

HOUSE BILL REPORT

2SSB 5367

As Passed House:
June 29, 2013

Title: An act relating to Yakima river basin water resource management.

Brief Description: Concerning Yakima river basin water resource management.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Honeyford, Hatfield, King, Nelson, Delvin and Shin; by request of Governor Inslee).

Brief History:

Committee Activity:

None.

Second Special Session

Floor Activity:

Passed House: 6/29/13, 80-2.

Brief Summary of Second Substitute Bill

- Authorizes the Department of Ecology to implement the Yakima River Basin Integrated Water Resource Management Plan and develop water supply solutions that provide concurrent benefits to both in and out-of-stream uses.
- Creates three new accounts in the custody of the State Treasurer.
- Provides for the creation of the Teanaway Community Forest Trust.
- Requires payments in lieu of property taxes for all community forest trusts
- Excuses all community forest trusts from compensation taxes which are otherwise payable when timber lands change tax classifications.

Staff: Jason Callahan (786-7117).

Background:

[Yakima River Basin Integrated Water Resource Management 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.

The Yakima River Basin Integrated Water Resource Management Plan (Integrated Plan) was developed by the United States Bureau of Reclamation in collaboration with Washington's Department of Ecology (Department) and other interested entities in the Yakima River basin. According to the Integrated Plan, it offers a proposed approach to improving water management in the Yakima River basin. The stated goals of the Integrated Plan are to protect, mitigate, and enhance fish and wildlife habitat; provide increased operational flexibility to manage instream flows to meet ecological objectives; and improve the reliability of the water supply for irrigation, municipal supply, and domestic uses.

According to the contents of the Integrated Plan, this approach includes seven elements: fish passage, structural and operational changes, surface water storage, groundwater storage, habitat protection and enhancement, enhanced water conservation, and market-based water reallocation. The Integrated Plan includes a list of proposed actions estimated to cost approximately \$4 billion to complete. If funded, these actions would be carried out over a period of up to 30 years.

The area affected by the Integrated Plan is limited to the Yakima River basin. This area in South-Central Washington extends into the following counties: Kittitas, Klickitat, Yakima, and Benton. This area includes a portion of the Yakama Nation, six irrigation districts, and multiple tributaries to the Yakima River.

Community Forest Trust.

The Department of Natural Resources (DNR) is authorized to create and manage the Community Forest Trust (CFT). The CFT is a discrete category of non-fiduciary trust lands held by the DNR and actively managed to generate financial support for the CFT and to sustain working forest conservation objectives.

The DNR must identify goals for the CFT before identifying lands for inclusion into the CFT. These goals must include the following:

- protecting in perpetuity working forest lands that are at a significant risk of conversion to another land use;
- securing financial and social viability through sound management plans and objectives that are consistent with the values of the local community;
- maintaining the land in a working status;
- generating revenue at levels that are, at a minimum, capable of reimbursing the DNR for management costs;
- providing for ongoing, sustainable public recreational access; and
- providing educational opportunities for local communities regarding the benefits that working forests provide to Washington's economy, communities, environment, and quality of life.

The DNR may acquire parcels for the CFT through purchase, gift, donation, grant, transfer, or other means other than eminent domain. If state trust lands are transferred into the CFT, then the value of that transfer must be provided to the beneficiaries of the trust. The DNR is required to develop criteria for identifying and prioritizing forest land that is suitable for potential inclusion in the CFT. Priority considerations are to be given to lands that meet certain values or conditions. These values and conditions include the active participation of

community partners, risk of conversion, buffering of commercial forest lands from development, and enhancing the forest products manufacturing infrastructure.

The DNR must submit biennially to the Office of Financial Management and the Legislature a prioritized list that identifies nominated parcels of state land or state forest land that are suitable for transfer into the CFT. The list of nominated parcels must reflect consideration of local nominations. Prior to actually acquiring land for a CFT, the DNR must obtain a commitment from the local community to preserve the land as a working forest. This community commitment must be demonstrated by a reimbursable financial contribution of at least 50 percent the difference between the parcel's fair market value and its timber value. Each parcel added to the CFT must be accompanied by a management plan developed in cooperation with a local advisory committee.

Revenue produced from CFT lands must first be used to reimburse the DNR for its management costs and for funding the management objectives of the land. The Board of Natural Resources (Board) may, if it chooses, reimburse the state government and the local partners with any remaining revenue. If reimbursement is provided, it must be provided equally to the state and local partners.

