

# SENATE BILL REPORT

## SB 6239

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As of January 24, 2014

**Title:** An act relating to providing that sales and use taxes imposed by rural counties may be used for purchasing water rights for water banking.

**Brief Description:** Providing that sales and use taxes imposed by rural counties may be used for purchasing water rights for water banking.

**Sponsors:** Senators King, Hatfield and Sheldon.

**Brief History:**

**Committee Activity:** Agriculture, Water & Rural Economic Development: 1/27/14.

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### SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

**Staff:** Diane Smith (786-7410)

**Background:** Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. Sales and use taxes are imposed by the state, counties, and cities. Sales and use tax rates vary between 7–8.9 percent, depending on location.

Rural counties may impose a local option sales and use tax of 0.09 percent. The tax is deducted from the state's 6.5 percent sales and use tax and thus, the consumer does not see an increase in the amount of the tax paid. Revenues from this local option tax may only be used to finance public facilities serving economic development purposes and to finance personnel in economic development offices.

Rural counties are defined, for purposes of the tax credit, as counties with a population density of fewer than 100 persons per square mile, or smaller than 225 square miles.

Counties collecting the tax provide yearly reports to the State Auditor within 150 days after the close of each fiscal year. The reports include a list of all new projects begun in the fiscal year demonstrating consistency with the goals of the sales tax credit and expenditures made on projects begun in prior years. Monies from the credit may not be used to fund justice system facilities.

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*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.*

Water banking is a way to use the market to make water available for new uses. It facilitates the legal transfer and market exchange of various types of surface water, groundwater, and storage rights. Many banks pool water supplies from willing sellers and make them available as credits to willing buyers.

Responsibility for deciding whether new development in a basin or county may be allowed is shared between the county and the Department of Ecology (DOE). DOE has exercised authority in certain basins or sub-basins known as Water Resource Inventory Areas (WRIAs) to limit the new extractions of groundwater through adoption of rules under the 1971 Water Resources Act. Of the 62 basins in the state, approximately half have basin rules in effect. Counties must address water issues in their land use planning, as explained by a recent Washington Supreme Court case. Counties "must regulate to some extent to assure that land use is not inconsistent with available water resources" under the Growth Management Act and other statutes, *Kittitas County v. Eastern Washington Growth Management Hearings Board* 172 Wash.2d. 144, 256 P.3d 1193 (2011).

When under present conditions, there is an insufficient supply of water in the basin to satisfy the needs of the basin then junior water rights must be curtailed in times of water shortage. This basin is considered to be over-appropriated. As an example, in the Yakima Basin, DOE has not issued surface water rights since the beginning of the Basin's adjudication over 30 years ago. Groundwater rights have not been issued for almost 20 years. Before a new water right permit is issued, DOE must determine that water is available and that the new permitted use will not have a negative impact on existing water rights. The adjudication and other applicable state and federal court decisions determined that the Yakima River Basin is over-appropriated, meaning more surface water rights are confirmed in the adjudication than there is actual water flowing in the streams.

**Summary of Bill:** Revenues from the local option sales and use tax for public facilities in rural counties may be used for another purpose. This purpose is to purchase water rights for the purpose of water banking in basins where the county and DOE agree that groundwater is over-appropriated.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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