

SENATE BILL REPORT

SB 5777

AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 8, 1993

Brief Description: Providing incentives for trickle irrigation systems.

SPONSORS: Senators McDonald, M. Rasmussen, Barr, Sellar, Jesernig, Hochstatter and Anderson

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Sutherland, Chairman; Jesernig, Vice Chairman; Amondson, Hochstatter, McCaslin, Owen, Roach, and West.

Staff: Phil Moeller (786-7445)

Hearing Dates: February 22, 1993; March 3, 1993

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5777 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Anderson, Bauer, Bluechel, Cantu, Gaspard, Hargrove, Hochstatter, Jesernig, McDonald, Moyer, Niemi, Pelz, Quigley, Roach, L. Smith, Snyder, Sutherland, West, Williams, and Wojahn.

Staff: Denise Graham (786-7715)

Hearing Dates: March 8, 1993

BACKGROUND:

Law pertaining to the allocation of water in the Western United States is based generally on several tenets. One such tenet includes the concept of "first in time, first in right," meaning the earlier an entity was granted a water right, the less likely that the entity's use will be curtailed in times of water shortages. Another of these tenets is referred to as "use it or lose it," which in literal terms means that if an entity fails to use a portion of its granted water for five consecutive years, the water right will be reduced to reflect the decreased consumption.

Since 1917 state law has allowed individuals to transfer all or a portion of a water right with state approval. A significant amount of water is diverted for usage by irrigated agriculture in the state of Washington and throughout the Western United States. Water appropriated for use on a

particular project can be divided into three categories: water diverted but lost through evaporation; water diverted and consumed by the crop; water diverted and then returned to the flow through groundwater or surface runoff (known as "return flows").

Agricultural and water policy leaders have struggled with creating incentives to conserve water that do not upset existing water rights. One of the impediments to water conservation is a prohibition on an entity saving water on specific irrigated land and applying it to other previously unirrigated land. This concept is referred to as "water spreading." This prohibition exists so that return flows (upon which certain downstream users are often dependent) are not reduced.

In 1991 the Legislature enacted legislation authorizing pilot programs to encourage the voluntary transfer of water and water rights. This project is known as the "Trust Water Rights Program" and the lead agency on the project is the Department of Ecology.

Certain irrigation methods are more efficient than others. Trickle (also known as "drip") irrigation (contrasted to sprinkler irrigation methods) allows for a substantial decrease in the amount of water lost to evaporation. Trickle irrigation is not practical for all crops but is particularly suited to newly planted orchards.

SUMMARY:

A person holding a valid water right may enter into a contract with another person for the transfer of water saved through installation of a qualifying trickle irrigation system. The transfer may be for an amount of water equal to the reduction in evaporative loss. A contract for the transfer of saved water may be permanent or in the form of a lease with a set expiration date. An applicant for transferring a water right obtained by trickle irrigation savings shall follow standard water right transfer procedures and shall accompany the application with \$100.

By July 1, 1994, the Department of Ecology shall adopt rules to: provide procedures to facilitate the processing of requests for water right transfers of savings from trickle irrigation; and to establish a streamlined procedure to quantify the reduction in the evaporative loss.

A holder of a water right may voluntarily contract to sell to the Department of Ecology water savings obtained through trickle irrigation. The Department of Ecology shall use the same methods of calculating the amount of transferable water as used when the transfer is to a private entity. If additional net water saved is available for the benefit of only a stream segment, the calculations may be made on a case-by-case basis.

A holder of a valid water right who installs a trickle irrigation system may apply for a transfer of the water saved for the irrigation of previously unirrigated land, to land with less senior water rights, or to land that lacks sufficient supply. The application must be processed based upon the same criteria as if the transfer were made to another person.

When processing applications for transfers of portions of water rights obtained using trickle irrigation, the Department of Ecology may include a presumption of validity in the certificate. The presumption must provide to the contract purchaser the same right to the use of the water as to the holder of the original water right, but the presumption may not be used as evidence regarding the existence or nonexistence of the right in a water right adjudication.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

The specific fee amount required to accompany a water right transfer application is deleted and remains unspecified.

EFFECT OF PROPOSED SUBSTITUTE:

The application fee for trickle irrigation users to transfer a water right is \$625. If funding is not provided in the biennial budget to implement this bill, the bill is null and void.

Appropriation: none

Revenue: yes

Fiscal Note: available

TESTIMONY FOR:

This bill is an attempt to create incentives for water conservation projects in a complicated policy area. The bill allows transferring the rights to saved water either to private entities or the state.

TESTIMONY AGAINST: None

TESTIFIED: Senator McDonald, prime sponsor; Senator Rasmussen (pro); Terry Husseman, Department of Ecology