

SENATE BILL REPORT

ESHB 1236

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 14, 1993

Brief Description: Establishing fees for certain water rights.

SPONSORS: House Committee on Natural Resources & Parks (originally sponsored by Representatives Rust, Pruitt and Sheldon; by request of Department of Ecology)

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

HOUSE COMMITTEE ON REVENUE

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Jesernig, Owen, Pelz, Quigley, Snyder, Sutherland, Talmadge, Williams, and Wojahn.

Staff: Denise Graham (786-7715)

Hearing Dates: April 14, 1993

BACKGROUND:

Under the State Water Code, a person must have a water right for any use of surface water and for larger withdrawals of groundwater. A water right is a legal right to use a specified amount of water for a beneficial purpose. The Water Rights Program in Washington is managed by the Department of Ecology.

The process of acquiring a water right involves a number of steps and the payment of several fees. These fees are established by statute and have not changed substantially in the last 75 years. The Water Rights Program at the Department of Ecology is heavily dependent on state general fund appropriations. Fees collected for water rights applications represent less than 2 percent of the cost of administering the program.

In the last several years the number of applications for water rights has increased significantly. In 1985, the department received 800 new applications; in 1990, 1500 new applications were received, and in 1992, 1835 new applications were received. The average waiting period increased from 1.5 years in 1985 to 2.5 years in 1992. The department also reports an increase in application protests and appeals during this time.

SUMMARY:

The Legislature finds that a water right confers significant economic benefits to the water right holder, and that water rights applicants should contribute more to the cost of administration of the Water Rights Program. The Legislature also finds that water rights applicants have a right to know that the Water Rights Program is being administered efficiently and that the fees charged for various services relate to the cost of those services.

The Legislature creates a water rights fees task force and provides for the appointment of task force members. The task force is directed to conduct a comprehensive review of water rights fees. A number of specific tasks are to be included in this review. Before December 1, 1993, the task force is to (1) provide recommendations to the Department of Ecology on ways to improve the efficiency and accountability of the Water Rights Program; (2) provide recommendations to the Legislature on statutory changes necessary to make these efficiency and accountability improvements; and (3) propose a new water rights fee schedule which incorporates the task force's work and which funds through fees 50 percent of the cost of the activities and services provided by the Water Rights Program.

The Legislature requests that, by July 1, 1993, the Department of Ecology begin the rule-making process to adopt state policies on instream flow levels and hydraulic continuity. If the department is unable to develop consensus on these policies, the department is to provide to the appropriate legislative committees information on these two issues, data and documentation on work to date on establishing policies on these issues, and policy options for consideration by the Legislature.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

The striking amendment provides that a temporary surcharge of \$50 is levied on all new water rights applications and all applications pending as of June 1, 1993. The surcharge will be in effect from July 1, 1993 through June 30, 1994.

A task force is established to review water rights fees and the water rights program. The task force will be comprised of two members of the House, two members of the Senate, and ten members appointed by the Speaker of the House and the President of the Senate to represent agriculture, aquaculture, business, cities, counties, the Department of Ecology, environmentalists, water recreation interests, water utilities and hydropower interests.

The task force will identify which program activities should be eligible for cost recovery from fees, set a reasonable time frame for completion of pending water rights applications, provide an analysis of the staff and funding levels required to meet those time frames, recommend ways to improve the efficiency and accountability of the program, and propose a new fee schedule for the water rights program which incorporates the results of the task force's work and which funds 50 percent of the program through fees.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: The bill contains an emergency clause and is effective immediately.

TESTIMONY FOR:

The striking amendment will allow more time to work with Ecology to find ways to bring efficiencies and timeliness to the water rights application process. There is a willingness to support the temporary fee hike in order to gain more time to work out acceptable solutions.

TESTIMONY AGAINST:

The original bill which increased fees by \$5 million would have decreased the public subsidy of the water rights program from 98 percent to 54 percent. The striking amendment merely delays finding a solution. Moving ahead on the data management project is absolutely essential, and the fees in the striking amendment do not provide enough funding to do this.

TESTIFIED: Collins Sprague, Washington Water Power Co. (pro); Ray Shindler, Washington Association of Wheat Growers, Washington Cranberry Alliance, Washington Asparagus Growers (pro); Terry Oxley, Puget Power and Light Co. (pro); Jeff Parsons, National Audubon Society (pro, original bill); Judy Turpin, Washington Environmental Council (pro, original bill); Dave Arbaugh, Washington PUD Association (pro)