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**Agriculture & Natural Resources  
Committee**

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**HB 1494**

**Brief Description:** Improving the effectiveness of water bank and exchange provisions.

**Sponsors:** Representatives Blake, Chandler, Van De Wege, Kretz, Newhouse and Upthegrove;  
by request of Department of Ecology.

**Brief Summary of Bill**

- Authorizes the Department of Ecology to use the trust water rights program for water banking purposes statewide.
- Allows the Department of Ecology to acquire both surface and groundwater rights for the trust water rights program.
- Authorizes public agencies to enter into interlocal agreements with the Department of Ecology to form watershed management partnerships that can establish and operate a local water bank.

**Hearing Date:** 1/27/09

**Staff:** Jaclyn Ford (786-7339)

**Background:**

The term "water bank" refers to arrangements to facilitate voluntary water transfers through water rental markets.

The Department of Ecology (DOE) is authorized to use water banking in the Yakima Basin for the following purposes:

- mitigation for new water uses;
- meeting future water supply needs; and
- statutorily beneficial uses consistent with terms established by the transferor.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Water banking may also be used to document transfers of water rights to and from the trust water rights program and to provide a source of water rights that the DOE can make available to third parties on a temporary or permanent basis for any allowed beneficial use.

However, the DOE may not use water banking to:

- cause detriment or injury to existing rights;
- issue temporary rights for new potable uses;
- administer federal project water rights; or
- allow carryover of stored water from one water year to another.

Additionally, return flows from water rights authorized for any purpose must remain available as part of the Yakima River Basin's total water supply and to satisfy existing rights for other downstream uses and users.

### **Summary of Bill:**

The trust water rights program may be used by the DOE for water banking purposes statewide. The DOE may acquire both surface and groundwater rights for the trust water rights program. Public agencies may enter into interlocal agreements with the DOE to form watershed management partnerships that will establish and operate a local water bank. The water bank's geographic area must be contiguous but may not operate within the reservation boundaries of a federally recognized Indian tribe.

A watershed management partnership operating a water bank may establish a revolving fund for the purpose of acquiring and disbursing water rights.

Water rights donated or leased under the trust water rights system are excused for sufficient cause from relinquishment. If nonuse occurred in the five years preceding the donation or lease, the DOE must calculate the amount of water to be acquired by looking at the extent to which the right was exercised during the most recent five-year period preceding the date where sufficient cause for nonuse was established. In addition, when calculating annual consumptive quantity of a water right that has been under the trust water program or a water bank, the DOE must look to the most recent five-year period of continuous beneficial use.

**Appropriation:** None.

**Fiscal Note:** Available.

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