

# HOUSE BILL REPORT

## HB 1112

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### As Reported By House Committee On:

Agriculture & Ecology

**Title:** An act relating to general adjudication proceedings for water rights.

**Brief Description:** Adjudicating water rights.

**Sponsors:** Representatives Chandler, Mastin, Koster, Delvin, Mulliken, Johnson, B. Thomas and Honeyford.

### **Brief History:**

#### **Committee Activity:**

Agriculture & Ecology: 1/20/97, 1/23/97, 2/10/97 [DPS].

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## HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

**Staff:** Kenneth Hirst (786-7105).

**Background:** The Surface Water Code of 1917 established a procedure under which all of the rights to use water from a body of water or a portion of a body of water may be adjudicated in superior court in one proceeding. The proceeding is referred to as a general adjudication proceeding for water rights. At the conclusion of the proceeding, the court issues a decree containing its determination regarding the rights and identifying the priority, purpose, quantity, time of use, point of diversion, and place of use for each of the water rights. With the adoption of the Groundwater Code in 1945, the proceeding was extended to apply to groundwaters as well.

Under these statutes, the Department of Ecology acts as the court's referee for such a proceeding. At the beginning of the proceeding, the court refers the proceeding to the person designated by the department as being the referee. The referee conducts hearings, takes testimony, and files with the court the a report of the referee's determinations specifying the rights of the parties. Persons who disagree with the referee's determinations may file exceptions with the court, in which case the court

can receive new evidence directly or remand the proceeding back to the referee. If there are no exceptions filed, the court enters its decree determining the rights of the parties as specified in the referee's evidence and report.

**Summary of Substitute Bill:** No person appointed by the court as a referee in a general adjudication proceeding for water rights may be an employee of the Department of Ecology or an employee of any other party to the proceeding. Nor may the person have been such an employee within three years prior to the beginning of the proceeding. However, this restriction does not apply to a current referee in a general adjudication proceeding that is currently ongoing.

Expenses incurred by the court for the use of the referee may be paid from appropriations made expressly for this purpose to the Office of the Administrator for the Courts. The department may initiate a general adjudication proceeding for water rights only if the administrator for the courts determines there are sufficient funds available to support a referee for the adjudication from monies appropriated expressly for this purpose.

**Substitute Bill Compared to Original Bill:** Added by the substitute bill are the provisions prohibiting the department from initiating a general adjudication unless the administrator of the courts finds that there are sufficient funds for the referee. The substitute bill also replaces certain archaic language in the underlying code.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** General adjudication proceedings for areas outside of the Yakima basin are likely in the future. This bill will ensure that the process will be fair. The referee should not be tied too closely to any of the parties to the proceeding.

**Testimony Against:** If the referee is to be appointed by the courts, make sure that funds are appropriated to support the referee. Otherwise the referee's costs will come out of the judge's county budget.

**Testified:** Dick Ducharme, Yakima Growers and Shippers Association and Wenatchee Valley Traffic Association (in favor). Judge Gordon Godfry, Superior Court Judges Association (in favor of the state's funding the referee).