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SECOND SUBSTITUTE HOUSE BILL 2564

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State of Washington

58th Legislature

2004 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives McCoy, Linville, Conway, Rockefeller, Sullivan, McDermott, Ormsby, Hunt, Lovick, Moeller, Kenney, McIntire, Kagi and Clibborn)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to participation by the state of Washington in a  
2 pilot negotiation and settlement of water rights involving Washington  
3 Indian tribes and the federal government; and adding a new chapter to  
4 Title 43 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that state water law  
7 must take into account rights to water based in both state and federal  
8 law, including treaties between the federal government and Indian  
9 tribes located within the state of Washington. The legislature also  
10 finds that it is in the interest of the people of the state, the  
11 nation, and Indian tribes located within the state to achieve greater  
12 certainty and security regarding the respective water rights based on  
13 state and federal law. The legislature further finds that the federal  
14 government is actively pursuing resolution of federal and tribal water  
15 rights, and has initiated and proposed both informal and formal  
16 proceedings to determine federal and tribal rights to water in  
17 Washington state. It is therefore the intent of the legislature to  
18 direct the state to actively participate in these federal proceedings

1 to represent the interests of the state, to protect rights of water  
2 users that rely on state-based water rights, and to ensure that these  
3 processes are conducted in a fair and respectful manner.

4 NEW SECTION. **Sec. 2.** (1) The legislature directs the state of  
5 Washington to proceed under the provisions of this chapter to  
6 participate in a federal pilot process to determine and quantify water  
7 rights claimed by the United States and the tribal governments that  
8 agree to participate.

9 (a) The state shall establish a negotiating team within the office  
10 of the governor to participate in this pilot process.

11 (b) The federal pilot process is expected to include a scoping  
12 process, development of alternatives, timelines, collaborative decision  
13 making, public review, development of funding alternatives, and  
14 mediation.

15 (2) In addition to the federal pilot process described in  
16 subsection (1) of this section, with the consent of the parties, the  
17 state negotiating team may participate in resolving disputes that arise  
18 between state-based water rights and water rights based on federal law  
19 through collaborative negotiations, mediation, and voluntary  
20 settlements among affected parties. Resolution may include, but is not  
21 limited to, contracts and intergovernmental agreements that provide  
22 increased certainty without quantifying the existing water rights.

23 (3) The state negotiating team shall report its findings and  
24 recommendations to the governor and appropriate legislative committees  
25 by January 1, 2006.

26 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a  
27 new chapter in Title 43 RCW.

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