

SENATE BILL REPORT

SB 5203

As of February 1, 2001

Title: An act relating to water conservancy board authority.

Brief Description: Concerning the authority of a water conservancy board to approve or deny certain water transfers.

Sponsors: Senators Honeyford, Hewitt, Hale, Morton, Roach, Parlette, Hochstatter, Zarelli and Hargrove.

Brief History:

Committee Activity: Environment, Energy & Water: 2/2/01.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Staff: Genevieve Pisarski (786-7488)

Background: In 1997, the Legislature passed SHB 1272, creating local water conservancy boards. The Legislature's findings state that voluntary water transfers— could result in more efficient use of water, among other benefits, and that the state should expedite uncontested water transfers.— Section 8 of the act established the powers of water conservancy boards. In subsection (1), boards were authorized to establish water transfer exchanges and approve water transfers involving a change in place of use, point of diversion or withdrawal, purpose of use, time of use, source of supply, quantity of use permitted, and the place of storage.— In subsection (3), water transfers approved by boards were required to remain within an existing category of beneficial use. Citing the apparent conflict between subsections (1) and (3), the Governor vetoed Section 8. Citing a conflict with existing law regarding irrigation districts, the Governor also vetoed Section 10, which concerned board approval of transfers involving a change in place or use— of water provided by an irrigation district. In the remaining sections of the act, as it became statute, it is the word transfer— that is used in connection with stating the purpose of the boards and establishing the procedures to be used by the boards and the Department of Ecology. The department subsequently adopted administrative rules for carrying out the provisions of the statute. The rules defined transfer— to mean an alteration in point of diversion or withdrawal, purpose of use, place of use, or change or amendment of a water right. The rules were challenged in superior court on the grounds that they gave boards broader powers than authorized by the statute. The court ruled that the statutory language gives boards authority over transfers of either ownership or location, including associated changes in point of diversion or withdrawal. The court ruled that the statutory language does not give boards authority to modify purpose of use.

Summary of Bill: It is the intent of the Legislature to clarify existing law regarding the authority of water conservancy boards. Transfer— is defined to mean a transfer, change, or amendment to a water right, as provided in the surface and the ground water codes.

Appropriation: None.

Fiscal Note: Not requested.

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