

SENATE BILL REPORT

SB 5908

As of February 13, 2001

Title: An act relating to whether changes in agricultural production are changes in purpose of use.

Brief Description: Regarding changes in agricultural production.

Sponsors: Senator Fraser.

Brief History:

Committee Activity: Environment, Energy & Water: 2/15/01.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Staff: Genevieve Pisarski (786-7488)

Background: The State Water Code allows the purpose of use of a water right to be changed, if there is no detriment or injury to existing rights. The code also specifically allows the purpose of use to be changed for the addition of new uses, if annual consumption of water does not increase. To make a change in purpose of use requires the filing of an application with the Department of Ecology, the publication of notice, and a formal approval by the department. The code does not define "purpose of use" in connection with these requirements. Western water law has traditionally treated stock watering, agriculture, and irrigation as different purposes of use. In the Water Resources Act of 1971, the list of uses for which a water right can be granted includes the following individually named uses: domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, and thermal power production purposes, and preservation of environmental and aesthetic values. Elsewhere in that chapter of state law, another list of uses of water appears and individually names domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, thermal power production, mining, recreational, maintenance of wildlife and fishlife purposes, and retention of water in lakes and streams for the protection of environmental, scenic, aesthetic and related purposes.

Summary of Bill: A change in agricultural production that does not increase the annual consumptive quantity of water use is not considered a change in purpose of use. Agricultural production includes irrigated crops and associated frost control, livestock, poultry and eggs, farmed fish, and dairy or other products processed from commodities. A change in agricultural production can be made after consultation with the Department of Ecology to determine that there is no increase in annual consumptive quantity. If there is no increase, an amended water right certificate is issued. If there is an increase, the statutory requirements for change of a water right apply.

Appropriation: None.

Fiscal Note: Requested on February 8, 2001.

Effective Date: The bill contains an emergency clause and takes effect immediately.