

HOUSE BILL REPORT

HB 1414

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to Yakima river basin water resource management.

Brief Description: Concerning Yakima river basin water resource management.

Sponsors: Representatives Chandler, Blake, Warnick, Tharinger, Stanford, McCoy and Ross; by request of Governor Inslee.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/29/13 [DPS].

Brief Summary of Substitute Bill

- Authorizes the Department of Ecology to implement the Yakima River Basin Integrated Water Resource Management Plan and develop water supply solutions that provide concurrent benefits to both in and out-of-stream uses.
- Creates three new accounts in the custody of the State Treasurer.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Blake, Chair; Lytton, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Buys, Dunshee, Haigh, Orcutt, Pettigrew, Schmick, Stanford, Van De Wege and Warnick.

Staff: Jason Callahan (786-7117).

Background:

The Yakima River Basin Integrated Water Resource Management Plan (Integrated Plan) was developed by the United States Bureau of Reclamation in collaboration with Washington's Department of Ecology (Department) and other interested entities in the Yakima River basin. According to the Integrated Plan, it offers a proposed approach to improving water management in the Yakima River basin. The stated goals of the Integrated Plan are to

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protect, mitigate, and enhance fish and wildlife habitat; provide increased operational flexibility to manage instream flows to meet ecological objectives; and improve the reliability of the water supply for irrigation, municipal supply, and domestic uses.

According to the contents of the Integrated Plan, this approach includes seven elements: fish passage, structural and operational changes, surface water storage, groundwater storage, habitat protection and enhancement, enhanced water conservation, and market-based water reallocation. The Integrated Plan includes a list of proposed actions estimated to cost approximately \$4 billion to complete. If funded, these actions would be carried out over a period of up to 30 years.

The area affected by the Integrated Plan is limited to the Yakima River basin. This area in South-Central Washington extends into the following counties: Kittitas, Klickitat, Yakima, and Benton. This area includes a portion of the Yakama Nation, six irrigation districts, and multiple tributaries to the Yakima River.

Summary of Substitute Bill:

Implementation of the Integrated Plan.

Authorization is given to the Department to implement the Integrated Plan and develop water supply solutions consistent with the Integrated Plan that provide concurrent benefits to both in and out-of-stream uses. The goal of this effort is to enhance fish and wildlife resources, improve water availability and reliability, establish more efficient water markets, manage the variability of water supplies, and prepare for the uncertainties of climate change through operational and structural changes.

To accomplish these goals, the Department is specifically authorized to take certain steps. These include actions such as: accepting related funds, developing projects consistent with the Integrated Plan designed to provide access to new water supplies within the Yakima River basin, entering into contracts that ensure the efficient delivery of water, and providing for the design of facilities necessary to implement the Integrated Plan. Water supplies secured through the development of new or expanded storage facilities developed under the Integrated Plan must be allocated for out-of-stream uses and to augment instream flows. Any yet-to-be appropriated water may only be used to augment instream flows to the extent that existing water rights are not impaired.

Effect on Existing Rights.

Legislative direction is provided that discourages any construction of the Department's implementation of the Integrated Plan to alter or limit, impair, waive, or abrogate rights of the Yakama Nation, irrigation districts, or other entities when it comes to the waters in the Yakima River basin.

Three New Accounts.

Three new accounts are created: the Yakima Integrated Plan Implementation Account (Implementation Account), the Yakima Integrated Plan Implementation Taxable Bond Account (Taxable Bond Account), and the Yakima Integrated Plan Implementation Revenue

Recovery Account (Recovery Account). All three accounts are appropriated accounts that retain their own interest.

All three accounts may be used to assess, plan, and develop projects included in, or consistent with, the Integrated Plan. The accounts may only be used to fund new water storage facilities if the Department first evaluates the proposed water uses, the necessary quantity to meet those uses, the costs and benefits, and any available alternative means.

The Implementation Account is intended to fund projects using tax-exempt bonds. The Taxable Bond Account is intended to fund projects using taxable bonds. The Recovery Account is intended to fund projects using revenues from water service contracts.

