

SHB 1113 - S COMM AMD

By Committee on Natural Resources, Energy & Water

ADOPTED AS AMENDED 04/14/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 87.80.005 and 1996 c 320 s 2 are each amended to read
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Area of jurisdiction" means all lands within the exterior
8 boundary of the composite area served by the irrigation entities that
9 comprise the board of joint control as the boundary is represented on
10 the map filed under RCW 87.80.030.

11 (2) "Irrigation entity" means an irrigation district or an
12 operating entity for a division within a federal reclamation project.
13 For the purposes of this chapter, a water company, a water users'
14 association, a municipality, a water right owner and user of irrigation
15 water, or any other entity that provides irrigation water as a primary
16 purpose, is an irrigation entity when creating or joining a board of
17 joint control with an irrigation district or operating entity for a
18 division within a federal reclamation project.

19 (3) "Joint use facilities" means those works, including reservoirs,
20 canals, ditches, natural streams in which the irrigation entity has
21 rights of conveyance under RCW 90.03.030, hydroelectric facilities,
22 pumping stations, drainage works, reserved works as may be transferred
23 by contracts with the United States, and system interties that are
24 determined by the board of joint control to provide common benefit to
25 its members.

26 (4) "Ownership interest" means the irrigation entity holds water
27 rights in its name for the benefit of itself, its water users or, in
28 federal reclamation projects, the irrigation entity has a contractual
29 responsibility for delivery of water to its individual water users.

1 (5) "Source of water" means a hydrological distinct river and
2 tributary system or aquifer system from which board of joint control
3 member entities appropriate water.

4 **Sec. 2.** RCW 87.80.030 and 1996 c 320 s 4 are each amended to read
5 as follows:

6 The petition for the creation of a board of joint control shall be
7 addressed to the board of county commissioners, shall describe
8 generally the relationship, if any, of the irrigation entities to an
9 established federal reclamation project, the primary water works of the
10 entities including reservoirs, main canals, hydroelectric facilities,
11 pumping stations, and drainage facilities, giving them their local
12 names, if any they have, and shall show generally the physical
13 relationship of the lands being watered from the water facilities.
14 However, lands included in any irrigation entity involved need not be
15 described individually but shall be included by stating the name of the
16 irrigation entity and all the irrigable lands in the irrigation entity
17 named shall by that method be deemed to be involved unless otherwise
18 specifically stated in the petition. Further, the petition must
19 propose the formula for board of joint control apportionment of costs
20 among its members, and may propose the composition of the board of
21 joint control as to membership, chair, and voting structure. When a
22 board of joint control includes irrigation entities other than an
23 irrigation district or an operating entity for a division within a
24 federal reclamation project as provided in RCW 87.80.005, the voting
25 structure must be such that the votes apportioned to those entities are
26 less than fifty percent of the total votes.

27 The petition shall also state generally the reasons for the
28 creation of a board of joint control and any other matter the
29 petitioners deem material, and shall allege that it is in the public
30 interest and to the benefit of all the owners of the lands receiving
31 water within the area of jurisdiction, that the board of joint control
32 be created and request that the board of county commissioners consider
33 the petition and take the necessary steps provided by law for the
34 creation of a board of joint control. The petition shall be
35 accompanied by a map showing the area of jurisdiction and the general
36 location of the water supply and distribution facilities.

1 **Sec. 3.** RCW 87.80.130 and 1998 c 84 s 2 are each amended to read
2 as follows:

3 (1) A board of joint control created under the provisions of this
4 chapter shall have full authority within its area of jurisdiction to
5 enter into and perform any and all necessary contracts; to accept
6 grants and loans, including, but not limited to, those provided under
7 chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the
8 necessary officers, agents, and employees; to sue and be sued as a
9 board but without personal liability of the members thereof in any and
10 all matters in which all the irrigation entities represented on the
11 board as a whole have a common interest without making the irrigation
12 entities parties to the suit; to represent the entities in all matters
13 of common interest as a whole within the scope of this chapter; and to
14 do any and all lawful acts required and expedient to carry out the
15 purposes of this chapter. A board of joint control may, subject to the
16 same limitations as an irrigation district operating under chapter
17 87.03 RCW, acquire any property or property rights for use within the
18 board's area of jurisdiction by power of eminent domain; acquire,
19 purchase, or lease in its own name all necessary real or personal
20 property or property rights; and sell, lease, or exchange any surplus
21 real or personal property or property rights. Any transfers of water,
22 however, are limited to transfers authorized under subsection (2) of
23 this section.

