

HOUSE BILL REPORT

SSB 5230

As Passed House:

April 11, 2021

Title: An act relating to agreements for allocation of groundwater resulting from bureau of reclamation project operations.

Brief Description: Concerning agreements for allocation of groundwater resulting from bureau of reclamation project operations.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Dozier, Honeyford, King, Schoesler, Warnick and Muzzall).

Brief History:

Committee Activity:

Rural Development, Agriculture & Natural Resources: 3/16/21, 3/23/21 [DP].

Floor Activity:

Passed House: 4/11/21, 97-1.

Brief Summary of Substitute Bill

- Provides that agreements with the United States for the allocation of Columbia Basin Project groundwaters will be used to allocate groundwater within an established groundwater area or subarea.
- Provides that these agreements fulfill the requirements of the Groundwater Code for determinations of the availability of public groundwater.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

Staff: Robert Hatfield (786-7117).

Background:

Columbia Basin Project.

The Columbia Basin Project (Project) of the United States Bureau of Reclamation (Bureau) receives its waters from Franklin D. Roosevelt Lake behind the Grand Coulee Dam. The Department of Ecology (Ecology) has entered into an agreement with the Bureau and has adopted rules for managing certain comingled waters associated with the Project. Under these rules, Ecology may issue water use permits.

Groundwater Management Subareas.

A groundwater management subarea (subarea) may be established by rule by Ecology to address aquifer levels and to regulate withdrawals of public groundwater. Ecology has adopted rules establishing multiple subareas within the boundaries of the Project.

In 2004 the Legislature granted Ecology the authority to enter into agreements with the Bureau and the Project irrigation districts to offset aquifer depletions due to groundwater withdrawals. Such agreements allow surface water conserved within currently served Project areas to be delivered to deep-well irrigated lands in subareas within Project boundaries. When such deliveries occur, Ecology must issue a superseding water right permit or certificate to indicate that the unused portion of a replaced subarea groundwater right is a reserve right with low-flow protection from relinquishment.

This reserve right may again be used if the delivery of conserved Project water is curtailed or otherwise unavailable. The total acreage irrigated under the subarea groundwater right and delivered Project water must not exceed quantity or acreage limits described in the groundwater permit or certificate.

Ownership of Artificially Stored Groundwater.

Within 90 days after the designation of a groundwater area, subarea, or zone, any person claiming to be the owner of artificially stored groundwater within such area, subarea, or zone must file a certified declaration to that effect with Ecology. The declaration must cover certain specified topics, including the location and description of the works that created the artificial groundwater storage, and a description of the lands overlying the artificially stored groundwater, and the name or names of the owner or owners thereof.

If any of the artificially stored groundwater has been or then is being withdrawn, the

claimant shall file the declarations that the Groundwater Code requires of claimants to a vested right to withdraw public groundwaters, and evidence sufficient to show that none of the water withdrawn under those declarations is in fact public groundwater from the area, subarea, or zone concerned.

Following publication of the declaration and findings, Ecology must accept or reject such declaration or declarations with respect to ownership or withdrawal of artificially stored groundwater. Acceptance of such declaration or declarations by Ecology does not allow the declarant to withdraw public groundwaters from the particular area, subarea, or zone, nor to impair existing or subsequent rights to such public waters.

Summary of Bill:

Agreements entered into between the Department of Ecology (Ecology) and the United States related to the allocation of groundwaters that exist as a result of the Columbia Basin Project (Project) will be used for purposes of allocating that groundwater. Such agreements shall not require compliance with the procedures set forth in the Groundwater Code for declarations of claims of ownership of artificially stored groundwater within a groundwater area or subarea. Before entering into an agreement with the United States for the allocation of groundwaters that exist as a result of the Project, Ecology must first establish a groundwater area or subarea under the procedure provided in the Groundwater Code. Agreements for the allocation of groundwaters that exist as a result of the Project fulfill the requirements of the Groundwater Code for determinations of the availability of public groundwater.

Appropriation: None.

Fiscal Note: Available.

Effective Date: 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 completes a process started in 2004. Groundwater created as a result of the Columbia Basin Project (Project) falls into three subareas: the Odessa Basin, the Quincy Basin, and then this bill would deal with the water stored in the Pasco Basin. It is a very arid area, and the water at issue here provides a tremendous economic opportunity for the area.

Washington has been over-appropriated with regard to water for a century. There need to be tools to let the state implement agreements with the federal government regarding the allocation of Project groundwater. Reasonable regulation is certainly necessary, but over-regulation of this process would frustrate the bill's purpose.

The Project is one of the largest reclamation projects in the country. It serves approximately 680,000 acres. The Project's annual diversion at the Grand Coulee Dam is 2.7 million acre feet but is able to deliver 3.4 million acre feet to farmers thanks to utilization of return flows. In the late 1960s, the Department of Ecology (Ecology) established a groundwater management area in the vicinity of the Project, and then later created two individual subareas within the overall groundwater management area: the Quincy subarea and the Odessa subarea. Ecology and the Bureau of Reclamation (Bureau) entered into an agreement to manage the water in the Quincy Basin. A person can now go to Ecology for a well permit, Ecology evaluates their request, then the person goes to the Bureau to get a license to actually use the water. In the Quincy Basin, 47,000 acres are served in this matter. Irrigators pay a little over \$80 per acre foot, which is similar to what is paid for surface waters through the canals of the Project. Revenue generated by the program goes toward the cost of pumping water from Lake Roosevelt up to Banks Lake, and to operating the canals and laterals. The bill is needed in order to help the program move forward in the Pasco Basin. The bill helps address differences between the Groundwater Code and the situation on the ground as a result of the Project operations. The bill will make new water resources available to the region—to agriculture, to the City of Pasco, and all without increasing diversions from the Columbia River.

(Opposed) None.

Persons Testifying: Senator Dozier, prime sponsor; Mike Schwisow, Washington State Water Resources Association; and Glen Smith, Washington State Ground Water Association.

Persons Signed In To Testify But Not Testifying: None.