

SENATE BILL REPORT

HB 1642

As Reported By Senate Committee On:
Environmental Quality & Water Resources, April 1, 1999

Title: An act relating to surface water permits and rights.

Brief Description: Changing surface water permit and rights provisions.

Sponsors: Representatives Grant and Mastin.

Brief History:

Committee Activity: Environmental Quality & Water Resources: 3/25/99, 4/1/99 [DPA].

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Fraser, Chair; Eide, Vice Chair; Honeyford, Jacobsen, McAuliffe, Morton and Swecker.

Staff: Genevieve Pisarski (786-7488)

Background: Both the surface water code and the groundwater code allow for approval of transfers, changes, or amendments of water rights. In recent decisions, the State Supreme Court has found that the groundwater code does authorize a change in point of withdrawal, but the surface water code does not authorize the equivalent change in point of diversion, when such a change involves a permit to appropriate water and the water has not yet been put to beneficial use.

In certain circumstances, the surface water code expressly allows a person to use a natural stream or lake in this state to convey water for which the person has a water right.

Summary of Amended Bill: The Legislature intends to allow a modification of the point of diversion in a water right permit to provide environmental and water supply benefits but not otherwise to allow change or transfer of a right to surface water that has not been applied to beneficial use. The Department may approve a change of the point of diversion in a water right permit to an existing, approved intake structure downstream, if ownership and purpose, season, and place of use remain the same. A natural stream or lake may be used to convey water to an approved intake structure in a neighboring state, if approval is satisfactorily documented.

Amended Bill Compared to Original Bill: A statement of intent is added. Season of use is added. The language is clarified.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Walla Walla would have to construct a diversion and a conveyance system in a pristine, roadless area in the Blue Mountains under its existing water right permit. It makes both environmental and economic sense to use an existing intake structure located downstream in Oregon, instead. The city can use the water and needs to perfect the right, in order not to lose it. Oregon has given its approval to Ecology's satisfaction. The change in point of diversion is allowed only in very specific circumstances, and the applicability is extremely narrow.

Testimony Against: None.

Testified: PRO: Dick McKinley, City of Walla Walla; Doug McChesney, Ecology.