

SENATE BILL REPORT

SB 5914

As Reported By Senate Committee On:
Environment, Energy & Water, February 27, 2001

Title: An act relating to conditions for transfer, change, or amendment of water rights established as family farm permits.

Brief Description: Concerning water rights on family farms.

Sponsors: Senator Fraser.

Brief History:

Committee Activity: Environment, Energy & Water: 2/13/01, 2/27/01 [DPS, DNPS].

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 5914 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Jacobsen and Patterson.

Minority Report: Do not pass.

Signed by Senators Hale, Honeyford and Morton.

Staff: Genevieve Pisarski (786-7488)

Background: In 1977, the Legislature considered, but did not pass, ESHB 1120, which would have established a term permit system for significant appropriations of water for agricultural irrigation, whereby permits would be issued for limited periods of at least 50 years and could, thereafter, be terminated in favor of a higher beneficial use. At the same time, there was concern in the state regarding proliferation of large corporate farms. In the 1977 general election, Initiative 59 was approved. Codified as the Family Farm Water Act, it provides that permits to appropriate water for agricultural irrigation can be issued only for family farms of up to 2,000 acres. These permits have no time limit, but are conditioned on the land continuing to comply with the definition of a family farm. If it does not, and is not brought into compliance, the permit is canceled.

Summary of Substitute Bill: To be transferred, a family farm permit must be in compliance with family farm permit requirements. A family farm permit can be transferred or leased to another family farm. It can be temporarily transferred to any other nonagricultural use and can be transferred to any other nonagricultural use if the farm is within an urban growth area (UGA). Transfers of family farm permits located outside a UGA are allowed, if the point of diversion or withdrawal will be within a UGA and diversion or withdrawal will be from the same source of supply. Conserved water can be transferred to any use. The land from which a family farm permit has been transferred must obtain a permit to make any ground water withdrawal that is not already being made. This provision must be recorded with the

county auditor. A certificate must be issued to the extent that water has been put to beneficial use under a family farm permit.

Substitute Bill Compared to Original Bill: The requirement that a family farm permit be in compliance in order to be transferred is added. Seasonal or temporary transfer replaces lease agreements. Permits can be transferred from outside an UGA, if the diversion or withdrawal will be inside a UGA and the source of water is the same. When a family farm permit is transferred, no unpermitted ground water withdrawal that is not already in existence can be made. A number of technical changes to language are made.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Agricultural water is needed for cities. Limitations are needed, so that growth does not occur at the expense of agriculture.

Testimony Against: Inchoate transfers should be allowed. The limitations on transfers would not help the agriculture industry. There is nothing to help fish; it may have negative impacts on fish and on growth management. More reform of the Family Farm Water Act is needed. If leasing is allowed, uses including residential, could be left stranded. There is a danger of UGA gerrymandering to get family farm water rights.

Testified: PRO: Phil Watkins, City of Kennewick; CON: Toni McKinley, Washington State Grange; Hertha Lund, Washington State Farm Bureau; Kristen Sawin, Association of Washington Business; Michael Moran, Muckleshoot Indian tribe; William Hahn, Kitsap Public Utility District PUD Association (concern); Josh Baldi (concern); Dave Williams, Association of Washington Cities (neutral).