

HOUSE BILL REPORT

HB 1113

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to irrigation district boards of joint control.

Brief Description: Regarding irrigation district boards of joint control.

Sponsors: Representatives Hinkle, Linville, Schoesler, Boldt and Mielke.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/28/03, 3/5/03 [DPS].

Brief Summary of Substitute Bill

- Allows certain private and public entities to establish or join a board of joint control with an irrigation district or an operating entity for a federal reclamation project.
- Specifies private entities must be allocated less than 50 percent of the votes on a board of joint control.
- Amends definitions in board of joint control statutes.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Caroleen Dineen (786-7156).

Background:

An irrigation district may be created to provide a system of water distribution for irrigation purposes. An irrigation district may purchase, construct, operate, maintain, and repair systems of diverting conduits from a natural source of water supply for

individual distribution for irrigation. In addition, an irrigation district has authority to buy and sell electric power for irrigation and domestic use, operate a domestic water system for irrigated land owners, and operate a drainage or sewage system.

Two or more irrigation entities may create a board of joint control. An "irrigation entity" is defined for purposes of the board of joint control statutes as an irrigation district or an operating entity for a division within a federal reclamation project. A board of joint control may be created to:

- construct, operate, manage, and improve joint use facilities owned or controlled by participating irrigation entities; and
- conduct activities and programs promoting effective and efficient water management for member entities' benefit.

Among other powers, a board of joint control may acquire property or property rights within its area of jurisdiction by eminent domain in the same manner as irrigation districts. A board of joint control also may construct and operate drainage projects and water quality enhancement projects. In addition, a board of joint control may pursue conservation and system efficiency improvements and redistribute the saved water within its jurisdictional area or transfer it to others. Redistribution or transfer may not impair existing water rights outside the board of joint control's jurisdictional area. A board of joint control does not have authority to authorize changes in place of diversion or use or changes in purpose of use without the approval of the Department of Ecology and of the United States Bureau of Reclamation if within a federal reclamation area.

Washington courts have considered challenges to legislative grants of authority to perform some regulatory, disciplinary, or other functions to certain private associations or entities. In those cases, Washington courts have considered whether an unlawful delegation of legislative authority has occurred by examining factors such as whether the Legislature has provided standards or guidelines for delegated entities' action and included procedural safeguards to control arbitrary action or abuse of discretion.

Summary of Substitute Bill:

For purposes of the joint board of control statutes, the definition of "irrigation entity" is amended to include the following private or public entities:

- water company;
- water users' association;
- municipality;
- water right owner and user of irrigation water; or
- any other entity providing irrigation water as a primary purpose.

These entities are included within the definition when creating or joining a board of joint control with an irrigation district or operating entity for a division within a federal reclamation project.

When a board of joint control includes irrigation entities other than an irrigation district or operating entity for a division within a federal reclamation project, the voting structure must be established so that the votes apportioned to these other entities are less than 50 percent of the total votes.

A board of joint control must notify the Department of Ecology of transfers of water between the individual entities of the board of joint control that are not related to conservation and system efficiency improvements.

The definition of "joint use facilities" is amended to include ditches and natural streams in which the irrigation entity has rights of conveyance. The definition of "source of water" is amended to include tributary systems.

Substitute Bill Compared to Original Bill:

The substitute modifies the list of entities included within the definition of "irrigation entity" and requires that they create or join a board of joint control with an irrigation district or operating entity for a federal reclamation project. The substitute also specifies that irrigation entities other than an irrigation district or an operating entity for a federal reclamation project must be apportioned less than 50 percent of the votes. In addition, the substitute amends the definitions of "joint use facilities" and "source of water." Finally, the substitute adds the requirement for a board of joint control to notify the Department of Ecology of transfers of water between the individual entities of the board of joint control not related to conservation and system efficiency improvements.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The board of joint control statutes were enacted in 1949 and substantially revised in 1996. The 1996 revisions changed the definition of "irrigation entity" in a way that addressed the unique needs of the two irrigation districts (Roza and Sunnyside) forming a board of joint control at that time. The definition does not allow private water distribution companies to become partners in boards of joint control.

Joint boards of control allow partnerships to address major environmental issues. This

bill will allow these private entities to access the types of grants and loans available to private entities. Amendments to the bill can address concerns about control of the board by the public entity members.

Testimony Against: None.

(Concerns) Concerns exist regarding the protection of senior water rights within the jurisdictional boundaries of a board of joint control. A board of joint control can redistribute water saved within its jurisdiction without making a determination regarding impairment of existing rights.

Testified: (In support) Mike Schwisow, Washington State Water Resources Association.

(With concerns) Dawn Vyvyan, Yakama Nation.