24 (2)(a) A board of joint control is authorized and encouraged to
25 pursue conservation and system efficiency improvements to optimize the
26 use of appropriated waters and to either redistribute the saved water
27 within its area of jurisdiction, or((~~τ~~)) transfer the water to others,
28 or both. A redistribution of saved water as an operational practice
29 internal to the board of joint control's area of jurisdiction, may be
30 authorized if it can be made without detriment or injury to rights
31 existing outside of the board of control's area of jurisdiction,
32 including instream flow water rights established under state or federal
33 law.

34 (b) Prior to undertaking a water conservation or system efficiency
35 improvement project ((~~which~~)) that will result in a redistribution of
36 saved water, the board of joint control must consult with the
37 department of ecology and, if the board's jurisdiction is within a

1 United States reclamation project, the board must obtain the approval
2 of the bureau of reclamation. The purpose of such consultation is to
3 assure that the proposal will not impair the rights of other water
4 holders or bureau of reclamation contract water users.

5 (c) A board of joint control does not have the power to authorize
6 a change of any water right that would change the point or points of
7 diversion, purpose of use, or place of use outside the board's area of
8 jurisdiction, without the approval of the department of ecology
9 pursuant to RCW 90.03.380 and, if the board's jurisdiction is within a
10 United States reclamation project, the approval of the bureau of
11 reclamation. Any change in place of use that results from a transfer
12 of water between the individual entities of the board of joint control
13 shall not result in any reduction in the total water supply available
14 in a federal reclamation project. In making the determination of
15 whether a change of place of use in an area covered by a federal
16 reclamation project will result in a reduction in the total water
17 supply available, the board of joint control shall consult with the
18 bureau of reclamation.

19 (d) The board of joint control shall notify the department of
20 ecology, and any Indian tribe requesting notice, of transfers of water
21 between the individual entities of the board of joint control. This
22 subsection (2)(d) applies only to a board of joint control created
23 after January 1, 2003.

24 (3) A board of joint control is authorized to design, construct,
25 and operate either drainage projects, or water quality enhancement
26 projects, or both.

27 (4) Where the board of joint control area of jurisdiction is
28 totally within a federal reclamation project, the board is authorized
29 to accept operational responsibility for federal reserved works.

30 (5) Nothing contained in this chapter gives a board of joint
31 control the authority to abridge the existing rights, responsibilities,
32 and authorities of an individual irrigation entity or others within the
33 area of jurisdiction; nor in a case where the board of joint control
34 consists of representatives of two or more divisions of a federal
35 reclamation project shall the board of joint control abridge any powers
36 of an existing board of control created through federal contract; nor

1 shall a board of joint control have any authority to abridge or modify
2 a water right benefiting lands within its area of jurisdiction without
3 consent of the party holding the ownership interest in the water right.

4 (6) A board of joint control created under this chapter may not use
5 any authority granted to it by this chapter or by RCW 90.03.380 to
6 authorize a transfer of or change in a water right or to authorize a
7 redistribution of saved water before July 1, 1997.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 87.80 RCW
9 to read as follows:

10 The provisions of chapter . . . , Laws of 2003 (this act) shall not
11 be construed or interpreted to authorize the impairment of any existing
12 water rights."

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13 On page 1, line 1 of the title, after "control;" strike the
14 remainder of the title and insert "amending RCW 87.80.005, 87.80.030,
15 and 87.80.130; and adding a new section to chapter 87.80 RCW."

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