

SENATE BILL REPORT

SB 6279

As Reported By Senate Committee On:
Environment, Energy & Water, February 8, 2002

Title: An act relating to sales of water rights.

Brief Description: Improving administration of property records related to the sale of water rights.

Sponsors: Senators Jacobsen, Fraser and Kline.

Brief History:

Committee Activity: Environment, Energy & Water: 1/31/02, 2/8/02 [DPS-WM, DNP].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 6279 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, Keiser and Morton.

Minority Report: Do not pass.

Signed by Senator Honeyford.

Staff: Genevieve Pisarski (786-7488)

Background: State law makes water rights appurtenant to land. It does not require water rights to be identified in county tax rolls and real property records separately from the land to which they attach, nor does it require them to be recorded separately with the county auditor. Transfer of water rights requires application to and approval by the Department of Ecology, which is the department that is required to keep records of water rights, including changes and transfers.

Transfer of water rights separately from the land to which they attach is generally regarded as one way to supply current and emerging need for water. Tracking sales of water rights could provide useful information regarding their value. Improving and coordinating the kinds of information that counties and the Department of Ecology each keep could facilitate transactions.

Summary of Substitute Bill: State revenue from existing real estate excise tax applicable to the separate sale of water rights is used to improve information and records related to water rights. The Departments of Ecology and Revenue must work with counties to accomplish this purpose beginning July 1, 2003.

A water rights records account is created in the state treasury. Proceeds of the portion of the real estate excise tax that is derived solely from the sale of a water right or an interest in a

water right are deposited in the account. Expenditures from the account are only after appropriation. They may be used for improving and integrating records regarding ownership of water rights kept by counties and the Department of Ecology and may be in the form of grants. The department must report to the Legislature by November 1, 2004, and recommend actions to improve records and information management regarding ownership of water rights.

The Department of Revenue's real estate excise tax affidavit must provide for identification of sales that are limited solely to a water right or an interest in a water right. The department and counties are each required to identify separately proceeds of taxes collected on such sales beginning January 1, 2003.

Substitute Bill Compared to Original Bill: Appurtenancy of water rights to land is clarified. It is also clarified that only such records as the Department of Ecology and counties each already keep are addressed. County treasurers, auditors, and assessors are each included in the joint efforts, as appropriate. Separate identification of real estate excise tax proceeds from sales of water rights for deposit in the water rights records account begins January 1, 2003, rather than the effective date of the act. Work to develop and implement procedures begins July 1, 2003, rather than the effective date of the act. The department reports on November 1, 2004, rather than January 1, 2003. The unspecified appropriation is eliminated.

Appropriation: None.

Fiscal Note: Requested on January 18, 2002.

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

Testimony For: The status of water rights in relationship to taxable real property is not clear. Because water rights are not required to be recorded, establishing current ownership of water rights is difficult, time consuming, and expensive, for purposes such as buying and selling water rights, providing notice to current owners, and water resource management requirements like measurement. The goal is to match records kept by Ecology with those kept by counties, then stay current on changes. Most water rights are not transferred separately from land; large amounts of revenue are not expected. It will not be hard to "tag" and record water rights transfers and provide the information to Ecology.

Testimony Against: None.

Testified: Anne Solwick, DOR (concerns); Ken Slattery, Dept. of Ecology (concerns); Rose Bowman, WSACT.