

SENATE BILL REPORT

SHB 1138

As Passed Senate - Amended, April 11, 2023

Title: An act relating to drought preparedness.

Brief Description: Concerning drought preparedness.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Chapman, Dent, Ramel, Leavitt, Doglio, Lekanoff, Donaghy and Ormsby; by request of Department of Ecology).

Brief History: Passed House: 2/28/23, 96-1.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 3/16/23, 3/23/23 [DPA-WM].

Ways & Means: 3/31/23, 4/03/23 [DPA (AWNPN)].

Floor Activity: Passed Senate - Amended: 4/11/23, 49-0.

Brief Summary of Bill (As Amended by Senate)

- Provides that projects funded by grants issued to address drought conditions no longer need to be completed while a drought emergency order is in effect.
- Changes the name of the Drought Preparedness and Response Account to the Drought Preparedness Account.
- Establishes the Emergency Drought Response Account.
- Directs the state treasurer, upon the issuance of a drought emergency order, to transfer to the Emergency Drought Response Account the amount needed to bring the balance of the account to up to \$3 million.
- Allows the Chair of the Joint Legislative Committee on Water Supply During Drought to convene the committee when a drought advisory is in effect.

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.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Rolfes, Shewmake, Short, Stanford, Wagoner and Warnick.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Agriculture, Water, Natural Resources & Parks.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

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. Ecology also 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 Amended Bill: Projects funded by grants issued by Ecology to address drought conditions no longer need to be completed while a drought emergency order is in effect.

The Drought Preparedness and Response Account is renamed the Drought Preparedness Account. Expenditures from the Drought Preparedness Account may be used for drought planning and preparedness activities.

The Emergency Drought Response Account (account) is created in the state treasury. Funds in the account may be spent only after appropriation. Expenditures from the account may be used only 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 is directed to transfer from the state general fund to the account the amounts needed to bring the balance of the account to \$3 million. The Office of Financial Management (OFM) must determine the fund balance of the account as of the previous fiscal month before the issuance of a drought emergency order. OFM must also promptly notify the state treasurer and Ecology of the account balance and the necessary transfer amount once a fund balance determination is made. A transfer based on the determination by OFM may be made only once every fiscal year.

The circumstances in which the Drought Committee is authorized to convene are amended to also include when a drought advisory is in effect. The information that Ecology is

required to provide the committee while a drought emergency order is in effect must include information regarding drought grants that have been applied for or issued.

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 Substitute House Bill (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: The bill in its current form makes incremental improvements that are important for our state's drought response. The bill creates a separate account for drought emergencies and will provide a funding structure so that Ecology can request funding through decision packages. It is important to invest in drought planning and preparation, as well as emergency response, to reduce long term damages and costs and make the state more resilient to climate change impacts. Washington is projected to experience less snowpack and hotter, dryer summers, so drought and its impacts on rivers and streams, and the fish that rely on them, will be more common. Drought emergencies can happen quickly and without advanced warning. While this bill does not contain funding, the bill is a good first step because the state will see more rapidly occurring and longer lasting droughts.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Dave Christensen, Washington Department of Ecology; James Kraft, Washington Water Trust.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks): No one.

Staff Summary of Public Testimony on Bill as Amended by Agriculture, Water, Natural Resources & Parks (Ways & Means): PRO: Droughts can occur after the Legislature has adjourned, thereby making it difficult to gain needed appropriation to take action. This bill would allow funding to occur once an emergency is declared.

Persons Testifying (Ways & Means): PRO: Dave Christensen, Washington Department of Ecology.

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