

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1113

58th Legislature
2003 Regular Session

Passed by the House April 22, 2003
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 14, 2003
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1113** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1113

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Hinkle, Linville, Schoesler, Boldt and Mielke)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to irrigation district boards of joint control;
2 amending RCW 87.80.005, 87.80.030, and 87.80.130; and adding a new
3 section to chapter 87.80 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 87.80.005 and 1996 c 320 s 2 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Area of jurisdiction" means all lands within the exterior
10 boundary of the composite area served by the irrigation entities that
11 comprise the board of joint control as the boundary is represented on
12 the map filed under RCW 87.80.030.

13 (2) "Irrigation entity" means an irrigation district or an
14 operating entity for a division within a federal reclamation project.
15 For the purposes of this chapter, a water company, a water users'
16 association, a municipality, a water right owner and user of irrigation
17 water, or any other entity that provides irrigation water as a primary
18 purpose, is an irrigation entity when creating or joining a board of

1 joint control with an irrigation district or operating entity for a
2 division within a federal reclamation project.

3 (3) "Joint use facilities" means those works, including reservoirs,
4 canals, ditches, natural streams in which the irrigation entity has
5 rights of conveyance under RCW 90.03.030, hydroelectric facilities,
6 pumping stations, drainage works, reserved works as may be transferred
7 by contracts with the United States, and system interties that are
8 determined by the board of joint control to provide common benefit to
9 its members.

10 (4) "Ownership interest" means the irrigation entity holds water
11 rights in its name for the benefit of itself, its water users or, in
12 federal reclamation projects, the irrigation entity has a contractual
13 responsibility for delivery of water to its individual water users.

14 (5) "Source of water" means a hydrological distinct river and
15 tributary system or aquifer system from which board of joint control
16 member entities appropriate water.

17 **Sec. 2.** RCW 87.80.030 and 1996 c 320 s 4 are each amended to read
18 as follows:

19 The petition for the creation of a board of joint control shall be
20 addressed to the board of county commissioners, shall describe
21 generally the relationship, if any, of the irrigation entities to an
22 established federal reclamation project, the primary water works of the
23 entities including reservoirs, main canals, hydroelectric facilities,
24 pumping stations, and drainage facilities, giving them their local
25 names, if any they have, and shall show generally the physical
26 relationship of the lands being watered from the water facilities.
27 However, lands included in any irrigation entity involved need not be
28 described individually but shall be included by stating the name of the
29 irrigation entity and all the irrigable lands in the irrigation entity
30 named shall by that method be deemed to be involved unless otherwise
31 specifically stated in the petition. Further, the petition must
32 propose the formula for board of joint control apportionment of costs
33 among its members, and may propose the composition of the board of
34 joint control as to membership, chair, and voting structure. When a
35 board of joint control includes irrigation entities other than an
36 irrigation district or an operating entity for a division within a

1 federal reclamation project as provided in RCW 87.80.005, the voting
2 structure must be such that the votes apportioned to those entities are
3 less than fifty percent of the total votes.

4 The petition shall also state generally the reasons for the
5 creation of a board of joint control and any other matter the
6 petitioners deem material, and shall allege that it is in the public
7 interest and to the benefit of all the owners of the lands receiving
8 water within the area of jurisdiction, that the board of joint control
9 be created and request that the board of county commissioners consider
10 the petition and take the necessary steps provided by law for the
11 creation of a board of joint control. The petition shall be
12 accompanied by a map showing the area of jurisdiction and the general
13 location of the water supply and distribution facilities.

