

SENATE BILL REPORT

SSB 5276

As Passed Senate, March 13, 1997

Title: An act relating to water withdrawals and diversions.

Brief Description: Providing an alternative for persons whose water rights permits were conditioned due to impact on existing rights or established flows.

Sponsors: Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Roach and Oke).

Brief History:

Committee Activity: Agriculture & Environment: 1/30/97, 3/5/97 [DPS].
Passed Senate, 3/13/97, 37-11.

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 5276 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Swecker, Vice Chair; Fraser, McAuliffe, Oke and Rasmussen.

Staff: Bob Lee (786-7404)

Background: Water right applications can be denied or conditioned in order to protect existing water rights. Under current law, existing water rights include instream flows established by rule by the Department of Ecology.

Applications for ground water rights are reviewed for potential impact to surface waters if the surface and ground waters are determined to be hydraulically connected.

During the 1996 session, legislation was enacted that requires the Department of Ecology, when considering an application for a water right, to take into consideration benefits of water impoundments that are included as a component of an application. The department is to consider any increase in water supply from the impoundment including the recharge of any ground water that may occur. Provision for impoundment in an application is at the sole discretion of the water right applicant.

Currently, there is no explicit provision that allows a water right applicant the option to provide a means to offset the impact that a proposed water right application has on existing water rights.

Summary of Bill: When a proposed diversion of surface water would cause the impairment of an existing water right, including established instream flows, the department is to take into consideration the benefits of an impoundment or other resource management techniques that offset the impact of the proposed water diversion when proposed by a water right applicant.

The department may place a priority on processing applications that includes a means of offsetting the impact of the diversion.

Applicants who were denied permits or who had permits conditioned due to impact on existing water rights or established instream flows may resubmit a revised application that includes a plan for offsetting the impact of the withdrawal. Such applications must be resubmitted within 30 days and retains the same date of priority as the original application.

When evaluating a water right application, the department must take into account the recharge of ground water from septic tanks in an amount that is equivalent to the proposed indoor use of water. The department is required to use hydrogeologic data to determine the amount of recharge. This provision is effective only when requested by the applicant.

Appropriation: None.

Fiscal Note: Requested on January 21, 1997.

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

Testimony For: Persons who apply for water rights should have the option of providing means to offset the impact on other water rights so that the application can be approved. Recharge of the ground water from septic tanks should be recognized.

Testimony Against: The amount and benefit of recharge from septic tanks and impoundments need to be considered on a case-by-case basis.

Testified: Doug McChesney, Department of Ecology; Judy Turpin, Washington Environmental Council (con); Paul Parker, Washington Association of Counties; Kathleen Collins, Washington Water Policy Alliance; Dick Ducharme, Yakima Growers and Shippers.

House Amendment(s): The provision is deleted that the department may place a priority on processing water right applications that include a means to offset the impact of the proposed new use or otherwise constitute a nonconsumptive water use.

The provision that permits that were denied or conditioned due to impacts on existing water rights may be revised and submitted for reconsideration if they include a means to offset the impact is also deleted.

In addition to considering the benefits of impoundments, the House language requires that the costs and environmental effects also be considered.