

VETO MESSAGE ON HB 2054-S2

May 20, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington  
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054 entitled:

"AN ACT Relating to water resource management;"

Second Substitute House Bill No. 2054 addresses a number of water resource management issues, including watershed planning, storage, adjudications, water purveyors, relinquishment, general permits, water right appeals, and transfers.

I agree with legislative leaders on the need for local watershed planning. The people who live in a particular area should have a strong voice as to how water should be used in their watershed. Sections 101 through 106 set the tone for how we will resolve many of our water problems and I support those sections.

Sections 107 through 116 set out a process for local watershed planning and adoption which does not provide sufficient flexibility to accommodate a wide array of watershed planning needs. The time limits imposed on the Department of Ecology for making decisions on water right applications are unreasonable under current resources available to the Department of Ecology.

Section 202 equates water storage with water conservation and although the two may be related, this definition of water conservation could be problematic in future water rights processing and appeals.

Sections 401 and 402 are null and void because of my actions on sections 107 through 116, but these are important water resource management issues so I will address the issues in these sections. Section 401 makes changes to the intertie statute (RCW 90.03.380) to promote land development, but is not linked to growth management plans or state-approved demand forecasts. The broad language used to grandfather in existing interties would create dormant water rights and excuse these interties from a review to determine potential impacts on other existing water rights as well as instream flows. Section 402 would equate the perfection of a water right to the quantity allocated in a certificate of water right rather than the quantity beneficially used. This would violate a fundamental principle of western water law and the state water code and create great uncertainty in trying to determine what water is available for other water rights, new applications, and the protection of instream resources.

Section 501, without a standard established by the legislature, could allow a water right holder to avoid relinquishment by taking an unlimited amount of time to implement a water conservation project.

Sections 601 through 605 would create a new surface water permit exemption for water uses that consume less than 5,000 gallons per day.

Sections 701 through 716 would override the existing, well-established and highly functional water right appeals process.

These sections could establish a total of four processes to reach a factual decision on the record.

Section 802 would amend the ground water code to allow changes to water rights that are already authorized in section 801, which amends the surface water code. The legislature has already recognized that the surface water code, RCW chapter 90.03, applies to the allocation and regulation of ground water. I believe, and the Department of Ecology concurs, that the amendments to RCW 90.03.380 set forth within section 801 apply to ground water rights as well as to surface water rights. To the extent that this is duplicative of the provisions in section 801, section 802, which amends RCW 90.44.100, is unnecessary. Section 802 would also allow the irrigation of additional acreage or the addition of new uses for a quantity of water authorized under a ground water permit that has not yet been put to beneficial use. This is a concept that I am very interested in exploring, and I will be asking for further study and recommendations on this issue in the interim.

For these reasons, I have vetoed sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054.

With the exception of sections 107 through 116, 202, 401, 402, 501, 601, 602, 603, 604, 605, 701 through 716, and 802, Second Substitute House Bill No. 2054 is approved.

Respectfully submitted,  
Gary Locke  
Governor