

SENATE BILL REPORT

SB 6140

As of January 19, 1998

Title: An act relating to water rights.

Brief Description: Regulating public water systems.

Sponsors: Senators Morton, Rasmussen, Winsley, Goings and Schow.

Brief History:

Committee Activity: Agriculture & Environment: 1/20/98.

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Staff: Bob Lee (786-7404)

Background: Water rights generally contain provisions that establish a place of use and a purpose of use. Also, water rights generally contain limitations on the instantaneous quantity and the yearly quantity of water that may be withdrawn.

Interties are interconnections between existing public water systems that permit exchange of water. Interties have increasingly been used by larger water system in populous regions of the state. Interties are subject to approval by the Department of Health as part of public water system planning requirements.

The increasing use of interties raised issues regarding whether requirements to obtain a water right transfer approval from the Department of Ecology had been satisfied. In 1991, at the request of the Joint Select Committee on Water Resource Policy, legislation was formulated and passed that:

1. Declared that it is in the public interest to recognized interties existing as of January 1, 1991 and to have the water rights associated with those interties modified to reflect current use;
2. Provided the ability for complaints from junior water right holders or others relating to those existing interties to be filed by September 1991. If no protests were filed, Ecology was directed to modify the water rights to reflect usage as of January 1, 1991; and
3. Established two processes for approving future water right transfers associated with interties, one for emergent needs and one for normal conditions. These processes include determination of whether existing water rights, including instream flows established by rule, would be impaired by the proposed transfer.

The 1991 statute specifies that interties may provide water that is a primary or secondary source of supply, but may not include the development of a new source of supply to meet future demand.

In December 1996, the Attorney General's Office issued an opinion regarding several issues in regard to the 1991 intertie statute.

Summary of Bill: The exchange 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 rights. For interties whose use began after January 1, 1991, the receiving public water system's use may exceed its water right authorization (assumed to be place or purpose of use) if its withdrawal does not exceed the instantaneous or annual withdrawal rate specified in the receiving public water system's water right authorization.

The Department of Ecology must not consider the existence of interties when it makes a determination on applications for new water rights, changes, or transfers for a public water system that is receiving or may receive water through an intertie.

Appropriation: None.

Fiscal Note: Requested on January 14, 1998.

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