

SENATE BILL REPORT

SHB 2701

As Reported By Senate Committee On:
Ecology & Parks, February 23, 1996

Title: An act relating to general adjudication proceedings for water rights.

Brief Description: Adjudicating water rights.

Sponsors: House Committee on Agriculture & Ecology (originally sponsored by Representatives Mastin, Chandler, Honeyford and Johnson).

Brief History:

Committee Activity: Ecology & Parks: 2/14/96, 2/23/96 [DPA].

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: Do pass as amended.

Signed by Senators Fraser, Chair; Fairley, Vice Chair; Hochstatter, McAuliffe, Spanel and Swecker.

Staff: Susan Ridgley (786-7444)

Background: The Surface Water Code of 1917 established a procedure under which all the rights to use water from a body of water or a portion of a body of water may be adjudicated in a superior court in one proceeding. The proceeding is referred to as a general adjudication proceeding for water rights. At the conclusion of the proceeding, the court issues a decree containing its determination regarding the rights of the parties and identifying the priority, purpose, quantity, time of use, point of diversion, and place of use for each of the water rights. With the adoption of the Groundwater Code in 1945, the proceeding was extended to apply to groundwaters as well.

Under current law, the Department of Ecology acts as the court's referee for such a proceeding. At the beginning of the proceeding, the court refers the proceeding to a referee designated by the department. The referee conducts hearings, takes testimony, and files with the court a report of the referee's determinations specifying the rights of the parties. Persons who disagree with the referee's determinations may file exceptions with the court, in which case the court can receive new evidence directly, or remand the proceeding back to the referee. If there are no exceptions filed, the court enters its decree determining the rights of the parties as specified in the referee's evidence and report.

Summary of Amended Bill: Referees appointed by the court, rather than the Department of Ecology, are responsible for conducting certain water rights proceedings. The referee may not be an employee of any party to the proceeding.

This requirement does not apply to a current referee in the state's only ongoing general adjudication proceeding (Yakima).

Referee expenses incurred by the court may be paid from a specialized appropriation.

Amended Bill Compared to Substitute Bill: The substitute bill limited the pool of potential referees by preventing former Department of Ecology employees from being appointed, if they had been Ecology employees within three years of the start of the proceeding.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill will set up a system where there is no question that the hearing and recommendation is impartial. It could result in more speedy adjudications. Yakima adjudication must be exempt. There probably is not a big fiscal impact.

Testimony Against: None.

Testified: Kent Lebsack, WA Cattlemen's Assn. (pro); Ken Slattery, Dept. of Ecology (pro); Dick Ducharme, Builders (pro).