

SENATE BILL REPORT

HB 1143

As Passed Senate, April 10, 2021

Title: An act relating to authorizing the placement of water rights banked pursuant to RCW 90.92.070 into the trust water rights program.

Brief Description: Authorizing the placement of water rights banked pursuant to RCW 90.92.070 into the trust water rights program.

Sponsors: Representatives Rude, Klicker, Eslick and Dent.

Brief History: Passed House: 2/24/21, 98-0.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 3/18/21, 3/25/21 [DP].

Floor Activity: Passed Senate: 4/10/21, 48-0.

Brief Summary of Bill

- Requires the Department of Ecology to accept a water right banked as part of the Walla Walla program as a temporary trust water right donation for a period up to two years, in the same quantity that the water right was banked as part of the Walla Walla program, upon a request made by a water right holder on or before June 30, 2021.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, Rolfs, Short and Stanford.

Staff: Karen Epps (786-7424)

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

Background: The Trust Water Rights Program. The state may acquire a trust water right by donation, purchase, or lease. Trust water rights are placed in the state's Trust Water Rights Program and managed by the Department of Ecology (Ecology). Two trust water rights systems, one for the Yakima River basin and the other for the rest of the state, are established in state law.

The Trust Water Rights Program enables the voluntary transfer of water and water rights to the state, either temporarily or permanently. While a water right is held in trust, it is considered an exercised water right and is protected from relinquishment. Water held in trust retains its original priority date.

Water Banks. The process to establish a water bank begins with a consultation between Ecology's Water Resources Program and a would-be banker. If Ecology agrees the banker's proposal is within the public's interest, a water banking agreement may be negotiated. The agreement describes how Ecology will take ownership of a water right and hold it in the Trust Water Rights Program in exchange for processing applications for mitigated new uses.

Ecology is authorized to use water banking to mitigate for new water uses, hold water for beneficial uses consistent with terms established by the transferor, meet future water supply needs, and provide a source of water to third parties, on a temporary or permanent basis, for any allowed beneficial use.

Walla Walla Water Management Program. Legislation passed in 2009 created the Walla Walla local water management program (Walla Walla program). The local water management board was created, with representatives from city and county government, federally recognized Indian tribes, conservation districts, and water rights holders. The board is authorized, among other duties, to assume the role of the local watershed planning unit, to administer the local water plan process, to manage banked water, to acquire water rights, and enter into agreements with water rights holders to not divert water that becomes available as a result of local water plans and water banking activities.

The Walla Walla program legislation authorized the board to establish a water bank in which surface and groundwater right holders may deposit their water rights on a permanent or temporary basis. The board may manage those water rights to mitigate for impairment to instream flows and other existing water rights.

The Walla Walla program was initially scheduled to expire in 2019. In 2019, legislation passed that moved the expiration date for the program to June 30, 2021.

Summary of Bill: Upon a request made by a water right holder to Ecology on or before June 30, 2021, a water right banked as part of the Walla Walla program must be accepted by Ecology as a temporary trust water right donation for up to two years, in the same quantity that the water right was banked as part of the Walla Walla program.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: The Walla Walla Watershed pilot was extended for two years to give the partnership time to develop a 30-year integrated plan. The integrated plan is not complete and there will be short gap between the sunset of the program and its replacement entity that will be implementing the 30-year plan. Water banking is an important conservation tool and it is important for all of the work that is going on for the Walla Walla River. This bill provides an efficient mechanism for water rights that have been banked in the Walla Walla bank to continue to provide streamflow benefits while being protected from relinquishment, allowing a water right holder to transfer their water right to the trust water rights program without Ecology review. These water rights cannot be used for mitigation while in the trust program so there is little concern about impairment. Without the bill, the water right holder might choose to put their water to beneficial use to protect it from relinquishment, which could encourage unnecessary irrigation, increase water use demands, and decrease flows on the Walla Walla River.

Persons Testifying: PRO: Representative Skyler Rude, Prime Sponsor; Tom Tebb, Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.