

SENATE BILL REPORT

SB 6197

As Reported By Senate Committee On:
Ecology & Parks, January 24, 1996

Title: An act relating to water supply augmentation.

Brief Description: Augmenting water supply.

Sponsors: Senator Swecker.

Brief History:

Committee Activity: Ecology & Parks: 1/16/96, 1/24/96 [DPS].

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 6197 be substituted therefor, and the substitute bill do pass.

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

Staff: Gary Wilburn (786-7453)

Background: Under the 1917 Surface Water Code and the 1945 Ground Water Code, all withdrawals of surface and ground waters of the state require the issuance of a permit. Water uses must be for beneficial purposes, and the nonuse of water for more than five years may result in loss of the water rights under the permit. Rights under a permit are granted in perpetuity, and are subject to being restricted during water shortages under the appropriation system of Washington water law ("first in time is first in right").

The Surface Water and Ground Water Codes specify criteria that the state Department of Ecology is to consider in determining whether to grant a water right permit. These include whether there is water available for appropriation, and whether any existing rights will be adversely affected. The water statutes do not specify a priority for the processing of permit applications. However, it has been the historical practice to process permit applications within a watershed generally in the order in which applications were received, since once a permit is granted its priority date relates back to the time of application filing.

There are no statutory preferences in the types of uses for which permits may be issued, and the 1971 legislative declaration of water resource "fundamentals" defines broadly the uses which are declared beneficial uses of state waters.

These water resource "fundamentals" are to guide the utilization and management of state waters, and address such subjects as retaining base flows in perennial rivers and streams, providing high quality treatment of waters, protecting adequate supplies of water in potable condition for human domestic needs, recognizing the interrelationship of surface and ground waters, and developing water supply systems that serve regional areas. Water allocation

under the fundamentals is to be based generally upon securing the maximum net benefits for the people of the state.

The fundamentals also state that multiple-purpose impoundment structures are to be preferred over single-purpose structures, and that due regard shall be given to protecting fishery resources in the planning for and construction of impoundment structures.

Summary of Substitute Bill: Legislative findings are made regarding the benefits of impoundment of excess water. In considering an application for a new water use or a transfer of a water right, the Department of Ecology is to consider the positive net benefits of water impoundments included as a component of the project. The department may provide a high priority to processing applications that include impoundment or other means of augmenting existing water supplies.

Secondary permits for beneficial use of waters to be stored in a reservoir must include any associated ground water recharge as a result of the impoundment. In evaluating a ground water withdrawal application, the department is to consider the increase in supply resulting from an impoundment that is a component of the application, including resulting ground water recharge. The impoundment and surface water release may be allowed to mitigate for the ground water withdrawal in the same basin.

Substitute Bill Compared to Original Bill: A legislative declaration to facilitate impoundments is deleted in the substitute. It is clarified that existing water rights and the priority date of permits issued are not to be affected by the legislation, and that including a storage component in an application is at the applicant's discretion.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Storage is an important method of addressing growing water demands, and there should be greater certainty in the water rights permit processes that the benefits of storage will be considered.

Testimony Against: The bill should not emphasize "even flow" of rivers or include a state declaration to facilitate impoundments (original bill).

Testified: Heather Rainey (pro); Dan Baggen, Baggen Associates (pro); Dick Ducharme, Yakima Growers and Shippers Assn. (pro); Mark Triplet, WACA (pro); Keat Lebsack, WA Cattlemen's Assn. (pro); Judy Turpin, WA Environmental Council (con).