

HOUSE BILL REPORT

HB 1803

As Reported by House Committee On:
Agriculture & Natural Resources
Capital Budget

Title: An act relating to modifying the Columbia river basin management program to prospectively maximize investment tools.

Brief Description: Modifying the Columbia river basin management program.

Sponsors: Representatives Chandler, Van De Wege, Blake, Kretz and Warnick; by request of Department of Ecology.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/9/11, 2/16/11 [DPS];
Capital Budget: 2/21/11, 2/23/11 [DP2S(w/o sub AGNR)].

Brief Summary of Second Substitute Bill

- Modifies the existing Columbia River Basin Water Supply Development Account.
- Creates the Columbia River Basin Taxable Bond Water Supply Development Account and the Columbia River Basin Water Supply Revenue Recovery Account.
- Authorizes the Department of Ecology (DOE) to enter into water service contracts to recover all or a portion of the costs of developing water supplies.
- Requires the DOE, in consultation with stakeholders, to evaluate options and report to the Legislature on aggregating projects to achieve instream and out-of-stream allocations.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dunshee, Hinkle, Kretz, Lytton, Orcutt, Pettigrew, Rolfes and Van De Wege.

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.

Staff: Courtney Barnes (786-7194).

Background:

Columbia River Basin Water Supply Management Program.

In 2006 the Legislature created the Columbia River Basin Water Supply Development Program and directed the Department of Ecology (DOE) to aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses.

The Columbia River Basin Water Supply Development Account.

The Columbia River Basin Water Supply Development Account (Development Account) is authorized to receive direct appropriations, payments made pursuant to voluntary regional agreements, and other sources. Expenditures from the Development Account may be used to assess, plan, and develop new storage; improve or alter operations of existing storage facilities; implement conservation projects; or any other actions designed to provide access to new water supplies within the Columbia River Basin. Two-thirds of the funds placed in the Development Account must be used to support the development of new storage facilities. The remaining one-third must be used for other purposes listed in statute.

Water supplies secured through the development of new storage facilities made possible with funding from the Development Account must be allocated as follows:

- two-thirds of active storage must be available for appropriation for out-of-stream uses; and
- one-third of active storage must be available to augment instream flows managed by the DOE.

Columbia River Water Supply Inventory and Water Supply and Demand Forecast.

The DOE is required to work with stakeholders in developing a Columbia River Water Supply Inventory (Inventory) and Water Supply and Demand Forecast (Forecast). The Inventory must include certain items specified by statute. The first Inventory and Forecast were required to be completed in November 2006. The Inventory is updated annually, and the Forecast is updated every five years.

Summary of Substitute Bill:

The Columbia River Basin Water Supply Development Account.

The Development Account is intended to fund projects using tax exempt bonds. In addition to the projects already allowed by statute, expenditures from the Development Account may be used to develop pump exchanges. Two-thirds of the funds placed in the Development Account must be used to support the development of new storage facilities and pump exchanges. Pump exchanges are defined as water supply development projects that exchange

water from one source to another or relocate an existing diversion downstream, with resulting instream benefit.

Two-thirds of the water made available through reoperation of Sullivan Lake funded from the Development Account must be used to supply or offset out-of-stream uses in Ferry, Douglas, Lincoln, Okanogan, Pend Oreille, and Stevens counties. At least one-half of this quantity must be made available for municipal, domestic, and industrial uses.

New Columbia River Basin Accounts.

The Columbia River Basin Taxable Bond Water Supply Development Account (Bond Account) and the Columbia River Basin Water Supply Revenue Recovery Account (Revenue Account) are created. The Bond Account and Revenue Account are allowed to accept direct appropriations, moneys directed pursuant to voluntary regional agreements, or other sources. The Revenue Account is also allowed to accept revenue from water service contracts. The Bond Account is intended to fund projects using taxable bonds.

Expenditures from the Bond Account and the Revenue Account may be used to assess, plan, and develop new storage; improve or alter operations of existing storage facilities; implement conservation projects, develop pump exchanges; or any other actions designed to provide access to new water supplies within the Columbia River Basin. Two-thirds of the moneys placed in the Bond Account and the Revenue Account must be used to support the development of new storage facilities and pump exchanges. The remaining one-third must be used for the other purposes listed in the bill.

Funds may not be expended from the Bond Account or the Revenue Account for the construction of a new storage facility until the DOE evaluates:

- the water uses to be served by the facility;
- the quantity of water necessary to meet those uses;
- the benefits and costs to the state; and
- alternative means of supplying water to meet those uses.

With certain exceptions, net water savings achieved through conservation measures funded by the Bond Account or Recovery Account must be placed in trust in proportion to the state fund provided to implement a project.

The DOE may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts do not include staff time. With the applicant's concurrence, the DOE may receive power revenue generated by the water supply developed by the DOE through water service contracts. The DOE may deny an application if the applicant does not enter into a water service contract.

