

# HOUSE BILL REPORT

## HB 1296

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to creating a water commission.

**Brief Description:** Creating a water commission.

**Sponsors:** Representatives Hinkle, Blake, Buys, Kretz, Warnick, Chandler, Klippert, Orcutt, Schmick, Armstrong, Haler, Walsh, Nealey, Fagan, Condotta, Taylor, Short, Johnson, McCune and Harris.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 1/25/11, 2/4/11, 2/11/11 [DPS].

**Brief Summary of Substitute Bill**

- Creates the Washington State Water Commission to manage the state's water resources.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Hinkle, Kretz, Lytton, Orcutt, Pettigrew and Van De Wege.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Dunshee and Rolfes.

**Staff:** Courtney Barnes (786-7194).

**Background:**

Under the state water code, a person must have a water right for any use of surface water and for larger withdrawals of groundwater. A water right is a legal right to use a specified amount of water for a beneficial purpose. The Water Resources Program (Program) in

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*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.*

Washington is managed by the Department of Ecology (DOE). Among other duties, the Program processes applications and permits for the use of water, and makes a final certification that there is an adequate water supply.

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### **Summary of Substitute Bill:**

The Washington State Water Commission (Commission) is created to manage the state's water resources.

#### Membership.

The Commission consists of seven members to be appointed by the Governor with the advice of the state Senate. The commissioners serve at the pleasure of the Governor.

#### Powers, Duties, and Functions.

With regard to water resources, the Commission has the following powers, duties, and functions:

- supervising public waters within the state (including appropriation, diversion, and use);
- supervising construction and inspection of all waterworks;
- making determinations as to the discharge of streams, springs, and other sources of water supply, and the capacities of lakes and reservoirs whose water are being or may be utilized for beneficial purposes;
- providing assistance to water right applicants;
- maintaining records;
- making written reports of the Commission's work to the Governor and Legislature;
- exercising all the powers and duties prescribed by law with respect to flood control;
- adopting rules;
- supervising water resource laws; and
- performing other duties as prescribed by law.

All powers, duties, and functions of the DOE pertaining to the duties listed above are transferred to the Commission. All references to the Director or DOE in the Revised Code of Washington are construed to mean the Chair or the Commission. The Commission may appoint an administrative officer and delegate the powers and duties of the Commission to the administrative officer.

#### Transfers to the Commission.

All funds, personnel, tangible property, and records held by the DOE related to the Commission's powers and functions must be transferred to the Commission. If a dispute arises concerning the transfer of funds, personnel, tangible property, or records, the Director of the Office of Financial Management must make a determination as to the proper allocation of the property. All rules and pending business (including contracts) before the DOE

pertaining to the Commission's powers and functions must be continued and acted on by the Commission.

**Substitute Bill Compared to Original Bill:**

In the original bill, six commissioners were elected and one commissioner was appointed by the Governor. The substitute bill allows the Governor to appoint all seven commissioners.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill creates a commission to manage the state's water resources. This system will create more accountability and transparency. The current program is disconnected, inefficient, and in need of serious reform. The bill changes the administrative line of authority and will allow citizens to have more recourse. Creating a commission with a singular focus could create new efficiencies in water rights processing. The Commission could also reduce the number of employees who work in the DOE's Program and create additional savings.

(Neutral) The bill should be amended to identify from which counties the commissioners will be elected. Identifying the counties will make the election process run more smoothly.

(Opposed) The bill is contrary to the Governor's desire to reduce boards and commissions. Creating a new commission does not make sense in the current economy. Reducing the number of employees in the Program will only hinder the ability of the Program to maintain its core functions. The commissioners should not be elected based on whether they live east or west of the Cascade Mountains. The bill will further politicize the question of who has the responsibility of maintaining the state's water resources. The current Program is not as successful as anyone would like it to be, but the state has created the problem by failing to provide adequate funding. Until the state invests money in a mapping program to identify the severity of water shortage issues, a new management program will only make matters worse. The bill is extreme and throws the good out with the bad.

**Persons Testifying:** (In support) Representative Hinkle, prime sponsor; Darryl Olsen and Ron Reimann, Columbia-Snake River Irrigators Association; John Stuhlmiller, Washington Farm Bureau; Wayne Nelsen; and Mark Kirkpatrick.

(Neutral) Katie Blinn, Office of the Secretary of State.

(Opposed) Martin Durkin Jr., Muckleshoot Tribe; Ken Slattery, Department of Ecology; Dawn Vyvyan, Yakama Nation and Puyallup Tribe; Darcy Nonemacher, American Rivers; Steve Robinson, Center for Environmental Law and Policy; and Mo McBroom, Washington Environmental Council.

**Persons Signed In To Testify But Not Testifying:** None.