
**Agriculture & Natural Resources
Committee**

HB 2310

Brief Description: Creating efficiencies for municipal water suppliers.

Sponsors: Representatives Wilcox, McCune and Chandler.

Brief Summary of Bill

- Requires the Department of Ecology (DOE), for all applications for change of the place or use of a water right, to limit consideration of the application to only the scope and validity of the specific portion of the underlying water right that is subject to the application.
- Provides three instances when the DOE's scope of consideration on change applications must be limited to whether or not the applied for change will adversely impact a senior water rights holder.
- Changes the definition of when water is being used for a municipal supply purpose from when the water can be shown to be *actually beneficially used* for specified municipal supply purposes to when it is possible to *document the intent* to beneficially use the water for those purposes.
- Allows, with limits, the pooling of municipal water rights from the same groundwater aquifer by a public water utility that holds multiple rights in the same aquifer.
- Dedicates 20 percent of the revenue generated by the tax on water distribution businesses to be split between the Water Rights Processing Account managed by the DOE and the Safe Drinking Water Account managed by the Department of Health.

Hearing Date: 1/25/12

Staff: Jason Callahan (786-7117).

Background:

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.

Definition of Municipal Water Supply Purposes.

Water use is considered to be used for municipal water supply purposes if the supplier puts the water to specialized beneficial uses. These uses include the provision of water to an adequate number of residences, government buildings, or to a public water supply that serves residences or government buildings. Once a water supplier can show that the water is used beneficially for one of these purposes, then all other water supplied by the supplier is considered to be used for municipal water supply purposes.

Change Applications.

A change in the place of use, point of diversion, or purpose of use of a water right to allow the irrigation of additional acreage or the addition of new uses may be permitted if the change results in no increase in the annual consumptive quantity of water used under the water right.

All change applications must be filed with, and approved, by the Department of Ecology (DOE). The DOE may approve the application, after providing public notice, if the change appears to not injure or serve as a detriment to any other water rights.

Well Locations.

The holder of a right to withdraw groundwater may make changes to the right, upon application to the DOE, without losing any of water right's priority status. The groundwater rights holder may construct wells at a new location as a substitute or addition to the original wells. The rights holder may also change the place of water use.

In order to utilize this option, the groundwater rights holder must submit an application to the DOE. Information from the application must be published and notice must be provided along the same terms as the application for the original water right. The DOE may only approve the change application if the new wells will tap the same body of public groundwater as the original wells, the original wells will be decommissioned or reduced in use so as to not enlarge the total withdraws, and no other existing rights are impaired.

Water Distribution Tax.

There is a tax levied against all businesses that distribute water. The tax rate is 4.7 percent of the gross income of the water distribution business. Eighty percent of the water distribution business tax is directed to the General Fund. Except for the 2011 fiscal year, the remaining 20 percent is dedicated to the Public Works Assistance Account, where the is used to make loans and to give financial guarantees to local governments for public works projects. All revenue generated by the tax in the 2011 fiscal year is dedicated to the General Fund.

Summary of Bill:

Definition of Municipal Water Supply Purposes.

The definition of when water is being used for a municipal supply purpose is changed. Instead of having to show that the water is *actually beneficially used* for specified municipal supply

purposes, the water supplier needs to *document the intent* to beneficially use the water for those purposes.

Change Applications.

Direction is given to the Department of Ecology (DOE) regarding how certain change of water use or change of water diversion location applications are reviewed. For all applications for change in the place or use of a water right, the DOE may only consider the scope and validity of the specific portion of the underlying water right that is subject to the application. The DOE is forbidden from taking any action on the application that would alter or diminish other water rights held by the applicant. This prohibition extends to the total water rights portfolio held by the applicant.

Three instances are provided when the DOE's scope of consideration must be limited to whether or not the applied for change will adversely impact a senior water rights holder. These instances are when an applicant proposes a move in the withdrawal or diversion point that is:

- further from a body of surface water;
- to a lower level aquifer within the same watershed; or
- within a watershed that discharges into salt water.

Well Locations.

The pooling of municipal water rights from the same groundwater aquifer by a public water utility that holds multiple rights in the same aquifer does not constitute a change in the water right as long as the annual quantity of water and the instantaneous quantity of water of the pooled rights does not exceed the sum of the combined individual water rights.

Water Distribution Tax.

A portion of the revenue generated by the tax on water distribution businesses is redirected. Twenty percent is still dedicated to the Public Works Assistance Account; however, an additional 20 percent is redirected to two separate accounts. Of the additional 20 percent dedication, one half must be deposited in the Water Rights Processing Account managed by the DOE and the other half must be deposited in the Safe Drinking Water Account managed by the Department of Health.

The intent of the revenue diversion to the DOE and the Department of Health is to link the revenue provided by water utilities to the services provided to utilities and their customers from the two agencies. This diverted revenue is intended to substitute for additional or increased fees for the same services.

Appropriation: None.

Fiscal Note: Available.

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