14 **Sec. 3.** RCW 87.80.130 and 1998 c 84 s 2 are each amended to read
15 as follows:

16 (1) A board of joint control created under the provisions of this
17 chapter shall have full authority within its area of jurisdiction to
18 enter into and perform any and all necessary contracts; to accept
19 grants and loans, including, but not limited to, those provided under
20 chapters 43.83B and 43.99E RCW, to appoint and employ and discharge the
21 necessary officers, agents, and employees; to sue and be sued as a
22 board but without personal liability of the members thereof in any and
23 all matters in which all the irrigation entities represented on the
24 board as a whole have a common interest without making the irrigation
25 entities parties to the suit; to represent the entities in all matters
26 of common interest as a whole within the scope of this chapter; and to
27 do any and all lawful acts required and expedient to carry out the
28 purposes of this chapter. A board of joint control may, subject to the
29 same limitations as an irrigation district operating under chapter
30 87.03 RCW, acquire any property or property rights for use within the
31 board's area of jurisdiction by power of eminent domain; acquire,
32 purchase, or lease in its own name all necessary real or personal
33 property or property rights; and sell, lease, or exchange any surplus
34 real or personal property or property rights. Any transfers of water,
35 however, are limited to transfers authorized under subsection (2) of
36 this section.

1 (2)(a) A board of joint control is authorized and encouraged to
2 pursue conservation and system efficiency improvements to optimize the
3 use of appropriated waters and to either redistribute the saved water
4 within its area of jurisdiction, or((τ)) transfer the water to others,
5 or both. A redistribution of saved water as an operational practice
6 internal to the board of joint control's area of jurisdiction, may be
7 authorized if it can be made without detriment or injury to rights
8 existing outside of the board of control's area of jurisdiction,
9 including instream flow water rights established under state or federal
10 law.

11 (b) Prior to undertaking a water conservation or system efficiency
12 improvement project ((which)) that will result in a redistribution of
13 saved water, the board of joint control must consult with the
14 department of ecology and, if the board's jurisdiction is within a
15 United States reclamation project, the board must obtain the approval
16 of the bureau of reclamation. The purpose of such consultation is to
17 assure that the proposal will not impair the rights of other water
18 holders or bureau of reclamation contract water users.

19 (c) A board of joint control does not have the power to authorize
20 a change of any water right that would change the point or points of
21 diversion, purpose of use, or place of use outside the board's area of
22 jurisdiction, without the approval of the department of ecology
23 pursuant to RCW 90.03.380 and, if the board's jurisdiction is within a
24 United States reclamation project, the approval of the bureau of
25 reclamation. Any change in place of use that results from a transfer
26 of water between the individual entities of the board of joint control
27 shall not result in any reduction in the total water supply available
28 in a federal reclamation project. In making the determination of
29 whether a change of place of use in an area covered by a federal
30 reclamation project will result in a reduction in the total water
31 supply available, the board of joint control shall consult with the
32 bureau of reclamation.

33 (d) The board of joint control shall notify the department of
34 ecology, and any Indian tribe requesting notice, of transfers of water
35 between the individual entities of the board of joint control. This
36 subsection (2)(d) applies only to a board of joint control created
37 after January 1, 2003.

1 (3) A board of joint control is authorized to design, construct,
2 and operate either drainage projects, or water quality enhancement
3 projects, or both.

4 (4) Where the board of joint control area of jurisdiction is
5 totally within a federal reclamation project, the board is authorized
6 to accept operational responsibility for federal reserved works.

7 (5) Nothing contained in this chapter gives a board of joint
8 control the authority to abridge the existing rights, responsibilities,
9 and authorities of an individual irrigation entity or others within the
10 area of jurisdiction; nor in a case where the board of joint control
11 consists of representatives of two or more divisions of a federal
12 reclamation project shall the board of joint control abridge any powers
13 of an existing board of control created through federal contract; nor
14 shall a board of joint control have any authority to abridge or modify
15 a water right benefiting lands within its area of jurisdiction without
16 consent of the party holding the ownership interest in the water right.

17 (6) A board of joint control created under this chapter may not use
18 any authority granted to it by this chapter or by RCW 90.03.380 to
19 authorize a transfer of or change in a water right or to authorize a
20 redistribution of saved water before July 1, 1997.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 87.80 RCW
22 to read as follows:

23 The provisions of chapter . . . , Laws of 2003 (this act) shall not
24 be construed or interpreted to authorize the impairment of any existing
25 water rights.

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