

SENATE BILL REPORT

ESB 5647

As Passed Senate, March 5, 2011

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: Senators Fraser, Honeyford, Rockefeller, Morton, Shin and Chase; by request of Department of Ecology.

Brief History:

Committee Activity: Environment, Water & Energy: 2/09/11, 2/16/11 [DP].

Passed Senate: 3/05/11, 49-0.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: Do pass.

Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford, Ranking Minority Member; Chase, Delvin, Fraser, Holmquist Newbry, Morton and Ranker.

Staff: Karen Epps (786-7424)

Background: In 2006 the Legislature enacted the Columbia River Basin Water Supply Act (Act) relating to water resource management in the Columbia River Basin (Basin). A priority of this act is the development of new water supplies that includes storage and conservation for the economic and community development needs of people, as well as the instream flow needs of fish. The Act required the Department of Ecology (Ecology) to establish the Columbia River Basin Water Management Program (Program).

Ecology, in consultation with stakeholders, must develop a Columbia River Water Supply Inventory (Inventory) every year. The Inventory must identify potential conservation and storage projects in the Basin, as well as estimate the costs and benefits of the projects. The Inventory must also rank the identified projects in a number of different ways, including ranking the projects in order of expense, benefits to fish, and benefits to out-of-stream needs.

The Columbia River Basin Water Supply Development Account (Account), created in the Act, is allowed to accept direct appropriations, payments made pursuant to voluntary regional agreements, and other sources. Expenditures from the Account may be used to assess, plan,

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.

and develop new water storage, improve existing storage, fund conservation projects, and implement actions designed to provide new access to water in the Basin. Before any funds from the Account can be used for construction, Ecology must evaluate the water uses the new facility will serve, the benefits and costs of the project, and alternative means of achieving the same goals.

Water supplies that are developed and secured through projects funded by the Account must be used in specified ways. Two-thirds of this water must be dedicated to out-of-stream uses, while one-third must be used by Ecology to enhance instream flows.

Summary of Engrossed Bill: The Account is intended to fund projects using tax exempt bonds. Expenditures from the Account may be used to develop pump exchanges. Except for the development of new storage projects and pump exchanges, there can be no expenditures from the Account for water acquisition and transfers. Pump exchange means water supply projects that exchange water from one source to another or relocate an existing diversion downstream, resulting in instream benefit.

Ecology may enter into water services contracts with applicants receiving water from the Program to recover all or a portion of the cost of developing the water supply. Ecology may receive power revenue generated by the water supply developed by Ecology through water services contracts, with the applicant's agreement. Ecology may deny an application for a water right if the applicant does not enter into a water service contract.

Revenue collected from water services contracts is deposited into the Columbia River Basin Water Supply Revenue Recovery Account (Revenue Recovery Account), which is created in this act. Money from the Revenue Recovery Account may be used to assess, plan, and develop new storage, improve existing storage, implement conservation projects, develop pump exchanges, and implement actions designed to provide access to new water supplies within the Basin.

The Columbia River Basin Taxable Bond Water Supply Development Account (Development Account) is also created. The Development Account is intended to fund projects using taxable bonds. Money from the Development Account may be used to assess, plan, and develop new storage, improve existing storage, implement conservation projects, develop pump exchanges, and implement actions designed to provide access to new water supplies within the Basin.

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

Ecology must, within existing resources and in consultation with stakeholders, evaluate options for aggregating projects and report its findings to the Legislature.

Appropriation: None.

Fiscal Note: Available.

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 clarifies Ecology's cost reimbursement authority. This is necessary for two reasons, one is to provide for reimbursement of water service contracts for water from the Lake Roosevelt drawdown and the other is to sustain the development account as much as possible. Ecology would like to invest in projects, recover the funds that are invested, and then reinvest in other projects. The Treasurer's office recommended dealing with the tax-exempt and taxable bonds and recovered revenue in three different accounts. The taxable account is necessary because Ecology wants to enter into contracts with private entities. The bill specifically includes pump exchanges in the storage part of the Program because they provide many of the attributes of storage without having the storage facility. Some projects do not lend themselves to providing both instream and out-of-stream benefits within the same project. An example of that issue is in the Odessa where there isn't an instream component and the pump exchange project in Walla Walla which provides instream benefits and no out-of-stream benefits. Establishing that the water from Sullivan lake must be used in Northeastern Washington provides geographic equity, which is a component of the original legislation. It is important that the Walla Wall pump exchange be facilitated to meet the needs for fish restoration.

CON: There is concern about going to an aggregate approach. The purpose of the Program is to provide out of stream use and benefit instream flows. The aggregate approach could cause some hits on instream flows in certain reaches. There is some concern about using a cost recovery approach that does not include staff time. This will provide new sources of revenue for dams and weakens the instream flow mitigation requirements. This bill allows for pump exchanges with a vague definition that would include the Black Rock Project and the mud-flat reservoirs that exist solely to be filled and emptied for energy pump-back purposes. There is concern because the Columbia River Program does not sunset. The Program has a major impact on taxpayers and there needs to some oversight on how the Program is working.

Persons Testifying: PRO: Derek Sandison, Department of Ecology; Naomi Stacy, Confederated Tribes of the Umatilla Indian Reservation.

CON: Darcy Nonemacher, American Rivers; Steve Robinson, Center for Environmental Law and Policy.