
**Agriculture & Natural Resources
Committee**

HB 1589

Brief Description: Concerning trust water rights.

Sponsors: Representatives Blake, Hinkle, Stanford, Warnick, Takko, Chandler, Reykdal, Short, Upthegrove, Taylor, Wilcox and McCune.

Brief Summary of Bill

- Requires the Director of the Department of Ecology to approve, condition, or deny an application for a transfer of a trust water right administered for water banking purposes in the Yakima Basin within 45 days of receiving the application.

Hearing Date: 2/11/11

Staff: Courtney Barnes (786-7194).

Background:

The State Trust Water Rights program (Trust Water program) provides a way to legally hold water rights for future uses without the water right relinquishing. Water is held in trust to benefit groundwater and instream flows, and other beneficial uses. While water is held in trust it retains its original priority date. The Trust Water program is also used as a vault to hold water for water banking activities.

Water Banking.

Water banking is a way to use the market to make water available for new uses, such as increasing stream flows and providing water for development. In 2003, legislation was passed to allow banking in the Yakima Basin using the Trust Water program. In 2009, legislation was passed to clarify that this tool is available to use for banking statewide.

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.

The Department of Ecology (DOE) must transfer all or part of a water right being administered for water banking purposes from the trust water rights program to a third party when all of the following have occurred:

- the DOE receives a request to transfer;
- the request is consistent with the DOE's statutory transfer review and future temporary or permanent beneficial uses;
- the request is consistent with any condition, limitation, or agreement affecting the water right, including any transfer agreement executed at the time the water right was transferred to the trust water rights program; and
- the request is accompanied by and consistent with an assignment of interest from a person or entity retaining an interest in the trust water right to the party requesting transfer.

The water right transferred from the trust water rights program for water banking purposes retains the same priority as the underlying right. The DOE must issue documentation including specified information for the transferred water right to the new water right holder. The DOE's decisions on water bank transfers may be appealed to the Pollution Control Hearings Board or a superior court conducting a general adjudication.

Summary of Bill:

In the Yakima Basin, the Director of the DOE is required to approve, condition, or deny an application for transfer or other utilization of a water right administered for water banking purposes from the Trust Water program within 45 days of receipt. At the request of the applicant, the 45-day time period may be extended for an additional 30 days by the DOE. If the DOE fails to act within the prescribed time period, the application is deemed approved.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.