

HOUSE BILL REPORT

2SSB 6336

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to the water resources board.

Brief Description: Establishing the water resources board.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rasmussen, Winsley, Haugen, Swecker, Morton and Sutherland).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/21/96, 2/22/96 [DPA];

Appropriations: 2/24/96 [DPA(APP w/o AG)s].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass as amended. Signed by 12 members: Representatives Chandler, Chairman; Koster, Vice Chairman; Chappell, Ranking Minority Member; Linville, Assistant Ranking Minority Member; Boldt; Clements; Delvin; Honeyford; Johnson; Mastin; Robertson and Schoesler.

Minority Report: Do not pass. Signed by 5 members: Representatives R. Fisher; Murray; Ogden; Regala and Rust.

Staff: Kenneth Hirst (786-7105).

Background: With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. Other laws authorize the state to establish minimum flows and levels for streams and lakes. The Water Resources Act of 1971 as amended establishes a broad range of fundamentals for the utilization and management of the waters of the state. The permit system and the state's laws for managing water resources are administered by the Department of Ecology.

Summary of Amended Bill: Water Resources Board and its Subdivisions (Commissions). A Water Resources Board is created. For certain duties and functions, the board is divided into two commissions. One is for eastern Washington and one is for western Washington. The board is composed of all the members of the two commissions. Beginning July 1, 1997, the water allocation and other water quantity programs of the Department of Ecology are transferred to the board and the commissions.

Each commission is made up of eight members. In general, the members are nominated by county legislative authorities and appointed by the Governor. For the purposes of making nominations, the counties within the jurisdiction of the eastern commission are assigned to the two groups. Skamania County is within the jurisdiction of the eastern commission. Collectively, the counties in each group nominate six people for appointment. The Governor must appoint four members to the eastern commission from each of these two lists. The counties in western Washington are divided into four groups: the counties of the Olympic and Kitsap peninsulas; King, Pierce, and Snohomish counties; the counties to the north of these three; and the remaining counties. King, Pierce, and Snohomish counties and the cities of Seattle, Tacoma, and Everett each nominate two people. The Governor must appoint five members of the western commission from these county and city nominations. The other three groups each nominate three people and the Governor must appoint one member from each of the three groups to the western commission. Deadlines are established for making nominations and appointments. If the entities in a group do not submit nominations within the deadline, the Governor must make the appointments allocated to the group without nomination. All commission members must be knowledgeable of state water law and have at least five years' experience in water resource matters. Rules are established for voting by members of county legislative authorities in nominating members of the commissions.

No elected state official, state officer, state employee, or person who has been such an official, officer, or employee within two years of appointment may be a member of the commissions. Each member of a commission must reside within the jurisdiction of the commission at the time of appointment. No more than two members of a commission may reside in the same county. The members serve four-year terms. A chairs of the commissions take turns being the chair of the board every other year. Each member is to receive up to \$100 per day as a member of a part-time commission plus travel expenses. The Governor may remove a member of a commission for malfeasance or misfeasance in office or for having a certain number of unexcused absences from commission meetings.

Jurisdictions. The board appoints the state engineer, approves the budget, biennially reports to the Governor and the Legislature, and adopts procedures for interbasin transfers. Each commission approves interbasin transfers within its jurisdiction. Each may employ staff as necessary for its direct support. The board's and

commissions' proceedings are subject to the Open Public Meetings Act; their public records and those of the state engineer are subject to the public records laws.

Transfer of Authorities. Beginning July 1, 1997, the board and the commissions have rule-making authority under the state's water allocation and other water quantity programs. These laws are administered on behalf of the board and the commissions by the state engineer through the Office of the State Engineer. The state engineer serves at the pleasure of the board. The engineer is the administrator of the office and supervises the employees of the office. Among the powers, duties, and programs currently administered and enforced by the Department of Ecology that are expressly transferred to the board, the commissions, and the state engineer on July 1, 1997, are water regulation, management, and development; permitting authority regarding appropriation and use of water; participation with the federal government in development of the Columbia basin project and the Yakima enhancement project; reclamation authority for agricultural lands; and enforcement and administrative authority over water resources, including the water codes and minimum flows and levels; and administration of the water well construction laws.

On July 1, 1997, the employees of the department classified under the state's Civil Service Act and engaged in performing the transferred functions are also transferred to the jurisdiction of the board, commissions, and engineer without loss of rights. The rules and pending business regarding the transferred functions are transferred to the board, commissions, and engineer. The records, files, furniture, equipment, assets, and appropriations of the department pertaining to the transferred functions are also transferred to the board, the commissions, and the engineer.

Amended Bill Compared to Second Substitute Bill: The five-member advisory board created by the second substitute bill is replaced by a sixteen-member board to which, with the state engineer it employs and the two commissions into which it is divided for certain functions, the water allocation and water quantity programs currently administered by the Department of Ecology are transferred effective July 1, 1997. The advisory board created by the second substitute bill provides advice to the Department of Health, Department of Ecology, the Governor and the Legislature regarding water resource budgets, rules, and issues.

Appropriation: None.

Fiscal Note: Available on Second Substitute Senate Bill.

Effective Date of Amended Bill: Ninety days after adjournment of the session in which bill is passed, except for sections 8 through 16, 21, and 22 (transferring authorities from the Department of Ecology to the board, commissions, and state engineer), which take effect July 1, 1997.

Testimony For: (1) A water board is needed to make the changes made to the water use permit process by other bills work correctly. (2) An advisory board is needed to make recommendations regarding key water issues.

Testimony Against: The board created in the senate bill as it was originally introduced had some power.

Testified: Senator Rasmussen, prime sponsor; and Joe LaTourrette, Rivers Council of Washington (in favor).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Ecology. Signed by 20 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; Brumsickle; Carlson; Cooke; Crouse; Dyer; Foreman; Grant; Hickel; Lambert; Linville; McMorris; Reams; Sehlin; Sheahan; Silver; Smith and Talcott.

Minority Report: Do not pass. Signed by 6 members: Representatives H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Kessler; Poulsen; Rust and Wolfe.

Staff: Nancy Stevenson (786-7137).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: The bill is null and void unless funding is provided in the Supplemental Budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: It is important to keep working on water policy issues.

Testimony Against: The original bill creating an advisory board is preferred.

Testified: Senator Rasmussen, prime sponsor; and Judy Turpin, Washington Environmental Council.