

HOUSE BILL REPORT

HB 2860

As Reported by House Committee On:
Economic Development, Agriculture & Trade
Capital Budget

Title: An act relating to water resource management in the Columbia river basin.

Brief Description: Regarding water resource management in the Columbia river basin.

Sponsors: Representatives Grant, Newhouse, Hankins, Haler, Walsh and McCune.

Brief History:

Committee Activity:

Economic Development, Agriculture & Trade: 1/30/06, 2/2/06 [DPS];
Capital Budget: 2/6/06 [DP2S(w/o sub EDAT)].

Brief Summary of Second Substitute Bill

- Creates a new chapter to guide the appropriation of Columbia River mainstem waters.
- Creates the Columbia River Basin Water Storage and Supply Account.
- Requires studies, data collection, and inventories on water issues in the Columbia River basin.

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Appleton, Blake, Chase, Clibborn, Grant, Kilmer, McCoy, Morrell, Newhouse, Quall, P. Sullivan and Wallace.

Minority Report: Do not pass. Signed by 9 members: Representatives Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Bailey, Buri, Dunn, Haler, Holmquist, Kretz and Strow.

Staff: Jason Callahan (786-7117).

Background:

The 2005 Capital Budget contained a \$10 million appropriation to the Department of Ecology (Department). However, the funding in the appropriation may not be used by the Department

unless and until the Legislature takes action to establish policy requirements for a new water resources and water rights management program for the mainstem of the Columbia River.

Summary of Substitute Bill:

Columbia River Water Supply Inventory

The Department is required to work with stakeholders in developing an initial Columbia River Water Supply Inventory (Inventory) by November 15, 2006, and update the Inventory each year after 2006. The Inventory must identify potential conservation and storage projects in the Columbia River basin, as well as estimate the costs and benefits of the projects. The Inventory must also rank the identified projects in a number of different ways. This includes rankings of the projects in order of expense, benefits to fish, and benefits to agriculture.

In developing the Inventory, the Department must consider long-term trends in water supply and demand and rely on existing data completed by local planning groups. Where existing information is not available, the Department may supplement the process with new data.

Columbia River Basin Water Storage and Supply Account

The Columbia River Basin Water Storage and Supply Account (Account) is created and appropriated an initial \$50 million from the State Building Construction Account. The Account is allowed to accept direct appropriations and payments made by water users that are based on an economically viable share of water supply project costs.

Expenditures from the Account may be used to assess, plan, and develop new water storage. The Account's funds may also be used to improve or alter the operations of existing storage facilities. Projects funded from the account must be designed to provide access to new water supplies within the Columbia River basin.

Specified needs are identified on which the Department must focus its efforts when developing new water supplies for the Columbia River basin. These include alternatives to groundwater for the Odessa subarea, sources of municipal water supplies for pending water right applications, and new uninterruptible water supplies for the holders of interruptible water rights on the mainstem of the Columbia River.

The \$10 million appropriation in the 2005 Capital Budget is amended to specify that the money can be used to begin implementing the goals of the Account. Specific water supply projects are identified for the Department as a focus of their implementation of the appropriation.

Allocation of "new" water

Water supplies that are developed and secured through projects funded by the Account must be used in specified ways. Two-thirds of this water must be dedicated to out-of-stream uses, while one-third must be placed in the state's trust water rights program to enhance instream

flows until the Department has identified the maximum streamflow that is beneficial to aquatic life.

Once the maximum beneficial streamflow has been achieved, all additional water supplies resulting from projects funded by the Account must be dedicated to out-of-stream uses. The Department must monitor how much water is being added for instream uses, and report every 10 years to the Legislature as to how close stream flows are to reaching the maximum beneficial flow level during times of the year with the lowest flow rates.

Voluntary regional agreements

The Department is given the specific authority to enter into voluntary regional agreements that establish the approval conditions for water withdrawals from the Columbia River. These agreements must be limited to specific geographical areas and to parties that use or propose to use water from the mainstem of the Columbia.

When practicable, the Department must seek input and acceptance from the citizens in the affected region. The Department must also include in the agreements, when practicable, voluntary processes and agreements that represent unique solutions for each region while harmonizing with other local watershed planning efforts. The Department is also directed to avoid policies that will create precedents that impact the ability of other regions to develop unique solutions.

Prior to entering into a voluntary regional agreement, the Department must consult with the Department of Fish and Wildlife and watershed planning groups regarding the benefits that can be produced for fish, wildlife, and other instream values. Any draft agreements must be made open for a 30-day public review and comment period. Before providing final consultation to the Department, the Department of Fish and Wildlife must consult with fisheries co-managers.

When voluntary regional agreements are based on conserved water, the Department is given specific directions as to how the conserved water is to be allocated. All allocations must ensure that water is provided for out-of-stream uses while not causing a reduction in stream flows in the mainstem of the Columbia River during fish critical periods. Water use applicants utilizing the voluntary regional agreement process to access new appropriations must demonstrate efficient water use practices.

Conserved water

When the state funds water conservation to benefit the mainstem of the Columbia River, conserved water must be held in trust by the Department in the same proportion as the share of funding that was provided by the state for the project that led to the water conservation. This portion of the conserved water must be used to improve instream flows to benefit fish and other instream values.

Conserved water that is funded by the state but developed within the federal Columbia Basin Reclamation Project becomes a portion of the project's water supply and is to be used to

replace deep well irrigation within the Odessa subarea. This water may also be used to reduce water diversions from the Columbia River.

Impact on existing water law

The Department is directed to not apply the allocation formula for water arising from projects funded by the Account when considering applications for changes or transfers of existing water rights.

