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**Rural Development, Agriculture &  
Natural Resources Committee**

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**SSB 5230**

**Brief Description:** Concerning agreements for allocation of groundwater resulting from bureau of reclamation project operations.

**Sponsors:** Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Dozier, Honeyford, King, Schoesler, Warnick and Muzzall).

**Brief Summary of Substitute Bill**

- Provides that agreements with the United States for the allocation of Columbia Basin Project groundwaters will be used to allocate groundwater within an established groundwater area or subarea.
- Provides that these agreements fulfill the requirements of the Groundwater Code for determinations of the availability of public groundwater.

**Hearing Date:** 3/16/21

**Staff:** Robert Hatfield (786-7117).

**Background:**

Columbia Basin Project.

The Columbia Basin Project (Project) of the United States Bureau of Reclamation (Bureau) receives its waters from Franklin D. Roosevelt Lake behind Grand Coulee Dam. The Department of Ecology (Ecology) has entered into an agreement with the Bureau and has adopted rules for managing certain comingled waters associated with the Project. Under these

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rules, the Department may issue water use permits.

#### Groundwater Management Subareas.

A groundwater management subarea (subarea) may be established by rule by Ecology to address aquifer levels and to regulate withdrawals of public groundwater. Ecology has adopted rules establishing multiple subareas within the boundaries of the Project.

In 2004, the Legislature granted Ecology the authority to enter into agreements with the Bureau and the Project irrigation districts to offset aquifer depletions due to groundwater withdrawals. Such agreements allow surface water conserved within currently served Project areas to be delivered to deep well irrigated lands in subareas within Project boundaries. When such deliveries occur, Ecology must issue a superseding water right permit or certificate to indicate that the unused portion of a replaced subarea groundwater right is a reserve right with low flow protection from relinquishment.

This reserve right may again be used if the delivery of conserved Project water is curtailed or otherwise unavailable. The total acreage irrigated under the subarea groundwater right and delivered Project water must not exceed quantity or acreage limits described in the groundwater permit or certificate.

#### Ownership of Artificially Stored Groundwater.

Within 90 days after the designation of a groundwater area, subarea, or zone, any person claiming to be the owner of artificially stored groundwater within such area, subarea, or zone must file a certified declaration to that effect with Ecology. The declaration must cover certain specified topics, including the location and description of the works that created the artificial groundwater storage, and a description of the lands overlying the artificially stored groundwater, and the name or names of the owner or owners thereof.

If any of the artificially stored groundwater has been or then is being withdrawn, the claimant shall file the declarations that the Groundwater Code requires of claimants to a vested right to withdraw public groundwaters, and evidence sufficient to show that none of the water withdrawn under those declarations is in fact public groundwater from the area, subarea, or zone concerned.

Following publication of the declaration and findings, Ecology must accept or reject such declaration or declarations with respect to ownership or withdrawal of artificially stored groundwater. Acceptance of such declaration or declarations by Ecology does not allow the declarant to withdraw public groundwaters from the particular area, subarea, or zone, nor to impair existing or subsequent rights to such public waters.

#### **Summary of Substitute Bill:**

Agreements entered into between the Department of Ecology and the United States related to the

allocation of groundwaters that exist as a result of the Columbia Basin Project will be used for purposes of allocating that groundwater. Such agreements shall not require compliance with the procedures set forth in the Groundwater Code for declarations of claims of ownership of artificially stored groundwater within a groundwater area or subarea. Before entering into an agreement with the United States for the allocation of groundwaters that exist as a result of the Columbia Basin Project, Ecology must first establish a groundwater area or subarea under the procedure provided in the Groundwater Code. Agreements for the allocation of groundwaters that exist as a result of the Columbia Basin Project fulfill the requirements of the Groundwater Code for determinations of the availability of public groundwater.

**Appropriation:** None.

**Fiscal Note:** Requested on March 12, 2021.

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