

# SENATE BILL REPORT

## SB 5254

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As of February 5, 2009

**Title:** An act relating to the authority of a watershed management partnership to exercise powers of its forming governments.

**Brief Description:** Granting authority of a watershed management partnership to exercise powers of its forming governments.

**Sponsors:** Senators Prentice, Jarrett, Oemig, Kline, Tom, Brandland and Delvin.

**Brief History:**

**Committee Activity:** Environment, Water & Energy: 1/27/09.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Staff:** Karen Epps (786-7424)

**Background:** The Interlocal Cooperation Act allows public agencies to enter into agreements with one another for joint or cooperative action. Any power, privilege, or authority held by a public agency may be exercised jointly with one or more other public agencies having the same power, privilege, or authority. A "public agency" for purposes of interlocal agreements includes any agency, political subdivision, or unit of local government. The term specifically includes municipal corporations, special purpose districts, local service districts, state agencies, federal agencies, recognized Indian tribes, and other states' political subdivisions.

Public agencies may enter into interlocal agreements to form a watershed management partnership to implement all or parts of a watershed management plan, including coordination and oversight of plan implementation. Watershed plans, salmon recovery plans, watershed management elements of comprehensive plans and shoreline master programs, and other types of plans are considered "watershed management plans" for these purposes.

A watershed management partnership may create a "separate legal entity" to conduct the cooperative undertaking of the partnership. Such a separate legal entity may contract indebtedness and may issue general obligation bonds.

Under the Interlocal Cooperation Act, if two or more entities with the power of eminent domain join to form a watershed management partnership, then the partnership itself will

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have the power of eminent domain as well. However, in such a case, the power of eminent domain may not extend to the "separate legal entity" created by a watershed management partnership. Such a separate legal entity may not be a "public agency" within the meaning of the Interlocal Cooperation Act.

**Summary of Bill:** A watershed management partnership and a separate legal entity created by the partnership to conduct the operation of the partnership may exercise the power of eminent domain if all of the public agencies that form the partnership do themselves have the power of eminent domain. In order to exercise this eminent domain power, a watershed management partnership or separate legal entity must have been formed or qualified before July 1, 2006, not be engaging in planning or implementation of a plan for a water resource inventory area, and be governed by a board of directors consisting entirely of elected officials from the cities and districts constituting the partnership.

A watershed management partnership or separate legal entity must comply with statutory notice requirements that must be met before eminent domain power may be exercised, and must provide notice to the city, town or county having jurisdiction over the subject property 30 days before the partnership board authorizes condemnation.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill would provide Cascade Water Alliance with the power of eminent domain. Each of the eight municipalities within Cascade Water Alliance currently have the power of eminent domain. Without the power of eminent domain, Cascade Water Alliance cannot lay pipe to provide water to its customers. This puts Cascade Water Alliance at a severe disadvantage. This bill is written to provide only Cascade Water Alliance with the power of eminent domain.

CON: There are concerns about providing additional entities with the power of eminent domain.

**Persons Testifying:** PRO: Tim Schellberg, Mary-Alyce Burleigh, Hugh Spitzer, Cascade Water Alliance; Robert Mack, City of Tacoma.

CON: Dan Wood, Washington Farm Bureau.