

HOUSE BILL REPORT

HB 3062

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to approving certain watershed plan modifications.

Brief Description: Concerning modifications to WRIA plans.

Sponsors: Representatives Newhouse, Chandler and Hinkle.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/4/04, 2/6/04 [DPS].

Brief Summary of Substitute Bill

- Specifies how modifications to watershed plans are approved and how instream flows that are set using watershed planning processes are modified.
- No longer specifies how obligations imposed by a watershed plan are modified.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Eickmeyer, Grant, Hunt, McDermott and Quall.

Minority Report: Do not pass. Signed by 6 members: Representatives Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Orcutt and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

State law provides a process for conducting watershed planning through a locally initiated process. Such watershed planning may be conducted for one watershed or it may be conducted for multiple watersheds. For this purpose, the local governments that initiate the process select or create a planning unit and designate a lead agency to provide staff support for the planning unit. Special procedures are established for setting instream flows for streams during the watershed planning. If such flows are to be set under these procedures and the flows are approved by the planning unit, the Department of Ecology (DOE) must conduct rule-making to adopt the flows. If approval is not achieved within four years of the date the

planning unit first received funds from the DOE for conducting watershed assessments, the DOE may promptly initiate rule-making to establish flows for those streams. It has two additional years to do so.

Once a plan is approved by the planning unit, it is submitted to the counties with territory in the watershed or watersheds for which planning was conducted. After publishing notice and conducting at least one public hearing per county, the legislative authorities of the counties that have not opted out of the approval process must approve or disapprove of the plan in a joint session. If approved by the counties, the plan is an approved watershed plan.

The laws governing this process were amended last year. Among the amendments were those specifying how the DOE may revise an approved watershed plan. Under the 2003 amendments, the DOE may develop and adopt modifications to the plan or obligations imposed by the plan only through a form of negotiated rule making that uses the same processes that applied in that watershed for developing the plan.

Summary of Substitute Bill:

When modifications are made to an approved watershed plan, the modifications must be approved using the same processes that applied in originally approving the plan. If instream flows were established using the process specified in the watershed planning laws for setting flows, any modifications to those flows must be made using that process.

The watershed planning laws no longer specify how obligations imposed by a watershed plan are modified.

Substitute Bill Compared to Original Bill:

The substitute bill expressly states that if instream flows were established using the process specified in the watershed planning laws for setting flows, any modifications to those flows must be made using that process. Under the substitute bill, the watershed planning laws no longer specify how obligations imposed by a watershed plan are modified.

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: (Original bill) The bill clarifies that the counties have the same role in approving modifications to a watershed plan that they had in originally approving the plan.

Testimony Against: (Original bill) It is not clear what is gained by the changes made by the bill; the bill may not be providing clearer procedures. The approval process does not match up well with the process provided by the Administrative Procedure Act.

Persons Testifying: (Original bill) (In support) Gene Jenkins, Washington State Farm Bureau.

(Opposed) Neil Aaland, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.