

HOUSE BILL REPORT

HB 2415

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to amending the water rights transfer protocols to fairly accommodate de facto changes in irrigation practices from classic irrigation methods to the more conservation-minded microirrigation methods.

Brief Description: Regarding water rights transfer protocols.

Sponsors: Representatives Buys, Blake, Chandler, Hinkle, Overstreet, Lytton, Johnson, Moeller, Haler and Parker.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/20/12, 1/24/12, 1/25/12, 1/31/12 [DP].

Brief Summary of Bill

- Creates a new process, and new mechanism for calculating annual consumptive quantity, for certain water users who have transitioned to a more efficient process for irrigation.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 10 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Finn, Hinkle, Kretz, Lytton, Orcutt and Van De Wege.

Minority Report: Without recommendation. Signed by 2 members: Representatives Dunshee and Pettigrew.

Staff: Jason Callahan (786-7117).

Background:

A change in the place of use, point of diversion, or purpose of use of a water right to allow the irrigation of additional acreage or the addition of new uses may be permitted if the

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change results in no increase in the annual consumptive quantity of water used under the water right. The "annual consumptive quantity" is the estimated or actual annual amount of water diverted under the water right as that amount is reduced by the estimated annual amount of return flows, averaged over the most recent five-year period of continuous beneficial use of the water right.

Summary of Bill:

A new process is provided for a change of place or purpose application applicable to certain water users. To qualify for the new process, the water user must have made a change without approval from the Department of Ecology that was intended to enable the irrigation of additional acreage or to put the same acreage to new uses while improving water use efficiency and reducing the direct impacts on instream resources.

Applications for change under this new process must indicate the dates the changes in water use occurred and identify the nature and extent of the changes. The applicant bears the responsibility to provide evidence of water use before and after the change and the location of final diversion or withdrawal points. Evidence that may be submitted includes crop receipts, harvest receipts, and photography showing the land in production.

Applicants qualifying for this process are entitled to a different formula for calculating the "annual consumptive quantity" (ACQ) of their water use. For these purposes, the ACQ is the estimated or actual consumptive quantity reduced by the estimated return flows in the year of greatest use looking back five years from the actual change in the water use documented on the change application.

Appropriation: None.

Fiscal Note: Requested on January 31, 2012.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, relating to the definition of annual consumptive quantity which reinstates prior law after a scheduled expiration, which takes effect June 30, 2019.

Staff Summary of Public Testimony:

(In support) Many agricultural producers switched to microirrigation practices in the mid-1980s. This change allowed for more efficient irrigation and a reduction in the waste of water. However, under the state's water relinquishment laws, those producers are punished by losing the right to use the water that was not used because of the more efficient microirrigation. Those producers are not asking for more water but the continued right to use the water they used prior to switching to microirrigation. It is not a question of whether there is water available as much as if there is a legal right to use the water that is there.

The state's water laws are complex and inflexible, leading to an inability for the Department of Ecology to address fairness issues like the one raised by microirrigation. Areas that are not served by an irrigation district have even less flexibility to address water needs. A punitive result should not stem from a person doing what is best for his farm, the economy, and the environment.

It is a move in the right direction to encourage conservation and more efficient irrigation. The provisions of the bill work because it requires a strong showing of evidence of past water use and improvements made to in-stream flows due to microirrigation.

(With concerns) There needs to be a realization and recognition that public dollars are responsible for much of the water efficiency infrastructure enjoyed by agricultural producers.

(Opposed) None.

Persons Testifying: (In support) Representative Buys, prime sponsor; Maia Bellon, Department of Ecology; and Marty Mayberry.

(With concerns) Bruce Wishart, Center for Environmental Law and Policy and the Sierra Club.

Persons Signed In To Testify But Not Testifying: None.