
**Agriculture & Natural Resources
Committee**

HB 2760

Brief Description: Concerning best practices for water banks.

Sponsors: Representatives Chandler and Blake.

Brief Summary of Bill

- Requires water bank sponsors to report amounts charged to the Department of Ecology and not charge amounts different from the rates reported.
- Requires all water bank transfers to be consistent with state and local land use ordinances.

Hearing Date: 2/4/14

Staff: Jason Callahan (786-7117).

Background:

According to the Department of Ecology (Department), water banking is an institutional mechanism used to facilitate the legal transfer and market exchange of various types of surface, groundwater, and water storage.

The term "water banking" is widely used to refer to a variety of water management practices. Water banking is typically facilitated by an institution that operates in the role of broker or clearinghouse. Many banks pool water supplies from willing sellers and make them available as credits to willing buyers.

In 2003 legislation was passed to allow banking in the Yakima Basin using the State Trust Water Program. During the 2009 Legislative session, the law was amended to clarify that this tool is available to use for banking statewide.

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.

The State Trust Water Rights Program allows a water right holder to maintain his or her water rights for future uses without the water right relinquishing. Water enrolled in the program is held by the Department and put to beneficial uses. Water enrolled in the State Trust Water Rights Program is held in trust it retains its original priority date.

Summary of Bill:

New requirements are placed on water bank sponsors. These are people, corporations, local governments, or other entities that directly or indirectly transfer water rights to the State Trust Water Program for water banking purposes.

All water bank sponsors are required to file a schedule with the Department that shows the amount charged for every mitigation credit sold. This amount must be inclusive of all costs and fees. Only a schedule is filed, the water bank sponsors is prohibited from:

- charging a different rate than the one reported without providing the Department with at least 30 days notice of the change;
- charging any buyer a rate other than the one reported to the Department;
- remitting or refund any rates or charges so as to result in a reduced price for mitigation credits;
- extending any contract or agreement to another entity that is not generally available uniformly to everyone; and
- giving anyone an undue or unreasonable preference in obtaining mitigation credits.

Water bank sponsors may offer free or reduced rate mitigation credits to some transferees. These include for state or local government uses, for the use of the water bank sponsor itself, for hospital uses, for charitable uses, for public health and safety uses, and for uses by low-income customers.

The Department must require all water bank sponsors to demonstrate, for each mitigation credit transferred, the availability of an adequate, reliable, uninterrupted water supply suitable to serve as mitigation. All water bank sponsors are prohibited from transferring a mitigation credit to any person or entity when the proposed use of the water is inconsistent with an approved state or local land use ordinance.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect immediately.