

SENATE BILL REPORT

SB 5087

As Reported By Senate Committee On:
Natural Resources, Energy & Water, February 20, 2003

Title: An act relating to creating a water commission.

Brief Description: Creating the Washington water commission.

Sponsors: Senators Honeyford, Rasmussen, Hewitt, Deccio, Hale, Mulliken, Sheahan, Parlette, Morton and T. Sheldon.

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/22/03, 2/20/03 [DPS-WM, DNP].

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5087 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 Doumit and Regala.

Staff: Sam Thompson (786-7413)

Background: In 2001 the Washington Competitiveness Council (a body advising the Governor) recommended certain changes in state law to improve the state's business climate. Among other suggestions, the council recommended that the state consider transferring responsibility for handling water rights from the Department of Ecology (DOE) to a water resources commission.

Summary of Substitute Bill: Two nonpartisan state government elective offices are created: the Eastern Washington Water Commissioner, elected from the 20 counties east of the crest of the Cascade Mountains, and the Western Washington Water Commissioner, elected from the 19 counties west of the crest of the Cascade Mountains. Responsibility, resources and funding for water resource administration is transferred from DOE to the commissioners. The new offices will initially be entirely funded from appropriations made to DOE to administer the transferred functions.

The commissioners each work independently to administer the state's water resource laws in the regions they serve. They will:

- Supervise use of public waters and adopt regulations for administering water resource laws.
- Supervise state officers and employees connected with use of public waters.

- Make determinations concerning discharge of water supply sources.
- Provide assistance to water right applicants in obtaining an adequate and appropriate supply of water consistent with permitted land use and population forecasts.
- Exercise flood control powers and duties prescribed by law.
- Supervise water resource laws to ensure that use and conservation of water resources benefits the "public interest" "defined as water resource use impacting the state, including use for domestic, industrial, commercial, and agricultural purposes, irrigation, hydroelectric power production, mining, thermal power production, recreation, preservation of environmental values and other uses compatible with enjoyment of state public waters.

Commissioners are elected at the same time and manner as other state elective officers, take a similar oath of office, and serve four-year terms commencing and ending at the same time as other nonjudicial state elective officers. Candidates file declarations of candidacy with the Secretary of State, submit statements for inclusion in the state voters' pamphlet, and are subject to public disclosure laws. As with other state nonpartisan elective offices, if a candidate for commissioner receives the majority of votes cast in a primary election, only that candidate's name is printed on the general election ballot.

The commissioner's salaries are set by the Washington Citizens' Commission on Salaries for elected officials. In common with other state elective offices, the commissioners' offices participate in alternative dispute resolution procedures when disputes arise between state agencies.

Substitute Bill Compared to Original Bill: A seven-member state water commission created by the original bill, made up of three members elected at large from east of the Cascade Mountains, three elected at large from west of the Cascade Mountains, and a gubernatorial appointee, is eliminated. The newly-created offices of Eastern Washington Water Commissioner and Western Washington Water Commissioner will initially be entirely funded from appropriations made to DOE to administer the functions transferred from DOE to the commissioners. Technical amendments revise elections, public disclosure and other statutes pertaining to state elective offices.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: A separate body made up of elected representatives more accountable to the people of the state should be established for water rights permitting; the DOE water rights permitting process is overregulated and DOE is unduly bureaucratized and needs to be more responsive to economic stakeholders; the commission governance approach is good and would not conflict with the view that the Governor should be a strong executive.

Testimony Against: Separation of water quantity and quality management is inappropriate " quantity and quality oversight should be managed together under the existing system by a single agency, accountable to the Governor; another commission is not necessary.

Testified: Josh Baldi, Washington Environmental Council (con); Mike Moran, Center for Environmental Law and Policy and Samish Indian Nation (con); Denise Smith, League of Women Voters (con); Charlie Brown, Washington State Potato Commission (pro); James Waldo, advisor to Governor Locke (concerns); Darryll Olson, Columbia-Snake River Irrigators Association (pro).