

SENATE BILL REPORT

SB 5463

As of February 14, 2013

Title: An act relating to efficiencies in the department of ecology processing of water right change applications that move the point of withdrawal reducing the potential for surface water body impacts.

Brief Description: Concerning efficiencies in the department of ecology processing of water right change applications that move the point of withdrawal reducing the potential for surface water body impacts.

Sponsors: Senators Honeyford and Carrell.

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 2/11/13.

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Staff: Bob Lee (786-7404)

Background: Current law allows persons to apply for amendments to groundwater for their withdrawal at a new location in substitution for, or in addition to, the original location. An amendment may be issued after publication of notice and findings as prescribed for an original application. The amendment may only be issued by the Department of Ecology (DOE) if:

- the additional or replacement well taps the same body of groundwater as the original well;
- the use of the original well is discontinued and properly decommissioned;
- the combined total withdrawal is not enlarged; and
- other existing rights will not be impaired.

A replacement well or new additional well may be constructed at the same location without applying to DOE for a permit. A similar list of requirements apply. The location of the original well is the area described as the point of withdrawal in the public notice published for the application for the water right. The replacement well must be constructed near the original well.

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.

Summary of Bill: A process is established when an amendment to a groundwater right would move an existing right's annual quantity to another existing right held by the applicant if the following conditions are met:

- the movement of the point of withdrawal is within the same body of groundwater and is further from a hydrologically connected surface water body; the movement of the point of withdrawal is to a lower aquifer depth or unit within the same body of public groundwater in the same watershed; or the movement of the point is within the same body of groundwater that discharges into saltwater; and
- each individual water right's instantaneous quantity is not increased; the annual quantity of the two amended rights does not exceed the annual quantity granted under the combined individual water rights; the applicant provides a hydrological analysis showing there is no impairment or reduced impairment of an existing water right; the applicant complies with notice requirements; and the applicant provides DOE with a draft report of examination identifying the satisfaction of the above criteria.

If these criteria are met, DOE's review is limited to the scope and validity of the existing rights and whether the hydrological analysis provided by the applicant demonstrates that existing water rights will not be impaired.

DOE must promptly determine the completeness of the application, assist the applicant with advertising the notice of publication, and post notice on DOE's website.

Any third party who alleges that their senior water right will be impaired may file a letter of concern or support. These letters must be received by DOE within 30 days of DOE's posting of notice.

The director must review the application and approve or deny the application within 120 days of posting the notice. An additional 120 days may be provided by the director or at the request of the applicant. If action is not taken within this time period, the application is deemed approved and is appealable to the Pollution Control Hearings Board.

Appropriation: None.

Fiscal Note: Requested on February 6, 2013.

Committee/Commission/Task Force Created: None.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is needed to simplify the process to allow public water systems to better manage their water well portfolio and to allow replacing failed or failing wells while protecting existing water rights. This would allow a water right change application to allow a well that is near a closed creek to be located further from the creek or at a deeper depth as long as it taps the same body of water. This flexibility will be more protective of streams and will benefit salmon.

CON: There is concern that the bill limits the ability of DOE to review water right changes. The bill requires DOE to rely on the hydrological analysis provided by the applicant.

OTHER: The timelines in the bill under which the requested change is approved if not acted on by DOE will leave the public water system alone to defend its change in place of use or point of withdrawal.

Persons Testifying: PRO: Marc Marcantonio, Water Co-op of Pierce County, Mt. View-Edgewood Water Company; Jeff Johnson, Spanaway Water Company; Michael Ireland, WA Water Service; Kathleen Collins, WA Water Policy Alliance.

CON: Bruce Wishart, Center for Environmental Policy, Sierra Club; Miquel Perez-Gibson, Colville Tribes.

OTHER: Evan Sheffels, DOE.