

SENATE BILL REPORT

SB 5125

As Reported By Senate Committee On:
Natural Resources, Energy & Water, February 27, 2003

Title: An act relating to directing the department of ecology to conduct pilot rule making to establish and assign trust authorization credits.

Brief Description: Directing the department of ecology to conduct pilot rule making to establish and assign trust authorization credits.

Sponsors: Senators Honeyford, Doumit and Morton.

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/28/03, 2/27/03 [DPS].

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5125 be substituted therefor, and the substitute bill do pass.

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

Staff: Sam Thompson (786-7413)

Background: The state has established two trust water rights programs managed by the Department of Ecology, one for the Yakima River Basin and one for the rest of the state. Both programs allow the state to acquire water rights, hold them as trust water rights, and reallocate them to other uses. The state can acquire water rights on a permanent or a temporary basis by purchase, gift, or other means, excluding condemnation. Both programs provide for acquiring water rights as part of public funding of conservation measures. Both programs are exempt from the approval process otherwise required for changes or transfers of water rights and have their own processes.

It has been suggested that existing procedures for establishing trust water rights are unnecessarily complex and difficult to administer.

Summary of Substitute Bill: The two state trust water rights programs, one applying to the Yakima River Basin, the other applying to the rest of the state, are consolidated. (Provisions concerning Yakima River Basin are repealed and other provisions are revised and recodified.) Procedures for placing water rights in the consolidated trust water rights program and for determining the quantity of water transferred to the program are clarified and simplified.

Trust water rights can be established for all types of water rights, including from water right claims and ground water rights. An unperfected water right in good standing may be placed in trust.

Water right change or transfer provisions do not apply to trust water rights established on a temporary basis unless the rights are transferred to another person. Acceptance of an existing water right as a temporary trust water right does not constitute a determination of the validity and extent of the right.

Prior to expending state or federal funds to acquire a trust water right, DOE must exercise appropriate due diligence to ensure the validity of the water right.

Substitute Bill Compared to Original Bill: Provisions concerning trust water rights are greatly expanded and provisions concerning water banking are eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Original bill) Water banking should be established, with options; the bill is limited to establishing a pilot water banking program.

Testimony Against: (Original bill) This legislation harms instream flows, and does not acknowledge senior water rights held by Native American tribes.

Testified: Steve Wehrli, Muckleshoot Tribe (con); Joe Mentor, Mentor Law Group (pro); Kevin Lyon, Northwest Indian Fisheries Commission (con); Dawn Vyvyan, Yakama Indian Nation (con); Kristen Sawin, Association of Washington Business (pro); Larry Stout, Washington Association of Realtors (pro).