

SENATE BILL REPORT

E2SSB 6581

As Passed Senate, March 8, 2006

Title: An act relating to a study of the instream flows of the Hanford Reach.

Brief Description: Regarding a study of the instream flows of the Hanford Reach.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Poulsen and Delvin).

Brief History:

Committee Activity: Water, Energy & Environment: 1/26/06, 2/1/06, 2/2/06 [DPS-WM, DNP].

Ways & Means: 2/6/06, 2/7/06 [DP2S, w/oRec].

Passed Senate: 3/8/06, 49-0.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6581 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Delvin and Regala.

Minority Report: Do not pass.

Signed by Senators Honeyford and Mulliken.

Staff: Margaret King (786-7416)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6581 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Hewitt, Rasmussen, Regala, Rockefeller, Schoesler and Thibaudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Brandland, Parlette, Pflug and Roach.

Staff: Kirstan Arestad (786-7708)

Background: Twelve million dollars of bonds were appropriated last session for watershed planning and instream flows.

Summary of Bill: Two hundred fifty thousand dollars of the state building construction account-state appropriation for fiscal year 2007 is provided solely to the Department of

Ecology (Department) to work with interested parties in order to study instream flows in the Hanford Reach and the impact of flows on the ecological condition of the Hanford Reach especially as it relates to the needs of salmon and steelhead in that reach. The Department must report its findings to the Office of the Governor and to the appropriate fiscal and policy committees of the Legislature by July 1, 2007.

The \$250,000 is part of the \$12 million of bonds appropriated last session for watershed planning and instream flows. It does not require any new appropriations. It corrects a technical omission in the capital budget conference report.

Appropriation: No.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For (Water, Energy & Environment): (For Substitute) This proposal could break the stalemate that has existing in the Columbia for 25 years. Like the concepts set out in the proposal but specifics need to be worked on more. (For Original) The bill focuses on three main areas: Best Management Practices, Hydropower Mitigation Fee, and Purchase of Conservation Measures. Proposal has a high deal of technical integrity and optimizes use of both existing water rights and new water permits. Proposal is not dependent on large scale capital funding and adopts a methodology that addresses the no net loss water policy. While the bill needs some tweaking, it provides certainty with respect to mitigation because users can pay the state instead of finding water to mitigate withdrawals of water. The voluntary regional agreements in the proposal, as well as storage, are necessary components to address water issues.

Testimony Against: (Water, Energy & Environment) (For Substitute) None. (For Original) This bill is not the solution to the problems currently facing the Columbia. Proposal ignores the recommendations of the National Association of Science Columbia River panel regarding impacts of withdrawals to salmon resources. Fish and Wildlife would like to continue to work with Columbia River Task Force to address all of the issues, including mitigation to offset the impacts to fishery resources. One should not have to pay for what one already owns through the hydropower mitigation fee; relinquishment needs to be addressed first. The bill allows one to use all of the amount of a water right, regardless of whether some or all of that right has been relinquished, and fails to address the fact that the river is currently in a deficit during peak withdraws. The hydropower mitigation fee is not adequate to secure access to new water. There is no requirement that mitigation actually benefit the mainstem. The department should be directed to collect data on all water use in the Columbia basin, including inchoate rights.

Testimony Other (Water, Energy & Environment): (For Substitute) Language regarding no reduction to instream flows needs to be clarified to provide for no reduction of instream flow during those periods that are critical to fish. WDFW should be involved in looking at instream flow needs. Conserved water provisions should be clarified so that it "remains" with the user. Mitigation should be tied to direct impact of withdrawal and inventory in section 2 should include "economic development." Before money is expended on storage there needs to

be a comprehensive look at other possibilities as well. Storage inventory should also include environmental issues and impact. Data collection should include the number of un-metered users. The term "cost effective" with respect to storage prejudices outcome. There should be no need for consultation if requirement is "no reduction of stream flows." Conserved water restrictions should only be for the life of the project then it should be protected from relinquishment. Voluntary agreements should only apply to the mainstem of the Columbia and should not have any precedential effect. If meet streamflows for fish there is no way to stop the 2/3 to 1/3 apportionment. (For Original) Possible due process issue involved because the proposal allows those that use less than the current "name plate" on their water right to use all of the paper right which could harm other existing users or applicants. There is concern about raising the relinquishment issue in this short session. A more direct role of private individuals for conservation may be the best approach.

Who Testified: (Water, Energy & Environment) (For Substitute) PRO: Jay Manning, Director Department of Ecology. (For Original) PRO: Daryll Olsen, Columbia Snake River Irrigators Association (CSRIA), Kinnewick Irrigation District and Kinnewick Hospital District; Bob Alberts, City of Pasco; John Stuhlmiller, WA Farm Bureau; Pat Boss; CSRIA.

(For Substitute) CON: None. (For Original) CON: Carl Samuelson, WDFW; Jack Fields, WA Cattlemen's Association; Jack Fields, WA Cattlemen's Association; McBroom, Washington Environmental Council and American Rivers; Dawn Vyvyan Yakima Nation.

(For Substitute) OTHER: Pat Boss, CSRIA; Shirley Nixon, Center for Environmental Law and Policy (CELP); Carl Samuelson, WDFW; Mike Schwisow, WA Water Resources Assn; Tom Davis, WDFW; Craig Engelking, Sierra Club; Kathleen Collins, WA Water Policy Alliance; Chris McCabe, A.W.B.; John Stuhlmiller, WA Farm Bureau; Mo McBroom, Washington Environmental Council. (For Original) OTHER: Gerry O'Keefe, DOE.

Testimony For (Ways & Means): This bill is important to Eastern Washington and for fish. The substitute bill contains proposals from both the Democrats and the Republicans. The group hopes to have a striking amendment by tomorrow. The amendment to the existing capital budget proviso is already being put to use.

Testimony Against (Ways & Means): None.

Who Testified (Ways & Means): PRO: Erik Poulsen, Senator; Mike Schwisow, WA Water Resources Assn.