

SENATE BILL REPORT

SB 5911

As Reported By Senate Committee On:
Environment, Energy & Water, February 27, 2001

Title: An act relating to functions and certification of certified water rights examiners.

Brief Description: Certifying water rights examiners.

Sponsors: Senator Fraser.

Brief History:

Committee Activity: Environment, Energy & Water: 2/13/01, 2/27/01 [DPS-WM, DNPS].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5911 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Jacobsen, McDonald, Morton and Patterson.

Minority Report: Do not pass.

Signed by Senator Honeyford.

Staff: Genevieve Pisarski (786-7488)

Background: Before an applicant for a water right can be issued a water right certificate, the applicant must demonstrate to the satisfaction of the Department of Ecology that the applicant has put the water to use according to the terms and conditions of the water right permit and as required by law.

Summary of Substitute Bill: The Legislature intends to provide qualified individuals to expedite issuance of water right certificates. By June 30, 2002, the Department of Ecology must adopt rules to establish certified water rights examiners. Certified water rights examiners can carry out the proof requirements for certification of new water rights and changes or transfers of existing water rights. Examiners' actions are not binding on the department and are not prima facie evidence in legal proceedings.

After initial examination and payment of a fee, certification is valid for one year and is renewable. Lapsed certifications require re-examination. Denials of certification can be appealed to the Pollution Control Hearings Board. Examiners set their own fees for services.

Certification can be revoked or suspended for illegal acts, misrepresentation, or gross incompetence. Revocation or suspension can be appealed to the Pollution Control Hearings Board. The department must keep a record of complaints received regarding examiners, inform the examiners, make the records available to anyone on request, and investigate any alleged illegalities.

At least one day of continuing education that is provided or approved by the department is required per year. The department must maintain a list of examiners. Program fees must be set to cover costs and are deposited to the state reclamation revolving account.

Substitute Bill Compared to Original Bill: Provisions relating to procedure and requirements for issuance of a final water right certificate are removed. A statement of intent is added. Reference to advising and assisting applicants and to providing proprietary opinions on extent and validity of rights are removed.

Appropriation: None.

Fiscal Note: Requested on February 9, 2001.

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

Testimony For: Other western states have certified water rights examiners. They will speed up issuance of water right certificates.

Testimony Against: Certified water rights examiners are not needed; adopt decision criteria for Ecology, instead. This program will drain Ecology's resources away from protecting fish. It will allow those who have the information to jump to the front of the line. Ecology should use the resources to eliminate the backlog. Applicants should not do Ecology's job. If this is a licensure, the requirements are too vague.

Testified: PRO: Phil Watkins, City of Kennewick; CON: William Hahn, Kitsap Public Utility District PUD Association; Chris Cheney, Lewis County C. B. and Dairy Federation; Toni McKinley, Washington State Grange; Jim Zimmerman; Hertha Lund, Washington State Farm Bureau.