

SENATE BILL REPORT

SB 5349

As Passed Senate, March 11, 2003

Title: An act relating to drainage facilities.

Brief Description: Including drainage ditches and tide gates within the scope of a special district's flood control and drainage control activities.

Sponsors: Senators Haugen, Swecker, Doumit, Morton, Rasmussen, Hargrove, Horn, Stevens, Spanel and Franklin.

Brief History:

Committee Activity: Agriculture: 2/6/03, 2/11/03 [DP].

Passed Senate: 3/11/03, 49-0.

SENATE COMMITTEE ON AGRICULTURE

Majority Report: Do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

Staff: Bob Lee (786-7404)

Background: Current law provides authority for special districts to engage in drainage and flood control activities and to construct, operate and maintain facilities.

For flood control activities, the current statute states: "such facilities include dikes, levees, dams, banks, revetments, channels, canals and other works, appliances, machinery, and equipment." For drainage control, storm water control and surface water control activities, the current statute states: "such facilities include drains, ditches, canals, nonsanitary sewers, pumps, and other works, appliances, machinery, and equipment."

The Bill Drafting Guide published by the Office of the Code Reviser explains the difference between the use of the word "includes" in a definition section as compared to the use of the word "means." If the definition is restrictive, "means" is used. If the definition is inclusive, "includes" is used.

Despite the use of the term "includes" in the definition, there is concern that the list of facilities listed under special districts' authority is being interpreted by some as being restricted only to those facilities specifically enumerated in the list.

Summary of Bill: Specifically enumerated in the definition of facilities used for flood and drainage control purposes are drainage ditches and tide gates.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Tide gates and drainage ditches are facilities that diking and drainage districts have constructed and maintained for decades.

Testimony Against: None.

Testified: Chris Cheney, Curtis Johnson, Western WA Agricultural Assn. (pro).