

SENATE BILL REPORT

SB 5367

As Reported by Senate Committee On:
Agriculture, Water & Rural Economic Development, February 12, 2013
Ways & Means, June 28, 2013

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

Brief Description: Concerning Yakima river basin water resource management.

Sponsors: Senators Honeyford, Hatfield, King, Nelson, Delvin and Shin; by request of Governor Inslee.

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 2/07/13, 2/12/13 [DPS-WM].
Ways & Means: 2/21/13, 6/28/13 [DP2S].

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5367 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Honeyford, Ranking Member; Brown, Eide, Hobbs, Schoesler and Shin.

Staff: Bob Lee (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5367 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Becker, Braun, Conway, Dammeier, Fraser, Hatfield, Hewitt, Padden, Parlette, Ranker, Rivers, Schoesler and Tom.

Staff: Brian Sims (786-7431)

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.

Background: The Yakima River Basin Integrated Water Resource Management Plan (Integrated Plan) was developed by the United States Bureau of Reclamation (BOR) in collaboration with the Washington Department of Ecology (DOE) and other interested entities in the Yakima River basin. The Integrated Plan offers a proposed approach to improving water management in the Yakima River basin. The stated goals of the Integrated Plan are to 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 and includes much of Kittitas, Yakima, and Benton counties. This area includes a major portion of the Yakama Indian Reservation, several irrigation districts, and the main stem and multiple tributaries to the Yakima River.

Summary of Bill (Recommended Second Substitute): Direction is given to DOE to 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 viability 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, DOE 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.

Nothing in the act is 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 are created: the Yakima Integrated Plan Implementation Account (Implementation Account), the Yakima Integrated Plan Implementation Taxable Bond Account (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 DOE 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 and the Bond Account are intended to fund projects using tax-exempt bonds. The Recovery Account is intended to fund projects using revenues from water service contracts.

For water supplies developed under the Integrated Plan to support future municipal and domestic water needs, DOE must give preference to other entities in managing water service contracts. DOE 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.

DOE must provide a status report to the Legislature and the Governor once every biennium through the year 2045. These reports must be developed in consultation with the Yakama Nation, BOR, and stakeholders in the Yakima River basin.

DOE must prepare and periodically update a financing plan for the Yakima integrated plan in which at least half of the cost comes from non-state sources with a significant portion coming from local beneficiaries of the projects. For any component of the plan that costs more than \$100 million the Washington Water Resource Center must review the cost benefit analysis for the project.

Subject to appropriation, the Department of Natural Resources (DNR) is authorized to purchase land in the Yakima basin to be held in the community forest trust under RCW 79.155.040. DNR must develop a transitional plan for managing the land in cooperation with the Department of Fish and Wildlife and in consultation with local stakeholders. The plan must be consistent with the Yakima integrated plan principles. If by June 30, 2025 permits and financing is in place for construction of facilities that produce at least 214,000 acre-feet of water for out of stream and in-stream uses the land will remain in the community forest trust. If not, the Board of Natural Resource is authorized to place the land in the common school trust and manage it for the beneficiaries of that trust. The land is subject to the payment in lieu of taxes and is exempt from any compensating tax provisions.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): DOE must prepare and periodically update a financing plan for the Yakima integrated plan in which at least half of the cost comes from non-state sources with a significant portion coming from local beneficiaries of the projects. For any component of the plan that costs more than \$100 million the Washington Water Resource Center must review the cost benefit analysis for the project.

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EFFECT OF CHANGES MADE BY AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute): A technical clarification was provided to section 8.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: None.

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

Staff Summary of Public Testimony on Original Bill (Agriculture, Water & Rural Economic Development): PRO: The Yakima Basin have experience repeated droughts which have had major impacts on water supplies needed for salmon, production of crops, and municipal and domestic purposes. The goal of the plan is to enhance stream flows for salmon, open passage above existing reservoirs to fish, provide junior agricultural water right holders with at least 70 percent of normal water supply in drought years, purchase lands in upper reaches for restoration of fish and wildlife habitat, and for multiple uses.

CON: There is opposition to raising Bumping Lake due to the impact on cabin owners and because it is hard for the watershed to reliably produce enough to refill a larger reservoir. Some opponents fear that all proposed storage sites will not be approved and suggested importing water into the Yakima River from the Columbia River.

Persons Testifying (Agriculture, Water & Rural Economic Development): PRO: Derek Sandison, DOE; Urban Eberhart, Kittitas Reclamation District; Philip Rigdon, Yakima Nation; Mike Leita, Yakima County Commissioner; Steve Malloch, National Wildlife Federation; Jim Halstrom, WA State Horticultural Assn.; Peter Dykstra, Wilderness Society; Tom Davis, WA Farm Bureau; Leda Chahim, Cascade Land Conservancy; Darcy Nonemacher, WA Environmental Council; Kate Miller, Trout Unlimited; Paul Jewell, Kittitas County Commissioners; Juelie Dalzell, Back Country Horsemen of WA.

CON: David Ortman, Sierra Club, North Cascades Conservation Council; Chris Mayket, Friends of Bumping Lake; Charlie de la Chapelle, Warren Dickman, Daniel Martinez, Yakima Basin Storage Alliance; Scott Miller, citizen.

Staff Summary of Public Testimony (Ways & Means): PRO: There have been years of battling over water projects and the Integrated Plan has over 9600 members supporting it. The Integrated Plan is trying to combine environmental needs with economic sustainability. The Integrated Plan protects, fish, habitat, and farmers. The Integrated Plan is a balanced plan that provides a number of benefits to agriculture, increases in in-stream flows, and opens

fish runs. This plan is one of a kind in the United States. The Yakima Basin has experienced five drought years that were devastating to fish and crop production, as well as to municipal and domestic water purposes. The Integrated Plan doesn't create a shortcut to any process; there will still be an Environmental Impact Statement before moving forward on the projects.

CON: The Integrated Plan is controversial and does not comply with federal and state laws. There is a fiscal impact, as only 31 cents are returned for every dollar spent. Two new costly dams will be built which will destroy forests on the Bumping River. Twenty-five organizations have signed letters of opposition. Cabins on Bumping Lake are hard to find and sixteen will be destroyed. The supporters of the plan are purely financial backers.

Persons Testifying (Ways & Means): PRO: Steven Malloch, National Wildlife Federation; Kevin Bouchey, Commissioner, Yakima County; Urban Eberhart, Yakima Basin Joint Board, Kittitas Reclamation District; Paul Jewell, Kittitas County; Jay Manning, American Rivers, Wilderness Society, and Trout Unlimited; Leda Chahim, Forterra; Derek Sandison, Department of Ecology.

CON: David Ortman, North Cascades Conservation Council; Elaine Packard, Sierra Club, Alpine Lakes Protection Society; Scott Miller, Bumping Lake Cabin Owners.