Summary of Second Substitute Bill:

Implementation of the Integrated Plan.

Authorization is given to the Department to implement the Integrated Plan and develop water supply solutions consistent with the Integrated Plan that provide concurrent benefits to both in and out-of-stream uses. The goal of this effort is to enhance fish and wildlife resources, improve water availability and reliability, establish more efficient water markets, manage the variability of water supplies, and prepare for the uncertainties of climate change through operational and structural changes.

To accomplish these goals, the Department is specifically authorized to take certain steps. These include actions such as: accepting related funds, developing projects consistent with the Integrated Plan designed to provide access to new water supplies within the Yakima River basin, entering into contracts that ensure the efficient delivery of water, and providing for the design of facilities necessary to implement the Integrated Plan. Water supplies secured through the development of new or expanded storage facilities developed under the Integrated Plan must be allocated for out-of-stream uses and to augment instream flows. Any yet-to-be appropriated water may only be used to augment instream flows to the extent that existing water rights are not impaired.

Effect on Existing Rights.

Legislative direction is provided that discourages any construction of the Department's implementation of the Integrated Plan to alter or limit, impair, waive, or abrogate rights of the Yakama Nation, irrigation districts, or other entities when it comes to the waters in the Yakima River basin.

Three New Accounts.

Three new accounts are created: the Yakima Integrated Plan Implementation Account (Implementation Account), the Yakima Integrated Plan Implementation Taxable Bond

Account (Taxable Bond Account), and the Yakima Integrated Plan Implementation Revenue Recovery Account (Recovery Account). All three accounts are appropriated accounts that retain their own interest.

All three accounts may be used to assess, plan, and develop projects included in, or consistent with, the Integrated Plan. The accounts may only be used to fund new water storage facilities if the Department first evaluates the proposed water uses, the necessary quantity to meet those uses, the costs and benefits, and any available alternative means.

The Implementation Account is intended to fund projects using tax-exempt bonds. The Taxable Bond Account is intended to fund projects using taxable bonds. The Recovery Account is intended to fund projects using revenues from water service contracts.

The Department must give preference to entities managing water service contracts for any water supplies developed under the Integrated Plan with funds from any of the accounts that are designed to support future municipal and domestic water needs. The Department may enter into water service contracts directly if contracting with other entities is not feasible or suitable. These contracts must recover all or a portion of the water development costs, with any revenues being dedicated to the Recovery Account.

Mandatory Reporting.

The Department, every biennium through the year 2045, must provide an implementation status report to the Legislature and the Governor. These reports must be developed in consultation with the Yakama Nation, the United States Bureau of Reclamation, and stakeholders in the Yakima River basin. The Washington Research Center must review the cost benefit estimates for Integrated Plan for projects that cost more than \$100 million. The Department and the Office of the State Treasurer must complete, and update, a cost estimate and financing plan for the Integrated Plan.

Community Forest Trust.

The DNR is authorized to purchase land as part of the state's implementation of the Integrated Plan. That land must be held in CFT status. However, the management of the parcel is exempt from certain requirements of other holdings in the CFT, such as those related to identifying and prioritizing land purchases, generating financial support for their management, and divesting flexibility. The purchase must be reviewed and approved by the Board. If the land is purchased with funds belonging to the common school trust, the funding is considered a loan from the irreducible principal of the common school trust and must be approved by the Board. In such a loan, an annual interest payment on the loan of nine percent is applied.

The purchased land must be managed by the DNR in consultation with the Department of Fish and Wildlife. The two agencies must initially manage the land under a transitional management plan. The plan must ensure that the land is managed in a manner that is consistent with the Integrated Plan. A local advisory committee must be established to help guide the development of the management plan.

The DNR may convert the land from CFT status to the ownership of the common school trust, for management or disposition for the benefit of the common schools, if the required

permits have not been approved, or funding has not been secured, to begin construction on one or more water supply facilities included in the Integrated Plan by June 30, 2025.

For all CFT lands, and not just those included in the Integrated Plan, payments in lieu of property taxes are due to the local county and compensation taxes, which are otherwise payable when timber lands change tax classifications, are not due.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 16, which takes effect if the four requirements set out in section 7, Chapter 36, Laws of 2012 are met.