

SENATE BILL REPORT

SB 5333

As of February 25, 2003

Title: An act relating to the trust water rights program.

Brief Description: Clarifying and consolidating procedures for trust water rights and authorizing creation of water banks.

Sponsors: Senators Parlette, Fraser, Honeyford, B. Sheldon, Hale, Doumit, Hewitt and Rasmussen; by request of Governor Locke.

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/28/03.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Staff: Sam Thompson (786-7413)

Background: The state has established two trust water rights programs managed by the Department of Ecology (DOE), 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. It has also been suggested that "water banks" be established to administer trust water rights within a watershed or region.

Summary of Bill: Two trust water rights programs--one applying to the Yakima River Basin and one for the rest of the state--are consolidated. 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, with a junior priority date for the duration of the trust.

Watershed and regional water banks may be created by DOE administrative rule, including water banks established jointly with neighboring states. Such water banks may:

- Administer all trust water rights in an area, or be limited to certain types of trust rights.

- Be created inside or outside DOE; a bank created outside DOE must be constituted as a public entity or as a private-public partnership.
- Solicit and acquire trust water rights.
- Hold trust water rights for mitigation of future activities.
- Accept and manage funds to be used to establish trust water rights.
- Purchase or lease water rights to be held in trust by DOE and administered by the bank.
- Create a system of credits to track deposits of water rights to, and withdrawals from, the bank.
- Assign water rights or credits to third parties authorizing beneficial use of water from the trust program, as consistent with the terms of a trust water right.
- Develop a schedule of the amount of water saved as a result of water conservation projects carried out in a watershed. This schedule serves as the basis for annual distribution and management of trust water rights.

DOE is directed to conduct pilot administrative rule-making to evaluate the effectiveness of different types of water banks. Each of the pilots are subject to review by affected parties, followed by a report to the Legislature.

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.

Appropriation: None.

Fiscal Note: Available.

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