

HOUSE BILL REPORT

HB 1787

As Reported By House Committee On:
Natural Resources & Parks

Title: An act relating to water resource areas.

Brief Description: Eliminating certain provisions about water resource inventory and planning areas.

Sponsors: Representatives Linville, R. Johnson, Pruitt, Kremen, Rust, Foreman, Quall, Morton, Grant, Johanson, Mastin, Eide and Fuhrman.

Brief History:

Reported by House Committee on:
Natural Resources & Parks, February 23, 1993, DPS.

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Pruitt, Chair; R. Johnson, Vice Chair; Morton, Ranking Minority Member; Stevens, Assistant Ranking Minority Member; Dunshee; Linville; Schoesler; Sheldon; Thomas; Valle; and Wolfe.

Staff: Linda Byers (786-7129).

Background: In the western United States, including Washington, water law is based primarily on the doctrine of prior appropriation. Under this doctrine, a person who is "first in time" to put water to a beneficial use is "first in right" to the water used. The user retains this right to the water so long as he or she continues to put the water to beneficial use. However, if the user voluntarily, or without sufficient cause, fails to use all or part of the water for a given period of time, the user relinquishes his or her water right. That water then becomes available for appropriation to others. This "use it or lose it" aspect of the doctrine of prior appropriation creates a disincentive for users to conserve water.

In 1991, the Legislature authorized an experimental program to promote water conservation and greater water use efficiency. The Legislature authorized the state, through the Department of Ecology, to enter into voluntary contracts with water rights holders. Under this program, the state

may assist in the financing of water conservation projects in exchange for a portion of the net water savings resulting from the projects. The state acquires a trust water right to this saved water, with the right retaining its original priority date. The state may then allocate this water to a variety of in-stream or off-stream uses. The Department of Ecology must make sure that other water right holders are not adversely affected by state acquisition of a trust water right. Transfers of net water savings may be permanent or temporary. The department may also accept gifts of water rights.

Under current law, implementation of the trust water rights program is restricted to designated areas. These areas are the two pilot program areas identified as part of the Chelan agreement process; the Methow basin and the Dungeness-Quilcene basins. In addition, the program could be applied in up to eight water resource inventory areas with critical water supply problems. A separate trust water rights program is in place in the Yakima River basin. In all other areas of the state, a water rights holder who conserves water runs the risk of losing it because of the prior appropriation doctrine.

Summary of Substitute Bill: Provisions restricting the trust water rights program to the Methow and Dungeness-Quilcene basins and to designated water resource inventory areas are removed from statute. The trust water rights program would thus apply statewide.

Substitute Bill Compared to Original Bill: The original bill amends some, but not all, of the references which limit the trust water rights program to the pilot program areas and select water resource areas. The substitute bill amends all of the relevant sections in the trust water rights chapter of the RCW.

Fiscal Note: Not requested.

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

Testimony For: Under current law, people are actually punished for saving water. This legislation provides a tool which would allow people to conserve water and increase flexibility in water use. Waiting to expand the program may mean lost opportunities in saved water. There are parties who have indicated a willingness to donate water rights as gifts, and they would be able to do so with this bill. This program would give industry a tool to save water now without losing the right to use it again in the future.

Testimony Against: None.

Witnesses: Representative Kelli Linville (prime sponsor), Ken Slattery and Cynthia Nelson, Department of Ecology; Pat Dunn, Intalco Aluminum; and Dave Arbaugh, Washington Public Utility District Association (all in favor).