

HOUSE BILL REPORT

SHB 2504

As Passed Legislature

Title: An act relating to water policy in regions with regulated reductions in aquifer levels.

Brief Description: Concerning water policy in regions with regulated reductions in aquifer levels.

Sponsors: By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Grant, Holmquist, Cox, Newhouse, Hinkle, Chandler, Sump and McMorris).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/28/04, 2/3/04 [DPS].

Floor Activity:

Passed House: 2/11/04, 94-0.

Passed Senate: 3/3/04, 48-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Declares the intention to have the Department of Ecology (DOE) enter into agreements regarding the delivery of water to deep well irrigated lands.
- Requires the DOE to issue a superseding water right permit or certificate to a person withdrawing water from a deep aquifer under a groundwater management subarea plan when the person receives water from the federal Columbia Basin Project (Project).
- Requires the superseding permit or certificate to be for a reserve or standby supply of water, which is exempt from relinquishment for non-use.
- Restricts the total water used and acreage irrigated under the combination of the superseding permit or certificate and the Project waters to the total amount and acreage under the original groundwater permit or certificate.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair;

Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

A water right may be forfeited for non-use. The forfeiture may be found under common law principles of abandonment or may result from the application of state statutes on relinquishment. The relinquishment laws provide exemptions from their forfeiture requirements. Exempted from relinquishment is the non-use of standby or reserve waters that are to be used in time of drought or other low flow periods as long as the withdrawal or diversion facilities for the right are maintained in good operating condition.

The DOE has adopted rules establishing the Odessa Groundwater Management Subarea (Subarea). Part of the Subarea includes lands within the boundaries of the federal Columbia Basin Project. The management policy for the subarea establishes an authorized, regulated rate of decline in the level of the area's aquifer. The aquifer level was originally allowed to decline 30 feet every three years. However, the spring static water table, as measured before pumping for irrigation, is prohibited from being lowered more than 300 feet below the altitude of the static water level as it existed in the spring of 1967.

Summary of Substitute Bill:

Agreements. The Legislature intends the DOE to enter into agreements with the United States and Project irrigation districts regarding the allocation of water conserved from within the currently served areas to deep well irrigated lands within the federal Project and for other authorized Project beneficial uses. The DOE may provide the districts with data identifying areas with the most serious ground water depletions. The irrigation districts must consider and may rely on the DOE's data and recommendations in making allocation decisions to offset groundwater withdrawals consistent with the operational constraints of the distribution system.

Policy. Circumstances are identified under which permits and certificates for rights to use water from an aquifer in an adopted groundwater management subarea must be revised as a condition for the delivery of certain federal Project waters. The DOE must issue a superseding water right permit or certificate for a such a groundwater right if water from the federal Project is delivered for use by a person who holds such a groundwater right. The superseding water right permit or certificate must designate the portion of the groundwater right that is replaced by water from the federal Project as a standby or reserve right that may be used when water delivered by the federal Project is

curtailed or otherwise not available. The period of curtailment or unavailability is deemed a low flow period under the state's relinquishment laws. The total number of acres irrigated by the person under the groundwater right and through the use of the Project's water must not exceed the quantity of water used and number of acres irrigated under the person's water right permit or certificate for the use of water from the aquifer.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (1) There is the possibility of delivering conserved water from the Columbia Basin Project to the deep well irrigators to help solve the problem of a declining aquifer. The bill would allow that delivery but would not allow an expansion of the irrigated acres. (2) The DOE has been working with the irrigation districts and the U. S. Bureau of Reclamation on this issue. Conserved water has been built up, so a decision regarding its use needs to be made. Using it as indicated under the bill will address a serious problem in the Odessa area.

Testimony Against: None.

Persons Testifying: Representative Schoesler, prime sponsor; and Joe Stohr, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.