In addition, there is an intent for the existing processing of applications for new water rights to continue unimpeded and for the Department to not administer any changes in a manner that precludes the existing process for considering water right applications under the Water Code.

Columbia Mainstem Water Resources Information System

The Department must establish and maintain a Columbia Mainstem Water Resources Information System (System) to provide information necessary for effective resource planning and management on the mainstem of the Columbia River. In developing the System, the Department must consult with, and rely on information provided by, other public entities operating in the basin.

The System must address how water resource data will be collected, cataloged, stored, and retrieved so that it is readily available to the public. The System must include data on various aspects of water use, including the aggregate quantities of water issued from the Columbia River, total water use, and water that is currently inchoate or under development.

Studies and recommendations

The Department is required to convene discussion groups to consider and make recommendations regarding two subjects. One subject to be considered is the public interest in regional equity regarding sources of water supplies and whether interregional water transfers jeopardize the economic health of any of the regions. The other topic for study is whether a water bank for the Columbia River would simplify and improve the approval of water transactions and increase the availability of water supplies and water-related information.

Both reports are due by the end of 2006.

Substitute Bill Compared to Original Bill:

The substitute bill contains all new provisions not in the original bill. The original bill established best management practice requirements, required payment of a hydropower mitigation fee, created a water conservation project revolving fund, created new definitions, permitted new appropriations in the mainstem of the Columbia of up to 300,000 acre-feet of water, and replaced administrative regulations currently set out for the Department's water resource program for certain parts of the Columbia River.

Appropriation: \$50 million from the State Building Construction Account.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect July 1, 2006.

Testimony For: (In support) Water supplies in the Columbia River is a long-standing problem that needs to be addressed. Legislators and the Department were called together by the Governor to work all interim on a solution, and this represents a portion of those discussions.

This is the bill from which everyone should work on. Everyone can win from the end product of the legislative process. This bill can help solve water resource problems in a way that benefits both water users and fish.

The Department needs a bill to accomplish certain goals and to avoid legal challenges to its authority. To move forward, the Department needs clarity with defined standards for both conserved and stored water.

(With concerns) New storage is important, but there should be some clarifications, and it should not be considered the only way to get new water. A set percentage of the money in the Account should be dedicated for new storage. Any fees to pay for storage must have strict language to define them. Any new withdrawals should happen only after adequate water flows are ensured, and there should not be a cap on how much stored water will be dedicated to instream flows. It is good to look at how much water is dedicated to instream use, but once the maximum beneficial level is met, dedications to instream use should be changed. The impacts of water withdrawals should only be limited to fish critical periods and not to the times of the year when there is plenty of water.

Voluntary regional agreements must not be too general. The authorizing language should have specifics for conservation and incentives to use best management practices. Also, the conservation benefits from agreements should be put back in the stream, and there should be no net loss of stream flows.

Data collection is important, but the Department should not have the discretion to decide what information is important to collect. Addressing the water supply needs of the Odessa subarea is very important. However, more needs to be done to help in the Odessa.

A bill is not needed to accomplish the goals it tries to address.

Water made available from public funding for conservation projects should not be dedicated to instream flows based on the proportion of state funding. This formula creates a disincentive for a water user to invest in conservation projects.

Testimony Against: None.

Persons Testifying: (In support) Representative Grant, prime sponsor; Representative Newhouse; and Jay Manning, Department of Ecology.

(With concerns) John Stuhlmiller, Washington Farm Bureau; Pat Boss, Columbia Snake River Irrigators Association; Dawn Vyvyan, Yakama Nation; Mike Schwisow, Washington State Water Resources Association; Chris McCabe, Association of Washington Business; Kathleen Collins, Washington Water Policy Alliance; Jim Halstrom, Washington Horticultural Association; Mo McBroom, Washington Environmental Council and American Rivers; and Tom Davis, Department of Fish and Wildlife.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Economic Development, Agriculture & Trade. Signed by 14 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Blake, Chase, Eickmeyer, Ericks, Flannigan, Green, Hasegawa, Lantz, Moeller, Morrell, O'Brien and Springer.

Minority Report: Do not pass. Signed by 12 members: Representatives Jarrett, Ranking Minority Member; Hankins, Assistant Ranking Minority Member; Clements, Cox, Ericksen, Kretz, Kristiansen, McCune, Newhouse, Roach, Serben and Upthegrove.

Staff: Susan Howson (786-7142).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Economic Development, Agriculture & Trade:

The second substitute bill removes the \$50 million appropriation from the State Building Construction Account. Technical corrections are made to the Columbia River Basin Water Storage and Supply Account.

Appropriation: None.

Fiscal Note: Requested on February 6, 2006.

Effective Date of Second Substitute Bill: The bill takes effect on July 1, 2006.

Testimony For: (In support) Investing in water supply in eastern Washington will result in a big payoff to Washington's economy, as well as fish and other in-stream value. This bill is a work in progress and stakeholders will continue to work on refining the language with the Legislature.

Testimony Against: (Opposed) With regard to budget issues, this bill foresees major expenditures of state funds over the next 20 years. There are not sufficient provisions in the bill to ensure that proper analysis will be done on the need for new water and the benefits and costs associated with the various ways of obtaining that water, either through conservation or new storage. The bill needs to provide for such an analysis.

Persons Testifying: (In support) Mike Schwisow, Washington State Water Resources Association; and Ted Sturdevant, Department of Ecology.

(Opposed) Mo McBroom, Washington Environmental Council.

Persons Signed In To Testify But Not Testifying: None.