

HOUSE BILL REPORT

EHB 2993

As Passed Legislature

Title: An act relating to water policy.

Brief Description: Modifying water provisions.

Sponsors: By Representatives Linville and Kirby.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/28/02.

Floor Activity:

Passed House: 3/13/02, 95-0.

Passed Senate: 3/13/02, 46-2.

Passed Legislature.

Brief Summary of Engrossed Bill

- Identifies objectives for strategies developed at the local watershed level that meet certain needs.
- Establishes administrative requirements for achieving compliance with water laws.
- Authorizes reclaimed water permits for industrial reuse water.
- Provides new and broadens current expedited processing for donations to and leases for the trust water rights systems.
- Provides expedited processing of reservoir and secondary permits for certain facilities, provides an exemption from a requirement for a secondary permit, and alters restrictions on filling reservoirs more than once per season or year.
- Creates a Water Conservation Account for receiving federal funding dedicated to water conservation under its conservation reserve program and receiving legislative appropriations, and allows only the Public Works Board to make expenditures from the account.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority/Minority Report: None.

Staff: Kenneth Hirst (786-7105).

Background:

Watershed Planning. State law establishes procedures and policies for initiating watershed planning at the local level.

Reclaimed Water. A permit may be secured for the use of reclaimed water by the generator of the reclaimed water. The generator of the reclaimed water may distribute the water according to the terms of the permit. The permit governs the location, rate, water quality, and purpose of use of the reclaimed water.

Trust Water Rights. A water right may be donated to or acquired by the state for management as a trust water right. The laws governing the state's trust water rights system are divided into two parts: one for the Yakima River Basin; and the other for the rest of the state. In 2001, an expedited process was established for donating water rights to either system. This process applies if: (1) an aquatic species is listed as threatened, endangered, or depressed under state or federal law; and (2) the holder of a right to water from the body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows on a temporary or permanent basis. An expedited process was also established for the Department of Ecology (DOE) to lease water rights and place them in the trust system during droughts.

Under the expedited process for such a donation, neither the right donated nor the sum of the portion of a right remaining with the person plus the portion donated may exceed the extent to which the right was exercised during the last five years. Once accepted, the rights are trust water rights within the conditions prescribed by the donor that are relevant and material to protecting the donor's interest in the water right and that satisfy the requirements of the trust water laws. The acceptance of the right as trust water right is not evidence of the validity or quantity of the right. Similar provisions were established for the leases by the DOE of water rights in areas covered by drought orders.

The requirement that the DOE examine a water right for potential impairment of existing water rights before a trust water right may be exercised is waived for such a donated right. It is also waived for or a drought-lease of five or less years. However, if the DOE subsequently finds that the donated or drought-leased right impairs existing water rights, the resulting trust right must be altered to eliminate the impairment. Current requirements that notice be published before a trust water right is exercised apply only for the first time such a donation or drought lease right is exercised as a trust water right.

Conservation Reserve Program. Federal law authorizes the enrollment of lands in a conservation reserve program to assist landowners to conserve and improve soil and

water resources. The Public Works Board is authorized to make low-interest or interest-free loans to finance the repair, replacement, or improvement of public works systems.

Summary of Engrossed Bill:

Summary The objectives of local water management strategies that meet certain water needs are identified. They are to provide sufficient water for: residential, commercial, and industrial needs; productive fish populations; and productive agriculture.

Compliance. The DOE must achieve compliance with the state's water laws and rules. Compliance is to be achieved through a network of water masters, stream patrollers, and other compliance staff to the extent funding is provided for the network. To the extent practicable, compliance personnel shall be distributed evenly among the regions of the state. A sequence is established for providing compliance which ranges from providing technical and educational information to issuing orders for violations. To the maximum extent practicable, the DOE is to station its compliance personnel in the watershed communities they serve.

Reclaimed Water. The state's reclaimed water laws are amended. Permits for the use of "industrial reuse water" are authorized. Such a permit is issued by the DOE under the water pollution control laws to the owner of a plant that is the source of the water who may then distribute the water. The owner has the exclusive right to the use of the reclaimed water; however, use of the water must not impair existing water rights or, if the source of the water is surface water, rights that are downstream from the plant's current discharge point. The DOH may implement its permit requirements through an agreement with the DOE.

Trust Water Rights. The expedited procedures are broadened for donating water rights to the trust water rights systems and for leasing water rights. They now apply to any donation of a water right to assist in providing instream flows on a temporary or permanent basis and to any lease by the DOE. For other donations, if a portion of a water right that is acquired or donated will assist in achieving established instream flows, the DOE must also provide expedited processing of the transfer of the right to the trust system.

Reservoir and Secondary Permits. Expedited processing of reservoir and secondary permit applications is to be provided for: developing storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored; adding or changing one or more purposes of use of stored water; or adding to the storage capacity of an existing storage facility. The expedited processing is also to be afforded applications for secondary permits to secure use from existing storage facilities. A person may apply for a reservoir permit and a secondary permit in one application. A

secondary permit is not required for the use of stored water if the water right for the source of the stored water authorizes the use. The DOE may authorize reservoirs to be filled more than once per year or season under certain circumstances.

Water Conservation Account. The Water Conservation Account is created in the custody of the state treasurer. Expenditures from the account are for the development and support of water conservation eligible under the federal conservation reserve program.

All receipts from federal funding dedicated to water conservation under the federal conservation reserve program are to be deposited in the account. The legislature may also appropriate money to the account. The account is subject to allotment procedures, but an appropriation is not required for expenditures. Only the Public Works Board or its designee may make expenditures from the account.

Appropriation: None.

Fiscal Note: Not requested on Engrossed version.

Effective Date: The provisions of the bill regarding the Water Conservation Account take effect immediately. The remaining provisions of the bill take effect ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: None.

Testified: None.