

FINAL BILL REPORT

ESSB 5828

C 268 L 24
Synopsis as Enacted

Brief Description: Concerning water rights adjudication commissioners and referees.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Shewmake, Lovelett, Dhingra, Lovick and Nobles; by request of Administrative Office of the Courts).

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Civil Rights & Judiciary

Background: Court Commissioners. Superior courts may appoint commissioners to assist in hearing cases and other legal matters. The powers of commissioners are defined by the creating court and commissioners may have many of the same powers and duties of a superior court judge. The state constitution authorizes each county to appoint up to three commissioners. The Legislature may authorize additional commissioners by statute. For example, there are legislatively created commissioners for criminal and juvenile courts and commissioners for family law and mental health cases.

Water Code Referees. The state's Surface Water Code establishes a general adjudication process for determining rights to surface water, ground water, or both. Holders of water rights or watershed planning units may petition the Department of Ecology (Ecology) to start an adjudication which includes an evidentiary hearing conducted by Ecology subject to review by the superior court. The superior court may appoint a referee or other judicial officer to assist the court in the review.

2023-25 Biennial Budget. The 2023-25 budget for the Administrative Office of the Courts (AOC) funds a new commissioner or referee position. According to AOC, the money will be used to hire an attorney with specialized hydrology and water law expertise for the Whatcom County Superior Court.

Summary: Authorizing Court Commissioners for Water Rights Adjudications. Superior courts in every county are authorized to appoint one or more attorneys to act as full or part-

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.

time water commissioners. The appointments shall be made by majority vote of the county's superior court judges. Water commissioners may also be appointed to any other commissioner positions allowed by law.

Specifying Training for Water Commissioners. Water commissioners must receive training from AOC as soon as reasonably practicable on specified topics, including water law, Indian law, water science, and cultural awareness. The AOC is authorized to contract with one or more academic institutions in Washington to develop and deliver the required training.

Specifying the Powers of a Water Commissioner. Water commissioners may supervise water rights adjudications in the manner ordered by the presiding judge and assigned water adjudication judge. Powers may include holding evidentiary hearings and entering default judgments, settlement agreements, and conditional final orders.

Authorizing the Appointment of Water Adjudication Referees. A superior court that appoints a referee to hear water rights adjudication matters does not need the consent of the parties. The process for challenging the appointment of a referee is specified.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 6, 2024