

ANALYSIS OF HB 1112

House Agriculture & Ecology Committee
1997

January 20,

BACKGROUND:

The Surface Water Code of 1917 established a procedure under which all of the rights to use water from a body of water or a portion of a body of water may be adjudicated in superior court in one proceeding. The proceeding is referred to as a general adjudication proceeding for water rights. (See RCW 90.03.110 through 90.03.245 RCW.) At the conclusion of the proceeding, the court issues a decree containing its determination regarding the rights and identifying the priority, purpose, quantity, time of use, point of diversion, and place of use for each of the water rights. (RCW 90.03.230 and 90.03.240.) With the adoption of the Groundwater Code in 1945, the proceeding was extended to apply to groundwaters as well. (RCW 90.44.220.)

Under these statutes, the Department of Ecology acts as the court's referee for such a proceeding. At the beginning of the proceeding, the court refers the proceeding to the person designated by the Department as being the referee. (RCW 90.03.160.) The referee conducts hearings, takes testimony, and files with the court the a report of the referee's determinations specifying the rights of the parties. (RCW 90.03.170 and 90.03.190.) Persons who disagree with the referee's determinations may file exceptions with the court, in which case the court can receive new evidence directly or remand the proceeding back to the referee. If there are no exceptions filed, the court enters its decree determining the rights of the parties as specified in the referee's evidence and report. (RCW 90.03.200.)

SUMMARY:

No person appointed by the court as a referee in a general adjudication proceeding for water rights may be an employee of the Department of Ecology or an employee of any other party to the proceeding. Nor may the person have been such an employee within three years prior to the beginning of the proceeding. However, this restriction does not apply to a current referee in a general adjudication proceeding that is currently ongoing. (Section 1.)

Expenses incurred by the court for the use of the referee may be paid from appropriations made expressly for this purpose to the Office of the Administrator for the Courts. (Section 6.)