

SENATE BILL REPORT

SB 6581

As of January 28, 2010

Title: An act relating to expanding the role of water conservancy boards.

Brief Description: Authorizing water conservancy boards to do a final examination of a project.

Sponsors: Senators Swecker and Pridemore.

Brief History:

Committee Activity: Environment, Water & Energy: 1/27/10.

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Staff: Karen Epps (786-7424)

Background: A water conservancy board (board) may be created by a county legislative authority with the approval of the Department of Ecology (Ecology) for the purpose of expediting voluntary water transfers within the county. Before taking actions on applications, board members, called commissioners, must comply with training requirements established by the Director of Ecology (Director) by rule. Once established, a board operates as a separate unit of local government. Each board consists of three or five commissioners with up to two alternates. A board can serve a single watershed, multiple watersheds, a county, or multiple counties. There are currently 20 water conservancy boards operating in Washington: 16 on the eastside and four on the westside.

A board may process applications for transfers and may act on the applications. If the board approves an application, the Director has 45 days in which to review the board's action to affirm, reverse, or modify it. With the consent of the parties, this review period may be extended an additional 30 days. If the Director fails to act within this time period, the action taken by the board is considered to be final, although it is subject to appeal in the same manner as other water right decisions of the Director.

Upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must obtain a final examination of the project to verify its completion and to determine and document for the permit holder and Ecology: (1) the amount of water that has been appropriated for beneficial use; (2) the location of diversion or withdrawal and conveyance facilities; and (3) the actual place of use.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: A board may carry out a final examination of the project for a permit holder and submit the report to Ecology. The board must take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The board must take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to Ecology. Ecology must specify the format and required content of the reports and may provide a form for that purpose.

Once a board submits a final examination of the project, the Director has 45 days in which to review the board's action to affirm, reverse, or modify it. With the consent of the parties, this review period may be extended an additional 30 days. If the Director fails to act within this time period, the action taken by the board is considered to be final, although it is subject to appeal in the same manner as other water right decisions of the Director. The decision regarding whether to issue a final water right certificate is solely the responsibility and function of Ecology.

Appropriation: None.

Fiscal Note: Requested on January 22, 2010.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The backlog of applications at Ecology has continued to grow. We are trying to stimulate economic development, but with a 7,500 case backlog, we cannot get water rights for people who need them to go into new businesses and new economic opportunities. This would be a productive way to use the resources that are available - water conservancy boards - in order to bring more manpower, resources, and more local perspective to the problem. Authority for the final decision is left with Ecology to not change environmental policy. This bill is a critical step in addressing the backlog and the current budget constraints that Ecology is facing. Conservancy boards are trained and could handle this job.

OTHER: There is legislation this session that would allow Ecology to use others to help with this final phase of the water rights process, carrying out a final proof examination. Ecology prefers the certified water right examiner concept, where they would be able to both train and test people that would be doing this work. Conservancy board members with the right qualifications could seek to be included in the register of certified water right examiners. Conservancy board members are trained, but they do different work.

Persons Testifying: PRO: Senator Swecker, prime sponsor; Robert Johnson, Lewis County; John Stuhlmiller, Washington Farm Bureau; Kathleen Collins, Washington Water Policy Alliance.

OTHER: Ken Slattery, Ecology.