Water supplies secured through the development of new storage facilities made possible with funding from the Development Account, Bond Account, and Revenue Account must be allocated as follows:

- two-thirds of *aggregate* active storage must be available for appropriation for out-of-stream uses; and

- one-third of *aggregate* active storage must be available to augment instream flows managed by the DOE.

Aggregate refers to the total amount of active storage amongst all projects made possible with funding from the Development Account, Bond Account, and Revenue Account.

Columbia River Water Supply Inventory and Water Supply and Demand Forecast.

The list of stakeholders that the DOE is required to work with on the Inventory and Forecast is modified. In addition to the items already specified in statute, the Inventory must include:

- an accounting of how the DOE has met the two-thirds out-of-stream and one-third instream balance for storage projects; and
- information on how aggregation has achieved instream and out-of-stream benefits throughout the Columbia River Basin.

Substitute Bill Compared to Original Bill:

The substitute bill makes two technical changes to alphabetize a list of counties and remove a comma.

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) In 2006 the Legislature adopted the Columbia River Development Act to manage the Columbia River. The bill is timely and designed to let the Office of the Columbia River (OCR) take the next steps in implementing the management program. The bill includes a provision for cost recovery and revenue sharing, which would allow the OCR to make long-term commitments for water service contracts. The bill would also allow pump exchanges to be funded out of the two-thirds storage portion of the Development Account. The bill includes a provision to allow projects to be aggregated for allocation of water for new storage facilities, but this provision may need some modification to allow for consultation with counties, tribes, or federal agencies. The bill would also create a reserve for certain counties in the northeastern portion of the state that are facing a shortage of water. This provision creates equity and will prevent dewatering in these counties.

(Opposed) The intent of the bill is good, but the bill needs some revision. The provision allowing the OCR to use an aggregate for instream and out-of-stream uses could potentially harm portions of the Columbia River. The provision allowing for cost recovery should be amended to include staff time, which would allow for full cost recovery. As drafted, the

definition of pump exchanges is too broad and needs revision to limit the types of projects that would qualify as a pump exchange.

The Columbia River Management Program needs additional oversight, not additional authority or new sources of cost recovery. The bill essentially creates a state version of the U.S. Bureau of Reclamation.

Persons Testifying: (In support) Representative Chandler, prime sponsor; and Derek Sandison, Office of Columbia River, Department of Ecology.

(Opposed) Mo McBroom, Washington Environmental Council; and Rachael Osbourn, Center for Environmental Law and Policy.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 10 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Warnick, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Jacks, Jinkins, Lytton, Pearson, Smith and Tharinger.

Staff: Meg Van Schoorl (786-7105).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Agriculture & Natural Resources:

The substitute bill authorized the Department of Ecology (DOE) to aggregate projects for the purposes of allocating water secured through the development of new storage facilities. The second substitute bill removes this authority and removes certain reporting requirements related to aggregation.

The second substitute bill requires the DOE, within existing resources and in consultation with stakeholders, to evaluate options for aggregating projects and report its findings to the Legislature.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 23, 2011.

Effective Date of Second 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) This bill enables the next steps to be taken under the Columbia River Basin Management Act (Act), which passed in 2006 to help improve water management for in-

stream and out-of-stream uses. Agriculture is the largest industry and employer in Washington, and the Act focuses on three of the 10 largest agricultural counties in the country. The Act has worked well so far, but the changes in this bill will fine-tune the law and provide flexibility in the scoping and scheduling of new projects. The bill clarifies the authority of the DOE to recover costs, and based on advice from the Office of the State Treasurer, creates a separate account for taxable bond financings of projects that benefit the private sector, such as the Boise Cascade Wallula Mill project. The bill authorizes pump exchange projects, of which there are two under development. To carry out a commitment to regional equity, the bill also directs the allocation of water from the decommissioning of Sullivan Lake hydropower to supply or offset out-of-stream uses in six northeast Washington counties. There are few opportunities to assist that region's water needs. In addition, the bill authorizes the DOE to allocate water supplies secured through development of new storage facilities on an aggregate, rather than on a project by project basis. This will give the DOE operational flexibility in balancing the two-third/one-third ledger. This last provision is controversial and we are working on amendatory language with stakeholders.

(Opposed) We have concerns related to changing the one-third/two-third allocation from its current application project by project to an aggregate basis. The concerns are for transparency and accounting for where water comes out and where it goes in, since the Columbia River Basin is so large and includes many watersheds. There must be careful analysis and consultation with affected tribes or the Department of Fish and Wildlife, and also with the federal government in those areas with endangered species. In general this is a good bill and should move forward, but without the aggregation language either amended or struck, we will be opposed.

Persons Testifying: (In support) Representative Chandler, prime sponsor; and Derek Sandison, Department of Ecology.

(Opposed) Dawn Vyvyan, Yakama Nation; and Mo McBroom, Washington Environmental Council.

Persons Signed In To Testify But Not Testifying: None.