecology determines there would be an impairment of existing rights the proposal shall be denied, with opportunity for appeal to the Pollution Control Hearings Board. Notice to the public and opportunity for comment is required.

Existing interties must be identified through written notice to the Department of Ecology by December 31, 1991. The Department of Ecology shall reflect changes in place of use in the water permits pursuant to the statutory requirements for surface water and groundwater.

The application, notice, and permit requirements to change the place of use of water do not prevent exchange of water through interties under emergency circumstances of short duration.

EFFECT OF PROPOSED SUBSTITUTE:

It is in the public interest to recognize existing interties and to modify associated water rights to reflect current use. Interties are defined to include interconnections between water systems permitting delivery of water between those systems, and a definition of service area is added.

Public water systems are to provide notice of existing interties to the Departments of Health and Ecology prior to June 30, 1996. If the intertie is part of a state approved plan and if no outstanding complaints were filed prior to March 1, 1991, the Department of Ecology must modify the water right to reflect the place of use through the intertie.

Interties commencing use after January 1, 1991 must be consistent with regional water system plans. Proposals for future interties must be incorporated into water system plans

under Chapter 43.20 RCW or coordinated water system plans under Chapter 70.116 RCW. The Department of Health is responsible for review and approval, except for water right considerations which are the responsibility of the Department of Ecology.

If the Department of Health determines a proposed intertie is necessary to address emergent public health or safety concerns, an expedited process occurs for the Department of Ecology to determine if existing water rights are impaired. If it is not necessary to address public health or safety, the normal water right modification process applies. The Department of Health may approve intertie proposals prior to modification of the water right, but construction work may not begin until the water right is modified.

The Departments of Health and Ecology must coordinate approval procedures for interties.

EFFECT OF PROPOSED SECOND SUBSTITUTE:

Passage of the bill is made contingent upon provision of funding in the budget.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR (Agriculture & Water Resources):

Interties are valuable tools for public water systems to manage water more efficiently and provide safe and reliable drinking water to our growing population. There must be improved coordination between the Departments of Health and Ecology in order to expedite the review and approval process for future intertie proposals. The approval process for existing intertie should not be unnecessarily burdensome.

TESTIMONY AGAINST (Agriculture & Water Resources):

The bill does not incorporate the government-to-government approach that integrates tribal, state, and local governments in cooperative water resource planning. The definition of intertie in the bill is inconsistent with the review and approval process. Several hundred existing interties operate in violation of state law; blanket exemptions for existing interties may conflict with tribal interests. The burden of demonstrating no impairment to existing rights should be on the proponent of the intertie. (The substitute bill attempts to address these comments.)

TESTIFIED (Agriculture & Water Resources): Marlene Ross, Farm Bureau (pro); Richard H. Smith, Dike District #3, Skagit County (pro); Bruce Briggs, Western Washington Horticulture Association (pro); Pat Wiles, IOWUA/Harbor Water (pro); Curtis Wylie, Dike District #22, Skagit County (pro); Bill Liechty,

Department of Health (pro); Bob Dean, Dike District #1, Skagit County (pro); Henry Yates, Seattle City Light (pro); Don Howard (pro); Werner Langner; Hedia Adelsman, Department of Ecology, Water Resources

TESTIMONY FOR (Ways & Means):

The bill is important to the health and development of Washington's communities. It is important to clarify the legal issues surrounding the use of interties.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Senator Ken Madsen; Kathleen Collins, Assn. of Washington Cities