The Department must give preference to entities managing water service contracts for any water supplies developed under the Integrated Plan with funds from any of the accounts that are designed to support future municipal and domestic water needs. The Department may enter into water service contracts directly if contracting with other entities is not feasible or suitable. These contracts must recover all or a portion of the water development costs, with any revenues being dedicated to the Recovery Account.

Mandatory Reporting.

The Department, every biennium through the year 2045, must provide an implementation status report to the Legislature and the Governor. These reports must be developed in consultation with the Yakama Nation, the United States Bureau of Reclamation, and stakeholders in the Yakima River basin.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the rights of the Yakama Nation that are not affected by the bill do not necessarily have to be rights granted by the federal government and, for all parties potentially affected by the bill, specifies that the bill does not limit, impair, waive, or abrogate any existing rights.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 11 relating to allowing the three new accounts to maintain their interest. Section 11 takes effect if, by December 31, 2015, the Secretary of the WSDOT provides certification to the Governor regarding sufficient funding authority for the Columbia River Crossing Project and execution of an agreement or agreements regarding toll setting.

Staff Summary of Public Testimony:

(In support-from testimony on HB 1196, which is identical to HB 1414, on 1/22/2013) It is important to get started on a multi-decade process that was the product of a bottom-up collaboration process and that will improve water supply and fish habitat. The Yakima basin is uniquely complicated and authorization of the Integrated Plan is appropriate. The water system is broken, susceptible to drought, and is in need of urgent attention. The underlying problem is difficult and collaboration is the key to success. The Integrated Plan is a product of years of negotiations and compromise, with its roots in the 1970s, and is delivered to the Legislature in a state that meets the needs of the community and conservation. The zero-sum-gain approach to water management has failed, and the Integrated Plan's transparent and open development is a better way to manage the resource. This is the best chance for managing water in the Yakima River basin.

No projects are going to be prioritized and no environmental shortcuts will be created by the implementation of the Integrated Plan. It is important to be clear that all of the various solutions captured by the Integrated Plan are to be implemented concurrently with one another.

The conservation pieces in the Integrated Plan are an important component to saving special places. The development of water delivery systems brings consistency needed for agricultural production. Conservation efforts have long been underway and many of the storage components of the Integrated Plan, such as the raising of Bumping Lake, only affect man-made water bodies.

(Opposed-from testimony on HB 1196, which is identical to HB 1414, on 1/22/2013) The Integrated Plan includes as one of its projects the raising of water levels in Bumping Lake, which is a source of habitat, ancient forests, and recreation and the location of 15 historic cabins. Implementation of the Integrated Plan would cause flooding of these resources without a significant benefit in terms of water storage. Conservation measures can save more water than a new storage project.

The surface water components of the Integrated Plan do not provide adequate reliability. Implementation of the Integrated Plan is based on uncertain investments in projects that may never be built and uncertain climate change modeling. The solution must be complete and must be funded. It also requires full buy-in from the local business community.

The process that developed the Integrated Plan had a limited membership and was not transparent. The end product is only said to be consensus because the participants were hand-picked for that outcome.

Persons Testifying: (In support-from testimony on HB 1196, which is identical to HB 1414, on 1/22/2013) Michael Garrity, American Rivers; Urban Eberhart, Kittitas Reclamation District Board; Mike Leita, Yakima County; Tom Ring, Yakama Nation; Derek Sandison, Department of Ecology; Darcy Nonemacher, Washington Environmental Council; Bill Robinson, The Nature Conservancy; John Stuhlmiller, Washington Farm Bureau; Scott Revell, Kennewick Irrigation District; Jay Manning, Cascadia Law Group; Kate Miller, Trout Unlimited; Peter Dykstra, Wilderness Society; Leda Chahim, Forterra; and Bill Clarke, Trust for Public Land.

(Opposed-from testimony on HB 1196, which is identical to HB 1414, on 1/22/2013) Chris Maykut, Friends of Bumping Lake; David Ortman, Sierra Club; Edward Henderson; Max Benitz, Yakima Basin Storage Alliance; and Bob Hall, Yakima Basin Storage Alliance, Yakima Chamber of Commerce, Yakima County Development Association & Yakima New Car Dealers.

Persons Signed In To Testify But Not Testifying: None.