

HOUSE BILL REPORT

HB 2616

As Reported by House Committee On:
Environment

Title: An act relating to watershed management actions by watershed improvement districts.

Brief Description: Concerning watershed management actions by watershed improvement districts.

Sponsors: Representatives Buys, Blake, Van Werven, Chandler and Wilcox.

Brief History:

Committee Activity:

Environment: 1/25/16, 2/4/16 [DPS].

Brief Summary of Substitute Bill

- Creates a definition for the term "watershed management action" when performed by certain watershed improvement districts.
- Allows certain watershed improvement districts to request funding from a county's lands assessment fund for the purpose of implementing watershed management actions.
- Removes the existing cap of 10 percent of water-related revenues that is authorized to be spent in watershed plan implementation for certain watershed improvement districts.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Shea, Ranking Minority Member; Farrell, Fey, Goodman and McBride.

Minority Report: Do not pass. Signed by 4 members: Representatives Short, Assistant Ranking Minority Member; Dye, Pike and Taylor.

Staff: Jason Callahan (786-7117).

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:

Watershed Management Partnerships.

Two or more non-federal agencies, including cities, counties, and many special purpose districts, may enter into an intergovernmental agreement to form a watershed management partnership (WMP). A WMP is a partnership entered into for the purpose of implementing a watershed management plan (watershed plan). A WMP is responsible for the coordination and implementation of a watershed plan. A watershed plan can be a plan developed under a number of different legal authorities, including the Watershed Planning Act, salmon recovery planning, shoreline master planning, the Growth Management Act (GMA), and coordinated water system planning.

A WMP is a separate legal entity from its composite public agencies. A WMP has the power to raise revenue through both general obligation and revenue bonds, and some WMPs have the power of eminent domain.

A city, county, and most special purpose districts (such as irrigation districts, reclamation districts, port districts, and flood control districts), by themselves or as part of a WMP, have the authority to use up to 10 percent of its water-related revenues to implement watershed plans and projects identified in a watershed plan. The 10 percent cap does not apply to public utility districts.

Irrigation Districts.

Irrigation districts provide for the construction, improvement, maintenance, and operation of irrigation systems, and may provide drainage, domestic water supply, and electric power facilities. Irrigation districts are established through a landowner petition process and subsequent voter approval, and an elected board of directors is responsible for the management of each district. Irrigation districts may finance their operations and actions through fees, charges, and assessments, but irrigation districts do not have the authority to impose property taxes.

An irrigation district may also participate in and expend revenue on cooperative watershed management actions, including participation in a WMP or other intergovernmental agreements for purposes of water supply, water quality, and water resource and habitat protection and management.

County Lands Assessment Fund.

A county legislative authority may levy an annual tax upon all taxable property in the county for the purpose of creating a special fund known as a county lands assessment fund. Revenue collected into a county lands assessment fund may be used to pay any assessment of drainage improvement districts, diking improvement districts, or districts formed for road improvements due against lands owned by the county.

The amount of the levy supporting a county lands assessment fund may not exceed the estimated amount needed to pay the aggregate amount of assessments that are due in the

ensuing year. At a maximum, the levy may not exceed 12.5 cents per \$1000 of assessed property value.

Summary of Substitute Bill:

A definition of "watershed management action" is provided as it relates to irrigation or reclamation districts that are organized into watershed improvement districts. This definition includes ditch maintenance and sediment management regardless of whether the work is preformed through a WMP.

These same watershed improvement districts are authorized to receive funds for watershed management actions from any state or federal financial assistance program. Funding for these actions may also be received from a county's lands assessment fund. An irrigation or reclamation district functioning as a watershed improvement district may request funds from a county's lands assessment fund for the purposes of performing watershed management actions and the county may release the funds upon request. However, a county may not increase the local levy supporting the fund or exceed the maximum levy rate.

The existing cap of 10 percent of water-related revenues that is authorized to be spent in watershed plan implementation is waived for all watershed improvement districts covered in the bill's scope. As a result, these specific watershed improvement districts receive the same treatment as public utility districts and have no limitation on how much of their water-related revenues can be used for the implementation of a watershed plan.

Substitute Bill Compared to Original Bill:

The original bill contained provisions relating to permitting exemptions under the GMA and Shorelines Management Act, and expedited permitting processes under the Clean Water Act and the State Hydraulics Code, made mandatory a county's decision to release monies from a lands assessment fund to support watershed management actions, and did not clarify that the bill only applies to special purpose districts organized under one chapter of law and not to watershed actions undertaken by other special purpose districts.

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.

Staff Summary of Public Testimony:

(In support) This bill is a response to a situation on the ground that results in a county not being able to timely receive permits for the cleaning and draining of ditches. This inability to

clean ditches due to delays in environmental permits actually harms the environment through additional runoff and flooding situations. The bill is targeted to affect only actual human-made ditches and not naturally occurring streams or tributaries and to help special purpose districts improve the environment.

Watershed improvement districts have become a popular and effective local government response in a time when cynicism about government is running high. They are overseen by elected boards and help reduce the ditch maintenance burden on the county government. Streamlining the permitting for watershed improvement districts will correct the current situation that often sees permits delayed until the rainy season and will allow projects to move forward in a timely and less costly manner.

(Opposed) The bill exempts watershed projects from a wide range of important environmental permits if they are performed from an ill-defined concept of watershed improvement districts. The breadth of the bill will result in a reduction of environmental review for just about any project in a watershed. However, even if limited to ditch maintenance, there is still a role for environmental review. The prescriptive language in the bill makes it uncertain if permits can even be conditioned. Many of the environmental review programs in the bill already offer decision timelines and emergency review options.

Ditches already receive special treatment under environmental laws, but there is a need for some review. Some ditches are actually natural stream segments and the timing and scope of work in those segments is critical for overall habitat protection. A process where the watershed improvement districts can engage in a local dialogue with the stakeholders and governments active in the community will result in a better outcome for the projects envisioned by this bill. Watershed improvement districts can be a powerful and useful tool, but they have to operate within their communities to be effective.

(Other) The bill may be drafted too broadly. Ditch cleaning is traditionally a function of county government as part of their road maintenance budget. The budget to do this work is often sacrificed to free up funds for public safety and corrections, and the diversion of revenue in the bill would only put a further strain on those road budgets. A county could be happy to complete the work envisioned in the bill if it too had the money and regulatory reform that the bill is offering to watershed improvement districts.

Only one county currently has a lands assessment fund. A bill that requires a county to divert money from that fund to a watershed improvement district could have the effect of pressuring more counties to create a fund and raise levies. Increased levies will only result in a tax shift within the county.

Persons Testifying: (In support) Representative Buys, prime sponsor; and Bill Clarke, Whatcom Ag Water Board.

(Opposed) Bruce Wishart, Puget Soundkeeper and Sound Action; Bryce Yadon, Futurewise; and Tom Clingman, Department of Ecology.

(Other) Laura Berg, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.