

SENATE BILL REPORT

ESSB 6125

As Passed Senate, February 9, 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: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/15/04, 1/22/04 [DPS, DNP].
Passed Senate: 2/9/04, 46-0.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Majority Report: That Substitute Senate Bill No. 6125 be substituted therefor, and the substitute bill do pass.

Signed by Senators Morton, Chair; Hewitt, Vice Chair; Doumit, Hargrove and Honeyford.

Minority Report: Do not pass.

Signed by Senator Fraser.

Staff: Evan Sheffels (786-7486)

Background: There are currently 21 water conservancy boards operating in Washington, 16 in eastern Washington and five in western Washington. Where a county or counties have created a water conservancy board, the board is authorized to process the same kinds of "transfer" applications as the Department of Ecology with a few exceptions. A board's decision is subject to department approval. "Transfer" is defined by statute to mean transfer, change, amendment, or other authorized alteration of a water right.

Approval or denial of a water right transfer application is determined by the majority vote of a board. The boards may consist of either three or five commissioners. Official board business requires a quorum, defined as the physical presence of two of the three members of a three-member board or three of the five members of a five-member board. A board may operate with one or two vacant positions as long as it meets quorum requirements, though counties are required to appoint a new commissioner to fill an unexpired term. Statute does not provide for a person to be appointed on a temporary basis, though a department rule allows an alternate to receive training and serve temporarily in a nonvoting capacity. An alternate is not counted for quorum purposes.

Recusal is required for a board member with a conflict of interest. Some board commissioners have reported that recusals, unexpected absences and board vacancies can make it difficult to reach the quorum needed to continue board activities.

Summary of Bill: County legislative authorities are authorized to appoint up to two alternates to fill in for recused or absent full-time commissioners on a water conservancy board. An alternate must meet training and other requirements applicable to full-time commissioners, including conflict of interest requirements, before serving and voting as a commissioner. An alternate must fully review the record of an application under review. Such alternates count toward a quorum. The board must notify interested applicants and participants if an alternate will be sitting as a commissioner. As in current statute, a majority of a board is required to approve or deny a water right transfer application. When alternates are serving as commissioners on a board, a majority vote of a board must include at least one member appointed as a full-time commissioner.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This would provide needed flexibility to allow water conservancy boards to go about their business when commissioners need to be absent. A water conservancy board is really only an advisory board. The Department of Ecology must approve board decisions, and decisions can be appealed.

Testimony Against: The bill as introduced would appear to allow less than a majority of a five-member board to approve or reject a water right transfer application. How this might affect quorum requirements is not sufficiently clear.

Testified: Joe Stohr, Department of Ecology (concerns); Chris Cheney, citizen (pro); Rowland Thompson, Allied Daily Newspapers (questions).