

SENATE BILL REPORT

SB 5230

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, February 11, 2021

Title: An act relating to agreements for allocation of groundwater resulting from bureau of reclamation project operations.

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

Sponsors: Senators Dozier, Honeyford, King, Schoesler, Warnick and Muzzall.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 2/02/21, 2/11/21 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Provides that agreements with the United States for the allocation of Columbia Basin program groundwaters are to allocate groundwater within an established groundwater area or subarea.
- Provides that these agreements fulfil the requirements of the groundwater code for determinations of the availability of public groundwater.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5230 be substituted therefor, and the substitute bill do pass.

Signed by Senators Van De Wege, Chair; Warnick, Ranking Member; Honeyford, Rolfes and Short.

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.

Minority Report: That it be referred without recommendation.

Signed by Senators Salomon, Vice Chair; Stanford.

Staff: Karen Epps (786-7424)

Background: The Columbia Basin Project began in 1933 with the allocation of funds for Grand Coulee Dam and was authorized by the United States Congress in 1943. The Columbia Basin Project currently serves about 671,000 acres, or approximately 65 percent of the 1,029,000 acres originally authorized by Congress, in portions of Grant, Lincoln, Adams, and Franklin counties, with some northern facilities located in Douglas County.

Principal project features include Grand Coulee Dam, Franklin D. Roosevelt Lake, Grand Coulee Powerplant Complex, switchyards, and a pump-generating plant. Primary irrigation facilities are the Feeder Canal, Banks Lake, the Main, West, East High, and East Low canals, O`Sullivan Dam, Potholes Reservoir, and Potholes Canal. There are over 300 miles of main canals, about 2000 miles of laterals, and 3500 miles of drains and wasteways on the project.

In 2002, the Legislature authorized the Department of Ecology (Ecology) to enter into agreements with the United States for the allocation of ground waters resulting from the Columbia Basin Project. The agreements must be consistent with the:

- authorized purposes of the project,
- federal and state reclamation laws, and
- federal rate and repayment contract obligations regarding the project.

The agreements must provide that Ecology grant an application to use the water only if it determines the application will not impair existing water rights or project operations or harm the public interest. Use of any water allocated under the agreements is contingent upon issuance of licenses by the United States to approved applicants. Before implementing the agreements, Ecology must adopt rules establishing the procedures for implementing the agreements and the priorities for processing applications.

Summary of Bill (First Substitute): Agreements with the United States for the allocation of groundwater that exists as a result of the Columbia Basin program will be used for purposes of allocating that groundwater and shall not require compliance with the procedures in the Groundwater Code for declarations of claims of ownership of artificially stored groundwater within a groundwater area or subarea. Ecology must establish 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. Agreements for the allocation of groundwater 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.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL

RESOURCES & PARKS COMMITTEE (First Substitute):

- Provides that groundwater agreements will be used for purposes of allocating that groundwater and shall not require compliance with the procedures in the Groundwater Code for declarations of claims of ownership of artificially stored groundwater within a groundwater area or subarea.
- Establishes that, 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.
- Provides that agreements for the allocation of groundwater 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: Not requested.

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

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The Bureau of Reclamation has been diverting water from the Columbia River to irrigate land in eastern Washington since 1952. This diversion has resulted in an accumulation of water in the Pasco Basin. This bill is the next piece to implement a regulatory structure for the appropriation of this water. This bill will promote economic development and access to more water resources without diminishing anyone else's water use or activities in the region. For several decades, Ecology and Reclamation have been at an impasse over how to manage this situation, specifically in the Pasco Basin. This bill clarifies that Ecology and Reclamation can enter into agreements to co-manage and allocate groundwater that exists because of the project because current law does not authorize this approach. This bill does not create any new standards for authorizing new water use. All existing statutory requirements remain for determining water availability. Washington is an over-appropriated water state so the state needs to be able to implement agreements with the federal government for the allocation of Columbia River Basin Project groundwater. There are many areas throughout the Columbia Basin that now have artificially stored water below ground that has been accumulating for over half a century as a result of the project. Revenues from this water reuse would be substantial and could be used for future Reclamation irrigation projects or for reimbursement to current project irrigators. This bill will be a boost to the local farm industry which in turn supports the state's economy.

CON: There is support for providing more access to groundwater stored in the Columbia Basin Project. The bill provides no voice for the over 140 permit holders that represent

roughly 35,000 irrigated acres currently being irrigated with state-issued water right permits in this area. Conversely, current law is a deliberative process that should be followed and this bill eliminates that process. A more inclusive approach should be developed that includes the water right holders likely to be impacted by this legislation.

Persons Testifying: PRO: Senator Perry Dozier, Prime Sponsor; Mike Schwisow, Washington State Water Resources Association; Tom Tebb, Department of Ecology; Glen Smith, Washington State Ground Water Association; Michele Kiesz, East Basin Irrigators Association.

CON: Mark Nielson, Franklin County Water Conservancy Board.

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