

HOUSE BILL REPORT

ESB 5647

As Reported by House Committee On:
Agriculture & Natural Resources
Capital Budget

Title: An act relating to modifying the Columbia river basin management program to prospectively maximize investment tools.

Brief Description: Modifying the Columbia river basin management program.

Sponsors: Senators Fraser, Honeyford, Rockefeller, Morton, Shin and Chase; by request of Department of Ecology.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/11/11, 3/15/11 [DPA];

Capital Budget: 3/22/11, 3/29/11 [DPA(AGNR/CB)].

**Brief Summary of Engrossed Bill
(As Amended by House)**

- Modifies the existing Columbia River Basin Water Supply Development Account.
- Creates the Columbia River Basin Taxable Bond Water Supply Development Account and the Columbia River Basin Water Supply Revenue Recovery Account.
- Authorizes the Department of Ecology (DOE) to enter into water service contracts to recover all or a portion of the costs of developing water supplies.
- Requires the DOE, in consultation with stakeholders, to evaluate options and report to the Legislature on aggregating projects to achieve instream and out-of-stream allocations.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 13 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant

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.

Ranking Minority Member; Buys, Dunshee, Hinkle, Kretz, Lytton, Orcutt, Pettigrew, Rolfes and Van De Wege.

Staff: Courtney Barnes (786-7194).

Background:

Columbia River Basin Water Supply Management Program.

In 2006 the Legislature created the Columbia River Basin Water Supply Development Program and directed the Department of Ecology (DOE) to aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses.

The Columbia River Basin Water Supply Development Account.

The Columbia River Basin Water Supply Development Account (Development Account) is authorized to receive direct appropriations, payments made pursuant to voluntary regional agreements, and other sources. Expenditures from the Development Account may be used to assess, plan, and develop new storage; improve or alter operations of existing storage facilities; implement conservation projects; or any other actions designed to provide access to new water supplies within the Columbia River Basin. Two-thirds of the funds placed in the Development Account must be used to support the development of new storage facilities. The remaining one-third must be used for other purposes listed in statute.

Water supplies secured through the development of new storage facilities made possible with funding from the Development Account 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 the DOE.

Summary of Amended Bill:

The Columbia River Basin Water Supply Development Account.

The Development Account is intended to fund projects using tax exempt bonds. In addition to the projects already allowed by statute, expenditures from the Development Account may be used to develop pump exchanges. Two-thirds of the funds placed in the Development Account must be used to support the development of new storage facilities and pump exchanges. Pump exchanges are defined as water supply development projects that exchange water from one source to another or relocate an existing diversion downstream, with resulting instream benefit.

Two-thirds of the water made available through reoperation of Sullivan Lake funded from the Development Account must be used to supply or offset out-of-stream uses in Ferry, Douglas,

Lincoln, Okanogan, Pend Oreille, and Stevens counties. At least one-half of this quantity must be made available for municipal, domestic, and industrial uses.

New Columbia River Basin Accounts.

The Columbia River Basin Taxable Bond Water Supply Development Account (Bond Account) and the Columbia River Basin Water Supply Revenue Recovery Account (Revenue Account) are created. The Bond Account and Revenue Account are allowed to accept direct appropriations, moneys directed pursuant to voluntary regional agreements, or other sources. The Revenue Account is also allowed to accept revenue from water service contracts. The Bond Account is intended to fund projects using taxable bonds.

Expenditures from the Bond Account and the Revenue Account may be used to assess, plan, and develop new storage; improve or alter operations of existing storage facilities; implement conservation projects; develop pump exchanges; or any other actions designed to provide access to new water supplies within the Columbia River Basin. Two-thirds of the moneys placed in the Bond Account and the Revenue Account must be used to support the development of new storage facilities and pump exchanges. The remaining one-third must be used for the other purposes listed in the bill.

Funds may not be expended from the Bond Account or the Revenue Account for the construction of a new storage facility until the DOE evaluates:

- the water uses to be served by the facility;
- the quantity of water necessary to meet those uses;
- the benefits and costs to the state; and
- alternative means of supplying water to meet those uses.

With certain exceptions, net water savings achieved through conservation measures funded by the Bond Account or Recovery Account must be placed in trust in proportion to the state fund provided to implement a project.

The DOE may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts do not include staff time. With the applicant's concurrence, the DOE may receive power revenue generated by the water supply developed by the DOE through water service contracts. The DOE may deny an application if the applicant does not enter into a water service contract.

Water supplies secured through the development of new storage facilities made possible with funding from the Development Account, Bond Account, and Revenue Account must be allocated as directed in statute.

Aggregating Projects.

The DOE is required to evaluate options for aggregating projects to achieve instream and out-of-stream allocations required by statute. The DOE must report its findings to the Legislature by September 15, 2011.

Amended Bill Compared to Engrossed Bill:

The amended bill corrects an erroneous cross reference concerning submitting reports to the Legislature. The amended bill also alphabetizes the list of counties eligible for out-of-stream permits from Sullivan Lake.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) A few years ago, the Legislature created the Columbia River Basin Management Program (Program) to manage water supplies in the Columbia River. The bill takes the next step in the Program by broadening some of the projects that can be funded and allowing the use of taxable bonds. The bill also allows the DOE to enter into water service contracts for cost reimbursement. The bill will enhance the DOE's ability to provide water supplies for instream and out-of-stream uses. The bill allows for the development of pump exchanges, which will result in water staying in the stream for the benefit of fish.

Most of the opposition to the original bill related to the aggregation language, which has been removed in the engrossed bill.

(Neutral) The amendments made to the bill have improved the bill. The bill contains a provision that will allow the DOE to study and revisit the aggregation issue at a later time.

(Opposed) None.

Persons Testifying: (In support) Senator Fraser, prime sponsor; Derek Sandison, Department of Ecology; and Naomi Stacy, Confederated Tribes of the Umatilla Reservation.

(Neutral) Miguel Perez-Gibson, Colville Tribes.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass as amended by Committee on Agriculture & Natural Resources as such amendment is amended by Committee on Capital Budget. Signed by 10 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Zeiger, Assistant Ranking Minority Member; Asay, Jinkins, Lytton, Moeller, Pearson, Smith and Tharinger.

Staff: Meg Van Schoorl (786-7105).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Agriculture & Natural Resources:

The bill as amended by the Capital Budget Committee requires the Department of Ecology, as part of its September 2011 aggregation report, to develop a means of accounting for the indirect but tangible out-of-stream benefits that occur as a result of conservation, pump exchanges, and other projects.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill, the companion to House Bill 1803, modifies the 2006 Columbia River Basin Management Act to enhance the state's ability to pursue the development of new water supplies for instream and out-of-stream uses and to better manage financial resources. The Umatilla Tribes' interest in this bill stems from an 1855 treaty with the United States in which they ceded 6.4 million acres including large portions of southeastern Washington. Their reserved treaty rights include access to fishing, berries, wildlife, and the associated water. The pump exchange element of this bill is critical to the Umatilla Tribes. Water from the mouth of the river would be pumped back up into the river and placed into the stream. Water would be available to irrigators, who would leave the water in the stream at the times when fish require it. The Umatilla Tribes have contributed millions of dollars in cash and in-kind resources; irrigators are leaving small but adequate water to enable fish to get in or out of the stream; and conservation districts and others are doing their parts. Securing the potential \$40 million contribution from this state would demonstrate that there is non-federal cash to help with the project.

(Opposed) None.

Persons Testifying: Derek Sandison, Department of Ecology; and Naomi Stacy, Confederated Tribes of the Umatilla Indian Reservation.

Persons Signed In To Testify But Not Testifying: None.