

# SENATE BILL REPORT

## SB 5024

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As Reported By Senate Committee On:  
Natural Resources, Energy & Water, March 5, 2003  
Ways & Means, March 10, 2003

**Title:** An act relating to municipal water systems.

**Brief Description:** Concerning public water systems.

**Sponsors:** Senators Honeyford and Hale.

**Brief History:**

**Committee Activity:** Natural Resources, Energy & Water: 1/21/03, 3/5/03 [DPS-WM, DNP].

Ways & Means: 3/10/03 [DP2S, DNP].

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### SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

**Majority Report:** That Substitute Senate Bill No. 5024 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Hale, Honeyford and Oke.

**Minority Report:** Do not pass.

Signed by Senators Fraser and Regala.

**Staff:** Sam Thompson (786-7413)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5024 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Hale, Honeyford, Johnson, Parlette, Roach, Sheahan and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Brown, Fraser and Regala.

**Staff:** Richard Ramsey (786-7412)

**Background:** A municipal water supplier applying for a municipal water right must include information concerning the present population to be served and, as near as may be determined, the future requirement of the municipality. Two questions have arisen: (1) Can a municipal water right be relinquished through nonuse? (2) Can a municipal water right be limited by maximum service connection, population, or place of use information specified in the application?

**Summary of Second Substitute Bill:** Municipal water rights are protected from relinquishment through nonuse and are allowed to expand up to authorized annual quantity limits as demand within a service area grows. The Department of Health (DOH) must study water conservation efforts.

Protection of Municipal Water Rights from Relinquishment. The purpose of use of water rights held by a municipal water supplier for a public water system is "municipal water supply purposes," defined as any beneficial use for which water is or is anticipated to be provided by a municipal water supplier.

"Municipal water suppliers" are defined as:

- Purveyors (public and private owners or operators of public water systems for wholesale or retail service) having state-approved water system plans and owning or operating group A water systems (systems with 15 or more service connections or systems serving an average of 25 or more people per day for 60 or more days a year) that are entitled or obligated to serve existing and additional customers and uses within an approved water service area, to the extent allowed under applicable land use plans.
- Irrigation districts.
- Counties appointed as receivers of failing water systems or approved as satellite system management agencies, or cities, towns or counties holding rights for use in their own governmental or proprietary operations.

Expansion of Municipal Water Rights. The maximum number of service connections, maximum population to be served, or size or location of place of use, as described on a municipal water right application, permit, certificate, or claim, may not limit exercise of the right if an annual quantity limit can be determined from the permit, certificate, or claim. However, if a water system plan must be approved for a public water system by the state, the number of service connections or population served under the water right may expand only when the system complies with its approved plan. Place of use for municipal water supply is the service area in the state-approved water system plan. The Department of Ecology must modify water right records as necessary when records come up for review.

DOH Water Conservation Study. DOH, in cooperation with the Water Supply Advisory Committee, will examine the effectiveness of water conservation efforts throughout the state and will report to the Legislature on proposed legislation or rule changes that would encourage cost-effective conservation.

The bill is null and void if not funded in the omnibus budget.

**Second Substitute Bill Compared to Substitute Bill:** A null and void clause is added.

**Substitute Bill Compared to Original Bill:** The definition of "municipal water supplier" is changed to: (1) provide that public water system purveyors must own or operate group A water systems (i.e., systems with 15 or more service connections or systems serving an average of 25 or more people per day for 60 or more days a year) to meet the definition; and (2) include counties appointed as receivers of failing water systems or approved as satellite system management agencies, or cities, towns or counties holding rights for use in their own governmental or proprietary operations.

The DOH water conservation study is added.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For (Natural Resources, Energy & Water):** The bill provides greater certainty for municipal water rights and will enable growing cities to provide sufficient water to meet projected demands. The bill's clarification of "place of use" as the service area in the state-approved water system plan is needed. The bill appropriately includes irrigation districts within the definition of "municipal water supplier." The "use it or lose it" relinquishment rule in current law creates inefficiencies.

**Testimony Against (Natural Resources, Energy & Water):** Private purveyors and irrigation districts should not be included in the definition of "municipal water supplier." Irrigation districts should be included in the definition of "municipal water supplier" only with respect to municipal water supply functions. The paramount rights of Native American tribes should be recognized. The bill places a higher value on future growth over current needs. The bill may unconstitutionally affect vested water rights of Native American tribes. Future municipal water service area projections should be linked to Growth Management Act review.

**Testified (Natural Resources, Energy & Water):** Nancy Rust, Center for Environmental Law and Policy (con); Mike Moran, Center for Environmental Law and Policy, Samish Indian Nation (con); Dave Monthie, King County (concerns); Dave Williams, Association of Washington Cities (pro); Denise Smith, League of Women Voters (con); William Hahn, PUD Association Water Committee, Kitsap County PUD (pro); James Waldo, advisor to Governor Locke (concerns); Josh Baldi, Washington Environmental Council (concerns); Richard Reich, Steve Wehrli, Muckleshoot Tribe (concerns); Kevin Lyon, Northwest Indian Fisheries Commission (con); Mike Kayser, citizen (pro); Tom Myrum, Washington Water Resources Association (pro); Darryll Olson, Columbia-Snake River Irrigators Association (pro); Jim Halstrom, Washington State Horticultural Association (pro); Chris Cheney, Washington State Dairy Federation, Washington Cattlemen's Association (pro); Paul Parker, Washington State Association of Counties; Hertha Lund, Washington Farm Bureau (pro); Toni McKinley, Washington State Grange (pro); Scott Hazlegrove, Washington Association of Sewer and Water Districts (pro); Dawn Vyvyan, Yakama Indian Nation (con).

**Testimony For (Ways & Means):** This bill will allow municipalities to grow into their certificated water rights. The Governor's water team favors the bill. It gives municipalities certainty and flexibility to efficiently manage water resources. It also will reduce transaction costs.

**Testimony Against (Ways & Means):** None.

**Testified (Ways & Means):** PRO: Senator Jim Honeyford, prime sponsor; Jim Rioux, Department of Health/Governor's Water Team; Bill Stauffacher, WA PUD Assn.