

# SENATE BILL REPORT

## SB 6525

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As Reported By Senate Committee On:  
Environmental Quality & Water Resources, February 4, 2000

**Title:** An act relating to prioritizing the processing of applications for water rights changes and transfers.

**Brief Description:** Prioritizing the processing of applications for water rights changes and transfers.

**Sponsors:** Senators Fraser, Swecker, Jacobsen, Eide, McAuliffe and Gardner.

**Brief History:**

**Committee Activity:** Environmental Quality & Water Resources: 1/27/2000, 2/4/2000 [DPS, DNP].

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### SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

**Majority Report:** That Substitute Senate Bill No. 6525 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Jacobsen, McAuliffe, Morton and Swecker.

**Minority Report:** Do not pass.

Signed by Senator Honeyford.

**Staff:** Genevieve Pisarski (786-7488)

**Background:** Because water rights are use rights granted by the state, changes or transfers of water rights require the approval of the state. The authority to do so is delegated to the Department of Ecology. Authority to consider and conditionally approve transfers is also delegated to water conservancy boards.

According to recent decisions of the state Supreme Court, approval of a change or transfer first requires a tentative determination of the existence and the extent of the right. There must then also be a determination that no other existing water rights and applications for new water rights would be impaired and that approval would be in the public interest.

Because water rights are based on priority, according to the prior appropriation doctrine of "first in time, first in right," applications for changes and transfers, as well as applications for new water rights, must all be processed according to the date of filing. The order of processing can be changed, but only according to criteria adopted by rule. Applications for changes and transfers cannot be considered independently of applications for new water rights.

**Summary of Substitute Bill:** Applications for changes and transfers can be processed independently of applications for new water rights without regard to date of filing. The order of processing can continue to be established according to criteria adopted by rule. "Independently" refers both to order of processing and to possible impairment. For purposes of public comment, notice includes publication on the department's web page, and public comments are considered.

**Substitute Bill Compared to Original Bill:** Specific criteria for establishing priority among applications for changes and transfers, including public health and safety and need for minimal investigation and verification, are removed, and all criteria can continue to be adopted by rule. That "independently" refers both to order of processing and to possible impairment is clarified.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Facilitation of changes and transfers must move forward. Some requirements should be added, however, including a basic standard of no harm to fish or instream flows and limitation to consumptive use. Incentives should also be established. Adequate staffing and funding are needed to realize benefits.

**Testimony Against:** This is designed to induce relinquishment and exact environmental benefits. There are potential adverse effects on instream flows. Instream and appropriate uses are mutually exclusive. Water conservancy boards can accomplish facilitation of changes and transfers.

**Testified:** Darryll Olsen, Columbia-Snake River Irrigation Assn. (con); Mike Moran, Muckelshoot Indian Tribe (con); Tom Fitzsimmons, Dept. of Ecology (pro); Kathleen Collins, WA Water Policy Alliance (con); Judy Turpin, WA Environmental Council (pro).