

# SENATE BILL REPORT

## SB 6674

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As of February 3, 2004

**Title:** An act relating to the establishment of a water court.

**Brief Description:** Creating a water court.

**Sponsors:** Senators Honeyford, Fraser and Rasmussen; by request of Governor Locke.

**Brief History:**

**Committee Activity:** Natural Resources, Energy & Water: 2/4/04.

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### SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

**Staff:** Evan Sheffels (786-7486)

**Background:** In the 2002 Regular Session, the Washington State Legislature created a joint task force "to study judicial and administrative alternatives for resolving water disputes" and to issue a report to the Legislature. The members of the task force included representatives of the Legislature, the superior courts, the Court of Appeals, the Environmental Hearings Office, the Department of Ecology, and the Attorney General's Office.

According to the Water Disputes Task Force Report issued by the Attorney General, one overriding recommendation the task force believes would help in resolving water rights disputes is the creation of a specialized water rights court. Water court division lines would match the boundaries of the state's three Court of Appeals divisions.

The water court would be created as a branch of the superior court. Water court jurisdiction over certain water disputes, as determined by statute, would lie exclusively with the water court instead of the superior courts. Water court judges would not have jurisdiction over other cases typically handled by superior court judges. To authorize these jurisdictional changes, the constitutional provisions establishing the general jurisdiction of the superior courts would need to be amended.

**Summary of Bill:** Within the limits established by a proposed constitutional amendment to be offered in Washington State's next general election, provisions to determine the jurisdiction of water courts, the review of water court actions, the number of water court judges, and the manner of election, compensation, terms, removal, and retirement of water court judges, are established by statute. Superior court and Administrative Procedure Act statutes are amended to reflect the new judicial power of the water courts within the superior court system.

Water court jurisdiction includes exclusive original jurisdiction over future general water right adjudications and appeals of instream flow rules. The water court is also granted appellate review jurisdiction over Pollution Control Hearings Board water rights management and enforcement decisions.

The water court judges are to establish uniform rules for the government of the water court.

The Governor must appoint one water court judge for each of the three water court divisions, based upon Supreme Court nominations. Upon recommendation of the water court judges and the central court administrator, the Governor may also appoint an at-large water court judge to address workload burdens. Minimum qualifications are established. At the end of the appointed judge's initial term, a competitive election must be held in the same manner as superior court judge elections. An appointed and elected water court judge must thereafter stand for retention election in the year before the expiration of the judge's six year term. The judge is retained for another term if a majority of those casting ballots vote to retain the judge.

This bill is null and void if a companion joint resolution fails to pass the Legislature, or if the resulting constitutional amendment referendum fails to receive majority approval of the electorate.

**Appropriation:** None.

**Fiscal Note:** Requested on February 2, 2004.

**Effective Date:** The bill takes effect if a companion joint resolution passes the Legislature, and the resulting constitutional amendment referendum receives majority approval of the electorate.