

SENATE BILL REPORT

ESHB 1115

As of February 11, 1998

Title: An act relating to the water-related actions of the department of ecology.

Brief Description: Altering appeal procedures for water-related actions of the department of ecology.

Sponsors: House Committee on Agriculture & Ecology (originally sponsored by Representatives Mastin, Chandler, McMorris, Koster, Delvin, Mulliken, Johnson, Dyer and Honeyford).

Brief History:

Committee Activity: Agriculture & Environment: 3/25/97, 3/27/97 [DPA-WM, DNP]; 2/18/98.

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Staff: Paul Mabrey (786-7412)

Background: The Pollution Control Hearings Board (PCHB) presides over certain appeals of decisions made by the Department of Ecology, Office of Marine Safety, air pollution control boards or authorities, and local health departments. Certain water-related actions, including water right relinquishment orders, are appealable to the PCHB. PCHB decisions may be appealed to superior court by any of the parties.

Summary of Bill: Pollution Control Hearings Board jurisdiction to review orders pertaining to relinquishment of a water right is removed. Appeals of orders pertaining to relinquishment of a water right are filed in superior court for *de novo* review.

For appeals of water quantity decisions, an aggrieved or adversely affected person is permitted to request an informal hearing with the PCHB. For such an appeal, the board selects a mediator from its members or an administrative appeals judge. The mediator gathers written statements and supporting documentation from all parties, meets with the parties, and attempts to resolve the dispute. If mediation fails to resolve the dispute, any aggrieved or adversely affected party may submit a request for fact finding. The hearings board assigns a board member or administrative appeals judge to serve as fact finder. At the conclusion of the fact finding hearing, the fact finder makes written findings of fact and recommendations to the parties.

If the parties are not satisfied with the recommendations of the fact finder and if both parties agree, a formal hearing with the PCHB is requested. Alternatively, any party, without the consent of the other, may appeal the informal hearing findings directly to superior court.

Superior court hears the appeal *de novo* but does not consider issues not raised at the informal hearing. The court may substitute its own judgment for that of the fact finder.

Appropriation: None.

Fiscal Note: Available.

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