

HOUSE BILL REPORT

ESHB 2303

As Passed House:

February 16, 1998

Title: An act relating to water rights.

Brief Description: Regulating public water systems.

Sponsors: By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Regala, Huff, Kastama, Bush, McDonald, Sullivan and Linville).

Brief History:

Committee Activity:

Agriculture & Ecology: 1/14/98, 2/5/98 [DPS].

Floor Activity:

Passed House: 2/16/98, 98-0.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Chandler, Chairman; Schoesler, Vice Chairman; Delvin; Koster; Mastin and Sump.

Minority Report: Do not pass. Signed by 5 members: Representatives Parlette, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper and Regala.

Staff: Bill Lynch (786-7092).

Background: Interties. Interties are connections between public water systems that allow an exchange or delivery of water between them. Interties were expressly acknowledged by statute in 1991, and new interties were authorized under certain circumstances. (Section 1, Chapter 350, Laws of 1991.) As specified by the 1991 statute, interties include such connections between systems for the delivery water that serve as primary or secondary sources of supply, but do not include the development of new sources of supply to meet future demand; nor is the use of water for emergency purposes an intertie use of the water. (RCW 90.03.383(2)(a).) The exchange or delivery of water between public water systems made through an intertie must be within the

established instantaneous and annual withdrawal rates specified in their existing water rights. (RCW 90.03.383(2)(a) and (4).)

The Department of Health is responsible for reviewing proposals for new interties. The Department of Health must determine whether the intertie satisfies certain criteria, including whether the intertie improves overall system reliability, or delays or avoids the need to develop new water sources. The criteria does not include whether long-term supply is addressed in the intertie agreement between the systems.

Applications for Water Rights. An application for a water use permit is to be filed with the Department of Ecology. (RCW 90.03.250.) The department is to investigate the application and determine whether water is available for appropriation to the applicant and the use or uses to which the water may be applied. In general, if the department finds that there is water available for the appropriation and the appropriation will not impair existing rights or be detrimental to the public welfare, it is to issue the permit. However, the department may approve the permit for less than the amount applied for if the department has substantial reasons for doing so. (RCW 90.03.290.)

Summary of Bill: Interties. With regard to an intertie which began its use after January 1, 1991: the exchange or delivery of water between public water systems made through an intertie must be within the established instantaneous and annual withdrawal rates specified in the supplying system's existing water right authorization; and the receiving public water system's use may exceed its water right authorization if its withdrawal does not exceed the instantaneous or annual withdrawal rate specified in the receiving public water system's water right authorization.

The prohibition against using interties for the development of new sources of supply to meet future demand is modified, so that the prohibition only applies when it requires new water right applications to and appropriations by the Department of Ecology. The development of new sources of supply does not include changes of points of use for existing water right permits, certificates or claims.

In reviewing a proposal for a new intertie, the Department of Health is required to determine whether long-term supply is addressed in the intertie agreement between the public water systems.

An intertie cannot be used to deliver water on a temporary basis unless the intertie agreement specifies the source of the water that will be used to replace the water delivered temporarily, and also provides that the replacement water will be available to the receiving system before delivery through the intertie is terminated. If water is delivered through an intertie on the effective date of this legislation, delivery of water through the intertie cannot be terminated until the intertie agreement is modified to contain these provisions and replacement water is available.

Applications for Water Rights. When making a determination on an application for new water rights by a public water system which is a party to an existing intertie agreement, the Department of Ecology must consider the existence, nature, economics, and terms of the agreement between the intertied public water systems.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (original bill) This bill helps clarify interpretations of the intertie law. A receiving public water system should not be hindered by an intertie when seeking new water rights. Currently, the Department of Ecology considers intertie-supplied water to be a source of supply, and locally available water resources may not be fully developed. This will reduce unnecessary expenses on using outside water resources.

Testimony Against: (original bill) The bill is confusing because it appears to address interties in use both before and after January 1, 1991. Some language is too broad.

Testified: Jeff Johnson, Spanaway Water Co. (pro); Randall Black, Lakewood Water District (pro); James Haneline, Summit Water and Supply Company (pro); Karla Kay Fullerton, WA Cattlemen's Association (con); Judy Turpin, WA Environmental Council (con); Dawn Vyvyan, Yakima Nation (con); Ken Slattery, Department of Ecology (pro with concerns); and Tony Meinhardt, WA Association of Sewer and Water Districts (pro).