

HOUSE BILL REPORT

HB 1014

As Passed House:
February 23, 2011

Title: An act relating to the authority of a watershed management partnership.

Brief Description: Modifying the authority of a watershed management partnership.

Sponsors: Representatives Goodman, Springer, Sullivan, Eddy and Maxwell.

Brief History:

Committee Activity:

Judiciary: 1/13/11, 1/20/11 [DP].

Floor Activity:

Passed House: 2/23/11, 63-33.

Brief Summary of Bill

- Revises the requirements that apply to a watershed management partnership when exercising eminent domain within certain cities in the Lake Tapps area, and eliminates the statutory process for resolving claims of negative impact based on the partnership's Lake Tapps water supply operations.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Eddy, Frockt, Kirby, Klippert, Nealey, Orwall and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Assistant Ranking Minority Member; Chandler and Rivers.

Staff: Edie Adams (786-7180).

Background:

Watershed Management Partnerships.

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.

State law establishes a mechanism for conducting watershed planning through a locally initiated process. The process requires watershed planning to include an assessment of water supply and use in the planning area. It also requires the development of strategies for future water use. Watershed planning may include elements such as water quality, habitat, and instream flow.

Under the Interlocal Cooperation Act (Act), public agencies may enter into interlocal agreements to form a watershed management partnership to implement all or parts of a watershed management plan. A watershed management partnership may create a separate legal entity to conduct the cooperative undertaking of the partnership. The separate legal entity may contract indebtedness and may issue general obligation bonds.

The Act provides that if two or more entities with the power of eminent domain join to form a watershed management partnership, then the partnership itself will have the power of eminent domain. Prior to 2009 the Act did not specifically address whether the separate legal entity formed by a watershed management partnership also has the authority to exercise the partnership's eminent domain power.

2009 Legislation.

In 2009 legislation was enacted that made clear that the separate legal entity created by a watershed management partnership that meets certain criteria has the authority to exercise eminent domain if all of the public agencies that form the partnership have the power of eminent domain. The partnership or legal entity may exercise eminent domain power only for those utility purposes for which the partnership was formed. In order to exercise this eminent domain power, the watershed management partnership must have been formed before July 1, 2006, and must be governed by a board of directors consisting entirely of elected officials from the cities and districts constituting the partnership. The effect of these criteria limits the application of this provision to one partnership, the Cascade Water Alliance, which is a water provider in the central Puget Sound region.

The 2009 legislation established notice requirements and other conditions before the partnership can exercise eminent domain. One of these conditions is that the partnership must enter into an interlocal agreement with a city to allow eminent domain within that city if the city is not a member of the partnership and has water or sewer service areas within one-half mile of Lake Tapps or within five miles upstream from Lake Tapps along the White River.

In addition, the legislation created a process for a city located within this area to file and resolve a claim that the partnership's Lake Tapps water supply operations have a negative impact on the city's water supplies. If a court determines that there has been a negative impact to the city, the partnership must implement a remedy acceptable to the city, and if the city and partnership do not agree on a remedy, the court must establish the terms of a remedy.

Summary of Bill:

The requirement is eliminated that a watershed management partnership enter into an interlocal agreement with non-partnership cities in the Lake Tapps area before exercising

eminent domain within those cities. Also eliminated is the process for these Lake Tapps area cities to make and resolve a claim of negative impact resulting from the partnership's Lake Tapps water supply operations.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Cascade Water Alliance (Alliance) is the only watershed management partnership of its kind in the state. It is an example of how local jurisdictions can band together to manage water resources. Prior legislation giving the Alliance the power of eminent domain included protections for cities around Lake Tapps to address their concerns. The Alliance and the cities have worked together and entered into an agreement to address those concerns. That agreement includes the protections that were part of the prior legislation. This bill will clean up the statute by removing language that is no longer necessary.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; Carolyn Robertson, Cities of the Lake; and Chuck Clarke, Cascade Water Alliance.

Persons Signed In To Testify But Not Testifying: None.