

# HOUSE BILL REPORT

## ESSB 6125

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### As Passed House:

March 2, 2004

**Title:** An act relating to alternate members of a water conservancy board.

**Brief Description:** Providing for alternate members of a water conservancy board.

**Sponsors:** By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 2/18/04, 2/25/04 [DP].

#### Floor Activity:

Passed House: 3/2/04, 94-0.

### Brief Summary of Engrossed Substitute Bill

- Authorizes the appointment of alternates for water conservancy board members and establishes requirements for their service.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 13 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Eickmeyer, Grant, Hunt, McDermott, Orcutt, Quall and Sump.

**Staff:** Kenneth Hirst (786-7105).

### Background:

Applications for modifying existing water rights may be filed with and processed by the Department of Ecology (DOE). An alternative processing system was established with the enactment of legislation in 1997 authorizing water conservancy boards. These three or five-member boards may be created by county legislative authorities with the approval of the DOE. The county legislative authorities appoint the board members, called commissioners. A board may process applications for transfers, changes, and

amendments of existing surface and ground water rights. The decisions made by a board on the applications are subject to approval or disapproval by the DOE.

The statutes authorizing the boards include provisions for prohibiting conflicts of interest by the members of the boards in their consideration of applications. A commissioner is deemed to have a conflict of interest if he or she: has an ownership interest in a water right subject to an application for approval before the board; receives or has a financial interest in an application submitted to the board or a project, development, or venture related to the approval of the application; or solicits, accepts, or seeks anything of economic value as a gift, gratuity, or favor from any person, firm, or corporation involved in the application. A commissioner may not engage in any act that is in conflict with the proper discharge of the person's official duties as a commissioner. A commissioner may recuse himself or herself to avoid a conflict.

Alternates for commission members are not authorized by statute. Under rules adopted by the DOE, a person is allowed to be designated as an alternate to serve at the request of a conservancy board or the legislative authority of a county. However, such a person: serves in a nonvoting capacity; does not count toward creating a quorum; and cannot take the place of a commissioner on a temporary basis.

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### **Summary of Bill:**

Alternate members of water conservancy boards are authorized. The legislative authority or authorities of the counties served by a board may appoint up to two alternates to serve in a reserve capacity as replacements for absent or recused commissioners. For this purpose, an alternate may serve for all or any portion of a meeting of the board, may vote as a commissioner, and is subject to any requirement applicable to a commissioner. The presence of an alternate counts toward quorum requirements. The term of office of an alternate is six years.

When alternates are serving as commissioners on a board, a majority vote of the board must include at least one full-fledged commissioner. When serving on a board in the review of an application, the alternate must: review the written record before the board and any exhibits provided for the review or provided at the hearing if a hearing was held; review any audio or video recordings made of the proceedings on the application; and conduct a site visit if a site visit by other commissioners acting on the application has been previously conducted.

An alternate must receive the training required of a commissioner of a water conservancy board. When serving on a board, an alternate is guided by the same conflict of interest standards that apply to all commissioners of a water conservancy board. The board must provide notice that an alternate is sitting as a commissioner to the applicant and other participants in the proceedings in a timely manner to provide sufficient time for any

challenges for conflict of interest to be made prior to the board's decision on the application.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** Alternates for members of conservancy boards are allowed, but they aren't allowed to perform any duties. This issue came up regarding the difficulty in ensuring that a quorum can be present for a board meeting.

**Testimony Against:** None.

**Persons Testifying:** Chris Cheney, Lewis County Water Conservancy Board.

**Persons Signed In To Testify But Not Testifying:** None.