

SENATE BILL REPORT

2SHB 1322

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, March 23, 2023

Title: An act relating to the Walla Walla water 2050 plan.

Brief Description: Concerning the Walla Walla water 2050 plan.

Sponsors: House Committee on Capital Budget (originally sponsored by Representatives Rude, Chapman, Klicker, Lekanoff and Reeves; by request of Department of Ecology).

Brief History: Passed House: 3/2/23, 96-0.

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

Brief Summary of Bill

- Requires that the Walla Walla Water 2050 Plan be used as an integrated water resource strategy through a coordinated effort between the states of Washington and Oregon; affected federally recognized tribes; affected federal, state, and local agencies; and other stakeholders.
- Directs the Department of Ecology (Ecology) to evaluate the development of a bistate legal regulatory framework for the allocation of developed water resources in collaboration with the state of Oregon.
- Exempts applications for water rights implementing the Walla Walla Water 2050 Plan from the required one-third and two-thirds allocation of water resources between instream and out-of-stream uses established for new water supplies developed in the Columbia River Basin.
- Requires that water supplies developed under the act be apportioned between Oregon and Washington consistent with any written agreements entered into with the state of Oregon and the Confederated Tribes of the Umatilla Indian Reservation.
- Authorizes Ecology to designate water supplies developed under the act

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for instream flow purposes and be placed into the Trust Water Rights Program.

- Requires that, when financing projects to implement the Walla Walla Water 2050 Plan, at least half of the total costs must be funded through federal, private, and nonstate sources.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

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)

Background: Walla Walla Pilot Local Water Management Program. Legislation enacted in 2009, created the Walla Walla Pilot Local Water Management Program. Under that legislation, the Walla Walla Water Management Board was created with representatives drawn from city and county government, federally recognized Indian tribes, conservation districts, and water rights holders. The board was authorized, among other duties, to assume the role of the local watershed planning unit, administer the local water plan process, manage banked water, acquire water rights, and enter into agreements with water rights holders to not divert water becoming available from local water plans and water banking activities.

The pilot program legislation authorized the board to establish a water bank in which surface and groundwater right holders could deposit their water rights on a permanent or temporary basis. The board was authorized to manage those water rights to mitigate for impairment to instream flows and other existing water rights.

The Walla Walla program was initially scheduled to expire in 2019. In 2019, legislation passed that moved the expiration date for the program to June 30, 2021 and directed the Department of Ecology (Ecology) to collaborate with the Walla Walla Water Management Board to develop a 30-year strategic plan for water management in the Walla Walla River Basin. The final version of that plan, titled the Walla Walla Water 2050 Strategic Plan, was released in June 2021. The Walla Walla Pilot Local Water Management Program expired June 30, 2021.

Columbia River Basin Water Supply Management Program. Legislation enacted in 2006, created the Columbia River Basin Water Supply Development Program and directed Ecology to aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses.

Water supplies secured through the development of new storage facilities pursuant to the Columbia River Basin Water Supply Development Program must be allocated as follows:

- two-thirds of active storage must be available for appropriation for out-of-stream uses; and
- one-third of active storage must be available to augment instream flows managed by Ecology.

Summary of Bill: Implementation of Walla Walla Water 2050 Plan. The Walla Walla Water 2050 Plan must be used as an integrated water resource strategy, through a coordinated effort between Washington and Oregon; affected federally recognized tribes; affected federal, state, and local agencies; and agricultural, environmental, business, and other community stakeholders. When developing water supply solutions in the Walla Walla river basin, Ecology should employ an integrated water resource management strategy that will provide concurrent water supply benefits to both instream and out-of-stream uses and address a variety of water resource and ecosystem challenges affecting fish passage; habitat functions; and agricultural, municipal, industrial, and domestic water supply, consistent with the Walla Walla Water 2050 Plan. When developing water supply solutions, Ecology will be advised by the Walla Walla River Basin advisory committee, including representatives from a broad range of interests, including agricultural, environmental, and other stakeholders; and tribal, local, state, and federal governments.

