

SENATE BILL REPORT

SB 5746

As of February 3, 2022

Title: An act relating to drought preparedness, response, and funding.

Brief Description: Concerning drought preparedness, response, and funding.

Sponsors: Senators Warnick, Nobles and Stanford.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/13/22, 1/20/22
[DPS-WM].

Ways & Means: 2/03/22.

Brief Summary of First Substitute Bill

- Changes the name of the State Drought Preparedness and Response Account to the State Drought Preparedness Account and requires the State Treasurer to transfer \$2,000,000 from the general fund into the account at the beginning of each biennium.
- Establishes the Emergency Drought Response Account (Response Account).
- Requires the State Treasurer, upon the issuance of a drought emergency order and after a determination of the fund balance by the Office of Financial Management, to transfer from the general fund to the Response Account an amount necessary to bring the balance to \$3,000,000.
- Requires the Department of Ecology to meet certain reporting requirements.
- Allows the Chair of the Legislative Committee on Water Supply During Drought to convene the committee when a drought advisory is in effect.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES &

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

PARKS

Majority Report: That Substitute Senate Bill No. 5746 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfes, Short and Stanford.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: Drought Emergency Orders. The Department of Ecology (Ecology) is authorized to declare drought emergencies by administrative order. Before it may declare a drought emergency, Ecology must determine an area is experiencing or is expected to experience less than 75 percent of normal water supply and is expected to suffer undue hardships as a result of the dry conditions. Prior to issuing an order, Ecology must first consult with federal and state agencies and must receive approval from the Governor. Legislation passed in 2020 authorized Ecology to issue a drought advisory when it appears drought conditions may develop, based on statutory definitions of normal water supply and drought conditions.

Ecology may, upon issuing a drought emergency order, authorize emergency withdrawals of public surface and ground waters, as long as the withdrawals are put to beneficial uses and will not reduce flows below the essential minimum for fisheries and other state and federal interests. Issuing a drought order also allows Ecology to approve temporary changes in the use of a water right, employ additional people, acquire emergency equipment, and revise any drought contingency plans.

The drought emergency order also allows Ecology to make loans or grants from emergency water supply funds when necessary to help alleviate drought conditions. Under the grant program, eligible public entities may apply for grants for projects such as creation of additional water storage, development of emergency water supplies, and projects designed to mitigate for the impacts of water supply shortages on fish and wildlife. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs. Any project funded by grant funding must be completed while the drought emergency order is in effect. These expenditures are made from the State Emergency Water Projects Revolving Account. In addition to that account, Ecology manages the State Drought Preparedness and Response Account (Preparedness and Response Account). Funds in the Preparedness and Response Account may be used by Ecology for drought preparedness.

Joint Legislative Committee on Water Supply During Drought. The Joint Legislative

Committee on Water Supply During Drought (Drought Committee) is comprised of eight legislative members and must include the chairs of the water resources committees of each legislative chamber. The Drought Committee may convene from time to time at the call of the chair when a drought emergency order is in effect or when the chair determines, in consultation with Ecology, it is likely such an order will be issued within the next year. When a drought conditions order is in effect, Ecology must provide the Drought Committee with at least monthly reports describing drought response activities of Ecology and other state and federal agencies. The Drought Committee is authorized to make recommendations to the Legislature on budgetary and legislative actions to improve the state's drought response programs and planning.

Summary of Bill (First Substitute): The name of the Preparedness and Response Account is changed to the State Drought Preparedness Account (Preparedness Account). At the beginning of each biennium, the State Treasurer must transfer \$2,000,000 from the general fund into the Preparedness Account. Expenditures may be used for both drought planning and preparedness activities, including grants under the existing grant program. Projects do not need to be completed while a drought emergency order is in effect.

An Emergency Drought Response Account (Response Account) is established to fund emergency drought response actions and grants to public entities to provide relief for the immediate hardship caused by water unavailability while a drought emergency order is in effect. Upon the issuance of a drought emergency order, the State Treasurer must transfer from the general fund to the Response Account an amount necessary to bring the balance to \$3,000,000. The Office of Financial Management (OFM) must determine the fund balance of the Response Account as of the previous fiscal month before the issuance of a drought emergency order. OFM must promptly notify the Treasurer and Ecology of the account balance and the necessary transfer amount once a determination is made. A transfer based on the determination by OFM may be made only once every fiscal year. All receipts from moneys received pursuant to the transfer, moneys appropriated to the Response Account by the Legislature for the purpose of funding emergency drought response actions, or moneys directed to the account from any other lawful source must be deposited into the account. Moneys in the Response Account may be spent only after appropriation.

Ecology must provide OFM, Senate Ways and Means Committee and House Appropriations Committee, and the Drought Committee with a close-out summary following the expiration of the drought emergency order.

The chair of the Drought Committee may convene the committee when a drought advisory is in effect. Ecology must include information on grant funding in its monthly reports to the Drought Committee when a drought emergency order is in effect.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Requires OFM to determine the fund balance of the Response Account as of the previous fiscal month before the issuance of a drought emergency and then promptly notify the State Treasurer and Ecology of the account balance and the necessary transfer amount.
- Provides that a transfer based on the determination by OFM may be made only once every fiscal year.
- Creates the Response Account in the state treasury, removes the provisions establishing that the account is subject to allotment procedures, and establishes that moneys in the account may be spent only after appropriation.
- Clarifies that all receipts from the transfer, moneys appropriated to the account by the Legislature for funding emergency drought response actions, or moneys directed to the account from any other lawful source, must be deposited into the account.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: Last year's emergency drought declaration occurred after session and Ecology did not have funds to assist with drought relief. Agriculture was especially impacted by the combination of both heat and drought. Raspberries saw a 30 percent reduction, wheat production fell in some areas by 50 percent, and cherry production was down 20 percent. Given the impacts experienced by residents of the state, convening the Drought Committee sooner could prove to be very helpful. Droughts are occurring at an alarming rate in Washington and this bill creates permanent funding for planning and resiliency. This bill implements key recommendations from the state's drought implementation plan and last year's after-action review of Ecology's drought response. The bill ensures that funding is available for Ecology to take immediate action upon a drought declaration. The bill also provides stable funding for drought planning and preparation to build water supply resilience in Washington. More planning and preparation is essential in the face of predicted increased droughts.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Judy Warnick, Prime Sponsor; Tom Davis, Washington Farm Bureau; Kelly McLain, Washington State Department of Agriculture; Dave Christensen, Washington Department of Ecology; Diana Carlen, Washington Association of Wheat Growers & Washington State Potato Commission.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural

Resources & Parks): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill is a result of not being quite prepared for the drought last year. This bill will allow the state to be prepared if and when there is a drought again.

Persons Testifying (Ways & Means): PRO: Senator Judy Warnick, Prime Sponsor.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.