

SENATE BILL REPORT

SB 6536

As of February 1, 2010

Title: An act relating to limitations on withdrawing various waters from additional appropriations.

Brief Description: Regarding the withdrawal of waters of the state from additional appropriations.

Sponsors: Senators Holmquist, Hatfield, Morton, Honeyford, King, Pflug, Stevens, Swecker and Delvin.

Brief History:

Committee Activity: Environment, Water & Energy: 1/27/10.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: Karen Epps (786-7424)

Background: The Water Resources Act (Act) provides a list of legislative policies that guide the allocation of water in the public interest. The policies require allocation of water in a manner that preserves instream resources, protects the quality of the water, provides adequate and safe supplies of water, and promotes regional water supply systems that serve the public generally. The Act directs the Department of Ecology (Ecology) to ensure that the waters of the state are utilized for the best interests of the people, and to develop and implement a comprehensive state water resources program which will provide a process for making decisions on future water resource allocation and use.

Whenever it appears necessary to carry out the policies set forth in the Act, Ecology may by rule withdraw various waters of the state from additional appropriations until data and information are available to make sound decisions. Before proposing the adoption of rules to withdraw waters of the state from additional appropriation, Ecology must consult with the standing committees of the House of Representatives and the Senate that have jurisdiction over water resource management issues. Prior to the adoption of a rule to withdraw waters of the state from additional appropriation, Ecology must conduct a public hearing in each county where the waters relating to the rule are located. The public hearing must be preceded by a notice placed in a newspaper of general circulation published within each of the affected counties.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Prior to withdrawing waters of the state from additional appropriations, Ecology must have sufficient information establishing impairment based on sound, reliable science that has undergone peer review. In addition, prior to withdrawing waters of the state from additional appropriations, Ecology must establish an alternate available water source for use in the closed basin.

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: It is important for Ecology to have the science to guide its decisions. The closure in Kittitas county was done before the study was completed, in response to a petition signed by two individuals. The closure has devastated the local economy, hurt property values, and devastated property rights. This was done in the absence of compelling evidence of hydraulic continuity. This bill requires that before Ecology can move forward with a moratorium, they must have the science to justify it, as well as an alternative water source for the impacted citizens so they can have access to basics, such as drinking water. If this legislation had been enacted before, there would not be moratorium in Kittitas County. This is important to lay down a foundation to protect other rural counties. This bill will allow Ecology to do their job and protect senior water right holders, but it will also protect other citizens.

CON: Water is a finite resource. It would be great to be able to provide certainty to all our users, but some basins, Kittitas included, are fully appropriated. Kittitas has been fully appropriated since 1905. The basin is now on borrowed water and in an over-appropriated state. Ecology lacks information, but they also lack resources to have that information in hand to make the best decisions. This bill takes Ecology's ability to stop over-appropriated basins from being further over-appropriated to gather the science that is needed to address water conflicts. Ecology has limited tools to address these conflicts. This tool provides one of the strongest tools available to Ecology to protect senior water rights. Water scarcity does and will continue to create challenges. It is important to maintain Ecology's ability to manage the water resource.

Persons Testifying: PRO: Kitty Wallace, Marc Rich, Kittitas County Association of Realtors; Marli McCormick, Association of Mortgage Professionals; Wayne Nelson, Marc Kirkpatrick, citizens; Alan Crankovich, Paul Jewell, County Commissioners, Kittitas County; Glen Smith, Washington State Groundwater Association; John Stuhlmiller, Washington Farm Bureau; Russ Hobbs, Ray Risdon, Kittitas County Fire District No. 7.

CON: Ken Slattery, Department of Ecology; Darcy Nonemacher, American Rivers; Mo McBroom, Washington Environmental Council; Seth Ballhorn, Center for Environmental Law & Policy.