Ecology must consider any increase in the quantity of water supply due to a project being implemented under the Walla Walla Water 2050 Plan that is completed after the effective date of the act as water supply developed under the act. Water supplies developed under the act must be managed consistent with the intent of the specific project being implemented.

The one-third/two-thirds allocation of water resources between instream and out-of-stream uses established for new water supplies developed in the Columbia River Basin does not apply to applications for water rights in the Walla Walla River Basin implementing the Walla Walla Water 2050 Strategic Plan.

At least one-half of the total costs to finance the implementation of the Walla Walla Water 2050 Plan must be funded through federal and other nonstate sources, including private funding from entities that benefit from projects. The condition on state funding applies to the total of all costs toward implementation of the Walla Walla Water 2050 Plan and not to individual projects funded under the act and includes funding for projects that have been completed prior to the effective date of this act.

Interaction With the State of Oregon. In consultation with affected federally recognized tribes, Ecology must evaluate the development of a bistate legal regulatory framework for allocation of developed water resources, in collaboration with the state of Oregon. Ecology must submit a report to the relevant committees of the Legislature by June 30, 2025, with a recommendation for the bistate legal regulatory framework necessary for equitable

allocation and management of developed water resources from the build-out of water supply projects envisioned in the Walla Walla Water 2050 Plan.

Ecology is authorized to fund the development, construction, and implementation of projects to implement the Walla Walla Water 2050 Plan that may be located outside of the state, provided that the projects benefit instream and out-of-stream water demands in the state.

Water supplies developed under the act must be apportioned between the states consistent with any written agreements entered into with the state of Oregon and the Confederated Tribes of the Umatilla Indian Reservation related to the management of water in the Walla Walla River Basin.

Instream Flows and Impairment. Ecology has the authority to designate water supplies developed under the act for instream flow purposes and to be placed into the Trust Water Rights Program. Water supplies developed under the act designated for instream flow purposes are unavailable to satisfy existing water rights, including water rights with superior priority, and are exempt from provisions that prohibit the involuntary impairment of existing water rights.

Nothing prevents Ecology from regulating water users consistent with existing adjudications to ensure that water use by holders of adjudicated surface water right certificates is not impaired by use under junior groundwater right certificates, claims, and permits.

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: PRO: This bill provides Washington with the authority to enter into an agreement with Oregon to manage the water in the basin and a framework for development of future projects, such as a pump exchange or a reservoir for storage. This bill is supported by the largest irrigation district on the Washington side of the Walla Walla basin. The bill gives Ecology the statutory authority needed to implement major elements of the plan, including authority to build infrastructure in Oregon to benefit Washington's water resources and the ability to ensure that the water supplies developed under the plan are managed to meet project goals. The bill ensures that funding for water supplies is equitable. This bill represents an important step forward for salmon recovery efforts. The bill establishes a framework where local knowledge and input will guide implementation of water supply solutions. The plan contains strategies that, if implemented,

will restore streamflows, increase ecological resiliency, and increase fish passage. This bill is critical for the management of the Walla Walla basin, will allow the states of Washington and Oregon and the Confederated Tribes of the Umatilla Indian Reservation and other basin stakeholders to implement strategies and projects identified in the plan, and give the state the authority to manage those projects to meet their objectives. Oregon is currently considering similar legislation (SB 956). The Tribe and the two states have been working on the issues in the basin for decades and this bill provides the framework to manage the water in this very complex basin.

Persons Testifying: PRO: Representative Skyler Rude, Prime Sponsor; Mark Wagoner, Gardena Farms Irrigation District; Dave Christensen, Washington Department of Ecology; Chris Kowitz, Oregon Water Resources Department; Megan Kernan, WDFW; Chairwoman Kat Brigham, Confederated Tribes of the Umatilla Indian Reservation.

Persons Signed In To Testify But Not Testifying: No one.