

Agriculture & Ecology

HB 1350

Brief Description: *Changing water right appeals procedures for rights subject to a general stream adjudication.*

Sponsors: *Representatives G. Chandler and Linville.*

Brief Summary of Bill

- *Provides for appeals of the DOE's decisions regarding transfers or changes of existing water rights that are subject to a general stream adjudication to be made to the Pollution Control Hearings Board and, subsequently, to the superior court conducting the general adjudication.*

Hearing Date: *February 8, 2001.*

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

Background:

The Surface Water Code has established a means by which the various existing rights to surface water from a water body may be adjudicated in court to determine the validity of claims to water rights and to identify the amounts of water to which each person with a right is entitled, the order of priority (seniority) of those rights, and other aspects of the rights. (RCW 90.03.110 - .245.) It is called a general adjudication of water rights and is analogous to a quiet title action involving various claims of land ownership in a particular area. The Ground Water Code applies this procedure to determining rights to ground water as well. (RCW 90.44.220.) The rights subject to such an adjudication proceeding include all rights to use the water, including diversionary and instream uses and water rights of the United States. (RCW 90.03.245.) Federal law authorizes the water rights of the United States to be adjudicated in state court if certain findings are made by a federal court. (43 U.S.C. ú 666(a).)

Although such a general adjudication proceeding is conducted in superior court, the court refers the proceeding to the Department of Ecology (DOE) which acts as the referee for the

court. (RCW 90.03.160.) A general adjudication proceeding for water rights has been underway for surface water rights in the Yakima River watershed since the late 1970's.

Summary of Bill:

Hearings regarding the proceedings of the DOE in general adjudications of water rights are no longer entirely outside of the jurisdiction of the Pollution Control Hearings Board. Within the jurisdiction of the board are appeals of the DOE's decisions on transfers or changes of water rights that are subject to a general stream adjudication. (Section 1.) An appeal of the board's decision in such a case may be made only to the superior court conducting the general adjudication. (Sections 2 and 3.)

Appropriation: None.

Fiscal Note: Requested on February 5, 2001.

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