

# FINAL BILL REPORT

## SSB 5783

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### PARTIAL VETO

C 445 L 97

Synopsis as Enacted

**Brief Description:** Changing provisions relating to public water systems.

**Sponsors:** Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Haugen, Anderson, Rasmussen and Morton).

**Senate Committee on Agriculture & Environment**

**House Committee on Agriculture & Ecology**

**Background:** Current statutory procedure for processing water right applications include a requirement that actual construction work for a project for which a water right permit has been granted is to be commenced within a reasonable time as prescribed by the department. Such construction work is to proceed with diligence and be completed within the time prescribed by the department. In fixing the time for commencement and completion of the work, the department is to take into consideration the cost and magnitude of the project, the engineering and physical features to be encountered and is to allow such time that is reasonable and just.

Also, the department is to grant extensions of the construction schedule when good cause is shown having regard for the good faith of the applicant and the public interests affected.

Once a water right permit is issued, construction work can begin and the water can be placed to beneficial use. Once the water has been deemed to have been placed to beneficial use, a certificate of water right is to be issued. There have been different interpretations as to the proper way to measure the quantity of water that has been placed to beneficial use for municipal water systems: whether it is based on the installed capacity of facilities that have been constructed, or based on the amount that has been actually delivered and placed to beneficial use.

Under the Growth Management Act, the development of comprehensive plans are required in counties who meet certain population criteria. Other counties may choose to plan under the act. Based upon population projection by the Office of Financial Management, counties that are required or have opted to plan under the act are to specify urban growth areas that accommodates the urban growth that is projected to occur in the county for the succeeding 20 year period. Also required is a utility plan element that is to consist of the location and capacity of all existing and proposed utilities. The capital facilities plan element is to show how capital facilities will be financed for the upcoming six year period.

Water rights held for municipal water supply purposes are exempt from the use it or lose it- provisions of the state water law. Currently, there is no definition of "municipal purpose" or "municipal water supply purposes" in either the Surface or Ground Water Codes.

**Summary:** A statement of legislative findings concludes that it is in the public interest that public water systems be allowed to prolong and maximize the use of water rights applied to municipal purposes consistent with population demand projections, to promote water conservation and to eliminate disincentives for investments in water efficient technology.

A definition of municipal water supply purposes– is provided to include all water systems with 15 or more connections. The water rights and water right claims for these systems are exempt from relinquishment for non-use.

In fixing and granting extensions to construction schedules for municipal water supply purposes, the Department of Ecology is to take into consideration the term and amount of financing required to complete the project, delays that may result from planned and existing conservation measures, and the supply needs of the public water system’s service area as determined in comprehensive land use plans.

For public water supplies designed to accommodate future growth as defined by a state-approved water system plan, the amount of water applied to beneficial use, at the time the certificate of water right is issued, is to be based on (1) installed capacity and (2) a growth projection contained in the most current state-approved water system plan. This requirement applies to water rights existing on the effective date of this act, and to water rights that are issued in the future. This requirement does not apply to water rights for which final adjudication decrees have been entered.

**Votes on Final Passage:**

Senate	34	15
House	85	11 (House amended)
House	69	27 (House reconsidered)
Senate	32	15 (Senate concurred)

**Effective:** July 27, 1997

**Partial Veto Summary:** One section was not vetoed. This section provides that when fixing or extending schedules for construction of systems that provide municipal water supplies, the Department of Ecology must take into consideration the terms of financing required to complete the project, delays that may result from implementation of conservation measures and the supply needs of the public water system as determined by comprehensive land use plan.

The section that defined the term "municipal water supply purposes" was vetoed and leaves the term to be interpreted by the courts as to when water rights held for such purposes are exempt from the non-relinquishment provisions of the code. Regarding the issue of how to determine the amount of water that a public water system has placed to beneficial use and thus is entitled to a certificated right to that amount, the veto indicates that it is not to be based solely on installed capacity of the diversion works and the growth projection of the water system’s needs.