

SENATE BILL REPORT

HB 1752

As Passed Senate, February 28, 2024

Title: An act relating to modifying the application of the annual consumptive quantity calculation to change applications related to certain water rights held by the United States bureau of reclamation.

Brief Description: Modifying the application of the annual consumptive quantity calculation to change applications related to certain water rights held by the United States bureau of reclamation.

Sponsors: Representatives Dye, Dent, Graham and Eslick.

Brief History: Passed House: 2/8/24, 97-0.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 2/15/24, 2/19/24 [DP, w/oRec].

Floor Activity: Passed Senate: 2/28/24, 49-0.

Brief Summary of Bill

- Authorizes the United States Bureau of Reclamation (Bureau) to apply for and obtain approval for a change in the number of acres that may be irrigated with water rights held by the Bureau for water use within the boundaries of the Columbia Basin Project if certain criteria are met.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Short, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Stanford.

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

Staff: Karen Epps (786-7424)

Background: Water Rights. Washington operates under a water right permit system. With certain exceptions, new rights to use surface or ground water, or to establish reservoir and storage projects, must be established according to the permit system. A person seeking a new water right files an application with the Department of Ecology (Ecology), which must consider a four-part test when deciding whether to issue the requested right, specifically whether:

- water is available;
- a beneficial use of water would be made;
- granting the right would impair existing rights; and
- the proposed use would detrimentally affect the public interest.

If an application passes this test, Ecology issues a permit establishing a timetable for constructing the infrastructure to access the water and for putting water to beneficial use. When the conditions of the permit are satisfied, Ecology issues a water right certificate.

Water Rights—Transfers. Ecology may permit certain changes to a water right. Ecology may also permit a transfer of a water right from one holder to another. In processing change or transfer applications, Ecology analyzes the validity, limits, and quantity of the right. Changes or transfers cannot impair existing rights of other water right holders. Ecology must, when evaluating an application for a water use permit or for a transfer, change, or amendment of a water right, take into consideration the benefits of any water impoundment that is included as a component of the application. A change in the place of use, point of diversion, or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right.

Columbia Basin Project. The Columbia Basin Project began in 1933 with the allocation of funds for Grand Coulee Dam and was authorized by the United States Congress in 1943. The Columbia Basin Project currently serves about 671,000 acres, or approximately 65 percent of the 1.029 million acres originally authorized by Congress, in portions of Grant, Lincoln, Adams, and Franklin counties, with some northern facilities located in Douglas County. Primary irrigation facilities are the Feeder Canal; Banks Lake; the Main, West, East High, and East Low canals; O`Sullivan Dam; Potholes Reservoir; and Potholes Canal. The Columbia Basin Project is operated by the United States Bureau of Reclamation (Bureau).

Summary of Bill: For water rights held by the Bureau for water use within the boundaries of the Columbia Basin Project, the Bureau may apply for and obtain approval for a change in the number of acres that may be irrigated with such water rights, so long as such a change does not result in any increase in the instantaneous or annual out-of-stream authorized quantity of such rights and so long as Ecology determines that such a change would not result in an impairment of any other water rights. The requirement that a change in a water right to irrigate additional acreage may be permitted if such change does not result in an

increase in the annual consumptive quantity of water used under the water right does not apply to such a change.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The bill specifically addresses the Bureau's water right and will help replace deep well irrigation that is leaving communities at threat of losing their municipal water supply. The Project is recognized as one of the most efficient and effective irrigation systems in the United States. Changes in on-farm technology and project infrastructure improvements have made the Project even more efficient. These improvements would allow additional irrigation of authorized acres without any increase in the instantaneous or annual quantity of water diversions from the Columbia River, but the number of acres allowed to be served in the original water right prevents this from happening. This bill will allow the Bureau to apply for a permit to increase acres to be served without requiring the annual consumptive quantity test. This bill will enhance food security and the economic benefits of the Project. The bill is limited to only allowing increases in the number of acres served, without any change in the place of use, purpose of use, or any increase in the instantaneous or annual diversion.

CON: There is concern about not setting a precedent because the analysis that happens on the annual consumptive quantity test is important in terms of how the water right change impacts other uses of water and other water rights. Any water that is transferred to additional lands may impact other water right holders. If the bill is limited to the Project, the bill is probably fine.

OTHER: This bill creates a new provision specifically for changes of water rights in the Project held by the Bureau and does not impact any other water rights in the state. It will allow for improved and more efficient use of the water, without incurring any water resources impacts, including no impacts to existing water users. There is concern that this exemption could be used as a precedent and the annual consumptive quantity test ensures that water changes are not enlarged in a water right change and there are no impacts to other users or instream flows.

Persons Testifying: PRO: Representative Mary Dye, Prime Sponsor; Mike Schwisow, WA ST Water Resources Assn./Columbia Basin Project Irrigation Districts.

CON: Dawn Vyvyan, Confederated Tribes and Bands of the Yakama Nation.

OTHER: Dave Christensen, Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.