

HOUSE BILL REPORT

HB 1504

As Reported by House Committee On:
Agriculture & Ecology

Title: An act relating to agricultural use of water.

Brief Description: Describing the agricultural use of water.

Sponsors: Representatives G. Chandler, Linville, B. Chandler, Grant, Schoesler, Sump, Armstrong and Delvin.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/8/01, 2/27/01 [DPS].

Brief Summary of Substitute Bill

- Describes the types of water uses within a general category of an "agricultural use" of water for which water may be used under a water right without seeking approval for altering the use of the right.
- Requires the Department of Ecology (DOE) to be notified of such alterations of use except for changes in crops or cropping patterns.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; Cooper, Democratic Vice Chair; Mielke, Republican Vice Chair; B. Chandler, Delvin, Grant, Hunt, Kirby, Quall, Roach, Schoesler and Sump.

Minority Report: Without recommendation. Signed by 1 member: Representative Dunshee.

Staff: Kenneth Hirst (786-7105).

Background:

There are several fundamental aspects of a water right. One is its priority (or seniority). The priority date of a right secured under the state's water right permit system is the date the permit application leading to the right was filed. Other aspects of the water right include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used.

Certain of these aspects of a water right may be modified with the approval of the DOE if the modification would not impair other existing water rights. Such an approved modification does not affect the priority date of the right. Alterations in water rights are referred to in statute as transfers, changes, and amendments of water rights.

Summary of Substitute Bill:

The right to use water for any beneficial use within the general category of an agricultural use includes the right to use the water, without governmental approval, for any other beneficial use within the general category. However, the water right holder must first notify the DOE of any alteration of use within the general category other than a change in crops or cropping patterns. The use must remain within the limitations of the water right regarding priority, place of use, point of or withdrawal, water source, and annual quantity of water.

The general category of an agricultural use of water is composed of the beneficial uses of water for agricultural irrigation, watering livestock, and processing agricultural commodities.

Substitute Bill Compared to Original Bill:

The substitute bill narrows the general category of an agricultural use to three types of uses, requires the use of the water right to remain within certain elements of the water right, and requires the DOE to be notified when a use is altered within the general category and provides exceptions to the notification requirement.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: (Original bill): (1) Agriculture in this state is in an economic

emergency. As a result, there will be widespread changes in the agricultural use of water. (2) If a dairy farmer tries to relocate from the wetter western side of the state to the eastern side by buying up an irrigation farm and right to use for the dairy, the farmer cannot proceed without waiting in the state's long application line for changing water use. Delays make the difference between economic feasibility and infeasibility and between staying in the state and moving elsewhere. (3) Much of the change will be from irrigation to dairy use. There will not be much of a net impact on water use; there may be a net decrease. After being stored in a lagoon, the water used for dairy cows is spread back on the fields as dairy nutrients much in the same way it would be spread by irrigation. (4) There should be no arbitrary distinction between one agricultural water use and another; there is not for the various uses of water under a municipal water right. The other elements of the water right remain unchanged. (5) People trying to switch to dairies and poultry farms are caught in the state's delays in processing changes and transfers of water rights.

Testimony Against: (Original bill): (1) The water right holder should not be able to increase the amount of water consumed under the right when switching uses within the general agricultural category. (2) Sometimes stretching a seasonal water use over the whole year will be beneficial by reducing the peak withdrawal load when water supplies are low; other times it may concentrate use at a bad time for water supplies. Whether the alteration in use is beneficial or not will be project specific. (3) At issue is how much protection the state should provide other water right holders without forcing them to go to court to protect their water rights. Water rights may be impaired by these alterations in use. (4) The issue is better addressed in a "two-lines" water permit processing bill.

Testified: (In support, original bill): Stuart Turner, Turner & Company, Inc.; Art Mensonides; Dan Coyne, West Farm Foods; Jim Halstrom, Washington Horticultural Association; Jay Gordon, Washington Dairy Federation; Kathleen Collins, Washington Water Policy Alliance; and Hertha Lund, Washington State Farm Bureau.

(Original bill, opposed): Ken Slattery, Department of Ecology; Steve Wehrley, Muckelshoot Indian Tribe; Josh Baldi, Washington Environmental Council; and Carl Samuelson, Department of Fish and Wildlife.