

SENATE BILL REPORT

E2SSB 6291

AS PASSED SENATE, MARCH 1, 1994

Brief Description: Affecting the processing of water rights.

SPONSORS: Senate Committee on Ways & Means (originally sponsored by Senators M. Rasmussen, Prince, McCaslin, Bauer, Winsley and Newhouse)

SENATE COMMITTEE ON AGRICULTURE

Majority Report: That Substitute Senate Bill No. 6291 be substituted therefor, and the substitute bill do pass.

Signed by Senators M. Rasmussen, Chairman; Loveland, Vice Chairman; Bauer, Newhouse and Snyder.

Staff: Bob Lee (786-7404)

Hearing Dates: January 25, 1994; February 3, 1994

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6291 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chairman; Quigley, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Ludwig, Moyer, Owen, Pelz, Roach, Snyder, Spanel and Sutherland.

Staff: Cindi Yates (786-7715)

Hearing Dates: February 22, 1994; February 23, 1994

BACKGROUND:

The water right permitting process was first established in 1917 at which time a fee schedule was established for processing water right applications. The existing fee schedule pays for about 2 percent of the cost of the water right permitting process incurred by the Department of Ecology.

During the 1993 session, a Water Right Fee Task Force was created. It was given two major assignments: to recommend to the Legislature statutory changes to improve the efficiency of the water right permit process, and to develop a fee schedule whereby water right applicants pay 50 percent of the cost of the water right program.

The recommendations of the task force were submitted to the Legislature which is the basis for this legislation.

SUMMARY:

To catch up on the backlog of water right applications, the department is to expedite processing applications in areas of no known shortage and to promptly deny applications in areas of known shortage.

The date of priority of water rights established in the future is changed to be the date that a completed application is submitted. The department is to develop by rule what is to constitute a completed application.

The department may require the applicant to provide information needed to support a water right application but such requirements must be directly related to the application under consideration.

A general permit system is to be developed for nonconsumptive-nonbypass uses, and for use of marine waters on upland sites to reduce the number of applications that need to proceed through the full water right permitting process. These general permits apply to uses which do not raise issues about water availability or impairment of other water rights.

The following additional types of transfers and changes to existing water rights may be approved as long as existing water rights are not affected: the season of use may be made as long as the water use remains in the same general category; surface water diversions may be changed to groundwater withdrawals or vice versa if the two sources are in direct hydraulic continuity; the right embodied in a permit that has not yet been applied to beneficial use may be transferred or changed, but only the amount of water that has been beneficially used under a certificate may be transferred or changed. However, in neither case may the amount diverted for beneficial use be enlarged as to the annual quantity.

A person may relocate the point of a groundwater or surface water diversion up to 1/4 mile as long as other water rights are not impaired and the water right holder provides at least 15 days advance notice to the department. Clarification was added regarding a change to the point of diversion to reduce possible impairment of other existing rights or harm to the fishery resource.

Once a holder of a water right completes an approved change or transfer, the holder shall notify the department who then is to issue a superseding certificate that reflects the change.

The department is to encourage the filing of consolidated water right applications that are under a single ownership and to provide forms for consolidated applications.

The department is provided authority to set aside unappropriated surface water through the adoption of a rule. The department may allocate up to 450 gallons per day from this water right reservation to persons making application for a water right through an expedited process. Informational

materials are to be provided regarding risks of drinking untreated surface water.

The department is to establish a register that identifies water right or change applications that are in excess of 3 cubic feet per second for each water resource inventory area in the state.

The department is directed to develop accountability measures to employ in the water right permitting program to assure that funds are being efficiently expended. A water rights program review task force is to review workload standards and targets for the permitting process. The task force is to remain in effect through June 30, 1998, and is to monitor the water right permit and data management programs and make recommendations for funding levels and fee changes including reexamination of the fees on exempt wells.

There are two fee schedules established. The first fee schedule starts on July 1, 1994 and terminates on June 30, 1998. The second fee schedule begins on July 1, 1998. The first fee schedule contains additional amounts to reduce the water right backlog and to fund the development of the water resource data management program.

Statutory exemptions to payment of fees for processing water right permits and certificates for specific uses are repealed.

Authority is provided to the Department of Ecology to regulate water rights. Water rights granted through state issued permits and certificates may be regulated by the department through the issuance of regulatory orders which are appealable to the Pollution Control Hearings Board. The department may regulate water rights issued prior to the 1917 surface water code or the 1945 ground water code by initiating an action in the local superior court.

The Legislature is to examine and recommend state policies relating to water rights, water use and water doctrine and report recommendations to the appropriate standing committees of the 1995 Legislature.

The interim standards on the use of reclaimed water from wastewater treatment plants are allowed to become permanent standards.

Appropriation: none

Revenue: yes

Fiscal Note: requested

Effective Date: Section 1 takes effect on January 2, 1995, sections 24 through 26 and 28 take effect on July 1, 1995 and section 27 takes effect on July 1, 1997.

TESTIMONY FOR (Agriculture):

Owners of exempt wells should be required to contribute toward a process that protects water rights including those established through the groundwater exemption.

Fees in the bill are equitable and sufficient dollars should be generated to address the backlog. The efficiency improvements are needed to be able to achieve the backlog reduction goals.

TESTIMONY AGAINST (Agriculture):

Owners of wells exempt from the water right permitting process should not be required to pay a fee to help support the water right permitting process or the development of the water resources data management system.

TESTIFIED (Agriculture): Linda Crerar, Ecology (pro); Rick DeRemer, Mike Matins, WA State Drilling & Groundwater Association (con); Kent Lebsack, WA Cattlemen's Association; David Monthie, Department of Health (pro); Mike Schwisow, WA State Water Resource Association (pro); Ray Shindler, WA Association of Wheat Growers/Potato Growers of WA (pro); Bruce Wishart, Sierra Club; Bruce Walton, John Woodring, WA Association of Realtors (con); Dawn Vyvyan, Skagit System Coop/Yakima Indian Nation; Joe LaTourrette, WA Wildlife Federation/Rivers Council of WA; Kathleen Collins, Association of WA Cities (pro)

TESTIMONY FOR (Ways and Means):

The \$75 fee for exempt wells is equitable because the water right permit process protects existing water rights including the exempt wells. In addition, the existence of exempt wells increase the analysis required to determine whether new water rights should be granted increasing the cost of the permit process.

TESTIMONY AGAINST (Ways and Means):

Owners of exempt wells should not be required to help pay for the water rights process.

TESTIFIED (Ways and Means): Senator Rasmussen, prime sponsor; Senator Barr, Task Force member (pro); Linda Crerar, DOE (pro); Paul Parker, WA State Assn. of Counties (pro); Jan Teage, Task Force member (pro); Bruce Wishart, Sierra Club (pro with concerns); Tom Frick, WA Assn. of Wheat Growers (pro with amendments); K.O. Rosenberg, WSAL (pro)