

SENATE BILL REPORT

SSB 5030

As Passed Senate, March 11, 1997

Title: An act relating to the appropriation of water from lakes and reservoirs for single-family residential noncommercial garden and landscape irrigation.

Brief Description: Establishing procedures by which owners of single-family residences may use lake water for noncommercial landscape irrigation.

Sponsors: Senate Committee on Agriculture & Environment (originally sponsored by Senator Horn).

Brief History:

Committee Activity: Agriculture & Environment: 1/15/97, 2/4/97 [DPS, DNP].
Failed Senate, 2/26/97, 23-22; Passed Senate, 3/11/97, 26-23.

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 5030 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Swecker, Vice Chair; Newhouse and Oke.

Minority Report: Do not pass.

Signed by Senators Fraser, McAuliffe and Rasmussen.

Staff: Bob Lee (786-7404)

Background: The 1971 Water Resources Act established a process whereby waters may be reserved and set aside for future beneficial use. Under this act, reservations of water are required to be adopted by rule by the Department of Ecology. Prior to adoption of the rule, the department is required to provide notice and hold a public hearing within each county that the reservation is made. The date of priority of the reservation is the effective date of the adopted rule.

In 1976, the Department of Ecology adopted rules that established the procedures for the initiation of and establishment of reservations for future public water supplies.

There have been reservations of water established by rule of surface and ground water supplies for municipal water supply and for irrigation.

Summary of Bill: A specific process is created by which the Department of Ecology must determine if there is enough water in lakes and reservoirs over 20,000 surface acres located west of the crest of the Cascades to allow single-family residents that live along the lakes and reservoirs to use lake water to irrigate their lawns and noncommercial gardens. If the department determines there is enough water for such use, the department must allow the use of lake water, by rule, subject to certain conditions.

Ecology's Process. In making its determination, the department is to consider at least the following factors:

- (1) whether there is water available for appropriation;
- (2) whether allowing additional appropriation will have a significant adverse impact on existing water-right holders and instream resources;
- (3) the existing and future potential uses of water from the lake or reservoir;
- (4) the effect on upstream resources of allowing or not allowing withdrawal from the lake or reservoir; and
- (5) the physical characteristics of the lake or reservoir.

If the department does determine that there is sufficient water, the department must hold one or more public hearings. After the public hearing or hearings, the department must make a final decision on whether or not there is sufficient water available for lawn and garden watering by single-family residences living along the lakes.

Use Restrictions. If the department makes a final determination that there is sufficient water, the agency must adopt rules allowing persons living in single-family residences along the lakes and reservoirs over 20,00 surface acres in size located west of the crest of the Cascade Mountains to use lake water for lawn and noncommercial garden watering. These rules must also include conservation requirements and provisions to protect existing uses of the water.

The department is also authorized to suspend temporarily the right to use water for lawns and gardens if there is a drought, or if the lawn and garden watering is causing adverse impacts to fish, existing water rights, navigation, power generation, or to shoreline facilities.

Persons withdrawing water under a rule adopted under this act may, but are not required to, apply for a water right permit. The right to withdraw water under this section has a priority date of the effective date of the rule.

Timing. The department is to conduct the determination required by this legislation in a manner that allows it to adopt rules by June 1, 1998. Rules are necessary only if the department decides there is enough water to allow lawn and garden watering.

If water is appropriated subject to the provisions of this legislation, the department is required to evaluate the advantages and disadvantages of using this process to appropriate water from other urban lakes and reservoirs and report its findings to the Legislature by June 30, 2000.

Other Provisions. A person withdrawing water under such a rule adopted by the department may, but is not required to, apply for a water-right permit.

A person withdrawing water who uses an irrigation system that is also connected to a potable water supply system must comply with all applicable health, safety, and building code requirements.

Eastern Washington Lakes and Reservoirs. For lakes and reservoirs over 20,000 surface acres in size located east of the crest of the Cascade Mountains, the evaluation of adequate

water supply commences only if a petition of at least 10 percent of the landowners around a particular lake or reservoir is submitted to the Department of Ecology.

Appropriation: None.

Fiscal Note: Requested January 8, 1997.

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

Testimony For: If lakefront homeowners could withdraw water directly from Lake Washington, less water would need to be withdrawn from rivers at the diversion point higher in the watershed, allowing for greater instream flows in the rivers.

Testimony Against: The bill could cause increased lawn watering and runoff of fertilizer and pesticides into the lake.

Testified: Ken Slattery, Dept. of Ecology; Judy Turpin, WA Environmental Council (con); Bennie Barnes, Seattle Public Utilities (concerns); Steve Robinson, NW Indian Fisheries Commission (con); Bill Garvin, WSFB (pro).

House Amendment(s): The bill applies only to lakes over 20,000 acres located in western Washington.