

# FINAL BILL REPORT

## ESHB 1622

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Synopsis as Enacted

**Brief Description:** Concerning drought preparedness and response.

**Sponsors:** House Committee on Rural Development, Agriculture, & Natural Resources  
(originally sponsored by Representatives Blake, Kretz, Springer, Chandler, Chapman, Dent and Shewmake; by request of Department of Ecology).

**House Committee on Rural Development, Agriculture, & Natural Resources**  
**House Committee on Capital Budget**  
**Senate Committee on Agriculture, Water, Natural Resources & Parks**  
**Senate Committee on Ways & Means**

### **Background:**

#### The Department of Ecology's Role Regarding Drought.

The Department of Ecology (Ecology) is authorized to declare drought emergencies by administrative order (drought order). Before it may declare a drought emergency, Ecology must determine that an area is experiencing or is expected to experience less than 75 percent of normal water supply and is expected to suffer undue hardships as a result of the dry conditions. Normal water supply is calculated as the average amount of water available on an annual basis based on precipitation, streamflow, snowpack, and other factors. Prior to issuing a drought order, Ecology must first consult with federal and state agencies and must receive the approval of the Governor.

The Department of Ecology may, upon the issuance of a drought order, take certain actions. These include the authorization of emergency withdrawals of public surface and ground waters, as long as the withdrawals are put to beneficial uses and will not reduce flows below the essential minimum for fisheries and other state and federal interests. The issuance of a drought order also allows Ecology to approve temporary changes in the use of a water right, employ additional people, acquire emergency equipment, and revise any drought contingency plans. Any temporary changes in the use of a water right authorized under a drought order are exempt from review under the State Environmental Policy Act and from any requirements for newspaper notification.

The drought order also allows Ecology to make loans or grants from emergency water supply funds when necessary to help alleviate drought conditions. These expenditures are made

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

from the bond-supported State Emergency Water Projects Revolving Account. In addition to that account, Ecology manages the appropriation-supported State Drought Preparedness Account (Preparedness Account). Funds in the Preparedness Account may be used by Ecology only for drought preparedness.

**Summary:**

The Department of Ecology (Ecology) is authorized to issue a drought advisory when it appears that drought conditions may develop, based on statutory definitions of normal water supply and drought condition. The drought advisory should seek to increase the awareness and readiness of affected water users. The drought advisory may recommend voluntary actions to alleviate the impacts of drought.

The following terms are defined:

- "Drought condition" means that the water supply for a geographic area, or for a significant portion of a geographic area, is below 75 percent of normal and the water shortage is likely to create undue hardships for water users or the environment.
- "Normal" water supply, for the purpose of determining drought conditions, means the median amount of water available to a geographical area, relative to the most recent 30-year base period used to define climate normals.

Ecology's obligations with regard to the issuance of a drought emergency order are modified. The requirement that Ecology publish drought emergency orders in a newspaper of general circulation is changed to a requirement that Ecology notify the public of the order in a manner consistent with rules adopted by Ecology. Ecology is required to consult with affected federally recognized tribes prior to the issuance of a drought emergency order. Ecology is required to consider input from local water users, including nursery and landscape professionals, in the determination of whether a drought condition has created an undue hardship for water users or the environment. A person may petition Ecology to declare a drought emergency. Any order of drought emergency issued after Ecology's receipt of a petition must be based on the statutory definitions of drought condition and normal water supply. Ecology may not rely exclusively on information presented in a petition when determining whether to issue an order of drought emergency.

Ecology's obligations and authorizations once a drought emergency order has been issued are modified. The list of stakeholders that Ecology must consult before issuing an emergency water withdrawal authorization is expanded to include affected federally recognized tribes. In prioritizing the approval of emergency water withdrawal authorizations, Ecology must address those most affected by the water deficit to ensure the survival of irrigated crops, the state's fisheries, and the provision of water for small communities. The list of temporary changes to a water right that Ecology may authorize is expanded to include a change in the point of withdrawal. Ecology is authorized to enter into agreements with applicants receiving emergency water withdrawals to recover all or a portion of the costs of certain forms of mitigation for emergency withdrawal authorizations. Ecology is authorized to enter into interagency agreements with other state and federal entities to partner in emergency drought response.

Ecology's authority to issue grants and loans to eligible public entities in order to alleviate emergency drought conditions is modified. The authority for Ecology to issue loans is removed. No single entity may receive more than 25 percent of the total grant funds available. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs. Except for projects for public water systems serving economically disadvantaged communities, Ecology may fund only up to 50 percent of the cost of a project. The scope of public entities eligible to receive grants is defined to include, among others, counties, cities, towns, irrigation districts, public utility districts, federally recognized Indian tribes, and watershed management partnerships. The scope of projects for which grants may be used is defined to include, among others, creation of additional water storage, development of emergency water supplies, and projects designed to mitigate for the impacts of water supply shortages on fish and wildlife.

The State Drought Preparedness Account is renamed the State Drought Preparedness and Response Account (Account). Expenditures from the Account may be used for drought preparedness and response activities.

Ecology is authorized to develop and update the drought contingency plan in collaboration with affected governments. Ecology must provide notice of any updates to the drought contingency plan.

Ecology is directed to initiate a pilot program to explore the cost, feasibility, and benefits of entering into long-term water right lease agreements. The purpose of the agreements is to alleviate water supply conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival. Ecology must submit a report to the Legislature on the results of the pilot program by December 31, 2024.

**Votes on Final Passage:**

House	80	16	
House	79	17	
Senate	48	0	(Senate amended)
House	87	10	(House concurred)

**Effective:** June 11, 2020