

SENATE BILL REPORT

SJR 8205

As of February 14, 2005

Brief Description: Amending the Constitution to authorize a water court.

Sponsors: Senators Fraser and Honeyford.

Brief History:

Committee Activity: Water, Energy & Environment: 2/2/05.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Staff: Margaret King (786-7416)

Background: In 2002, 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, Department of Ecology, and Attorney General's Office. A report was issued in December, 2003.

According to the Water Disputes Task Force Report, one of the task force's overriding recommendations to resolve 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, and jurisdiction over certain water disputes, like water adjudications, 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: At the next general election to be held in this state a proposed amendment to Article IV of the Constitution of the State of Washington must be submitted to the qualified voters of the state for their approval and ratification, or rejection.

In addition to the superior courts authorized under Article IV, jurisdiction over cases involving water resources is vested in a water court. Issues relating to the jurisdiction of the water court, review of water court actions, and the number of water court judges must be as provided by statute or rules authorized by statute.

The number, election, compensation, terms of office, removal, and retirement provisions of water court judges shall be as provided by statute. The administration and procedures of the water court must be as provided by rules issued by the Supreme Court.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The proposed amendments to Article IV of the State Constitution take effect, if approved and ratified by the voters, at the next general election.

Testimony For: Water courts develop expertise in water issues resulting in more efficient process for appeals and adjudications. There is a need to resolve the 170,000 unadjudicated claims not counting federal reserved rights claims. Water Courts Task Force recommended that water courts be established and adequately funded by the state. Board of Judicial Administration supports recommendation with some proposed changes to the bill to bring it into line with current procedures for superior courts.

Testimony Against: None.

Concerns: Good idea for large adjudications but don't need for smaller adjudications and other applications and any court system that reviews claims should consider tribal interests. Whether it is a good idea or not depends on whether the state is going to undertake large adjudications. Generally supportive but there are concerns about judges being elected or not being elected. Supportive but judges should have extensive experience in water law. Courts need to be in watershed that is being adjudicated for convenience and efficiency. Relinquishment should be addressed first.

Who Testified: PRO: Senator Fraser, prime sponsor; Ken Slattery, DOE; Judge Kathleen O'Conner, Board of Judicial Administration; Commissioner Sid Otten, Yakima County Superior Court.

OTHER: Bob Mack, City of Tacoma; Dave Williams, Association of Washington Cities; Craig Engleking, Sierra Club; Kathleen Collins, Washington Water Policy Alliance; John Stuhlmiller, Washington Farm Bureau; Jack Field, WA Cattlemen's Assn.

CON: Britt Dudeck, and Kevin Eslinger Farm Bureau Water Committee Members.