

# HOUSE BILL REPORT

## SHB 1138

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### As Amended by the Senate

**Title:** An act relating to drought preparedness.

**Brief Description:** Concerning drought preparedness.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Chapman, Dent, Ramel, Leavitt, Doglio, Lekanoff, Donaghy and Ormsby; by request of Department of Ecology).

#### **Brief History:**

##### **Committee Activity:**

Agriculture and Natural Resources: 1/13/23, 1/17/23 [DP];

Appropriations: 2/6/23, 2/9/23 [DPS].

##### **Floor Activity:**

Passed House: 2/28/23, 96-1.

Senate Amended.

Passed Senate: 4/11/23, 49-0.

#### **Brief Summary of Substitute Bill**

- Provides that projects funded by grants issued to address drought conditions no longer need to be completed while a drought emergency order is in effect.
- Changes the name of the Drought Preparedness and Response Account to the Drought Preparedness Account.
- Creates the Emergency Drought Response Account in the State Treasury.
- Modifies the circumstances in which the Joint Legislative Committee on Water Supply During Drought is authorized to convene, to include when a drought advisory is in effect and when a drought emergency order is in effect.

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*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.*

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## HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 11 members: Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba, Kretz, Lekanoff, Orcutt, Schmick and Springer.

**Staff:** Robert Hatfield (786-7117).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Couture, Davis, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Chandler, Connors, Dye, Schmick and Steele.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Corry, Assistant Ranking Minority Member.

**Staff:** Dan Jones (786-7118).

### **Background:**

#### Drought Emergency Orders.

The Department of Ecology (Ecology) is authorized to declare drought emergencies by administrative order. Before it may declare a drought emergency, Ecology must determine an area is experiencing or is expected to experience less than 75 percent of normal water supply and is expected to suffer undue hardships as a result of the dry conditions. Prior to issuing an order, Ecology must first consult with federal and state agencies and must receive approval from the Governor. Legislation passed in 2020 authorized Ecology to issue a drought advisory when it appears drought conditions may develop based on statutory definitions of normal water supply and drought conditions.

Ecology may, upon issuing a drought emergency order, authorize emergency withdrawals of public surface and ground waters, as long as the withdrawals are put to beneficial uses and will not reduce flows below the essential minimum for fisheries and other state and federal interests. Issuing a drought order also allows Ecology to approve temporary changes in the use of a water right, employ additional people, acquire emergency

equipment, and revise any drought contingency plans.

The drought emergency order also allows Ecology to make loans or grants from emergency water supply funds when necessary to help alleviate drought conditions. Under the grant program, eligible public entities may apply for grants to help mitigate the impacts of water unavailability arising from drought.

Drought response projects may include, but are not limited to, the creation of additional water storage, development of emergency water supplies, and projects designed to mitigate for the impacts of water supply shortages on fish and wildlife. Projects must show substantial benefit from securing water supply, availability, or reliability relative to project costs. Any project funded by grant funding must be completed while the drought emergency order is in effect. These expenditures are made from the State Emergency Water Projects Revolving Account. In addition to that account, Ecology manages the State Drought Preparedness and Response Account, which may be used only for drought preparedness and response.

#### Joint Legislative Committee on Water Supply During Drought.

The Joint Legislative Committee on Water Supply During Drought (Drought Committee) is composed of eight legislative members and must include the chairs of the committees with jurisdiction over water resources in each legislative chamber. The Drought Committee may convene at the call of the Drought Committee's chairperson when a drought emergency order is in effect or when the chairperson determines, in consultation with Ecology, it is likely such an order will be issued within the next year. When a drought emergency order is in effect, Ecology must provide the Drought Committee with at least monthly reports describing drought response activities of Ecology and other state and federal agencies. The Drought Committee is authorized to make recommendations to the Legislature on budgetary and legislative actions to improve the state's drought response programs and planning.

#### **Summary of Substitute Bill:**

Projects funded by grants issued by the Department of Ecology (Ecology) to address drought conditions no longer need to be completed while a drought emergency order is in effect.

The Drought Preparedness and Response Account is renamed the Drought Preparedness Account. Expenditures from the Drought Preparedness Account may be used for drought planning and preparedness activities.

The Emergency Drought Response Account is created in the State Treasury. Funds in the account may be spent only after appropriation. Expenditures from the account may be used only to provide relief for the immediate hardship caused by water unavailability while a drought emergency order is in effect.

The circumstances in which the Drought Committee is authorized to convene are amended to include when a drought advisory is in effect and when a drought emergency order is in effect. The information that Ecology is required to provide the committee while a drought emergency order is in effect must include information regarding drought grants that have been applied for or issued.

**EFFECT OF SENATE AMENDMENT(S):**

The version of the bill adopted by the Senate makes the following changes to the version of the bill adopted by the House:

- directs the State Treasurer, upon the issuance of a drought emergency order, to transfer from the State General Fund to the Emergency Drought Response Account the amount needed to bring the balance of the account up to \$3 million;
- requires the Office of Financial Management (OFM) to determine the fund balance of the Emergency Drought Response Account as of the previous fiscal month before the issuance of a drought emergency order;
- requires the OFM to promptly notify the State Treasurer and the Department of Ecology of the account balance and the necessary transfer amount once a fund balance determination is made; and
- provides that a transfer based on the determination by the OFM may be made only once every fiscal year.

**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 (Agriculture and Natural Resources):**

(In support) The Legislature cannot know in April what the streamflow conditions will be in September. This bill creates a mechanism where drought response funds can be available later in the summer, in the event that a drought is declared.

This bill provides for \$2.5 million per biennium for drought preparedness and planning. This ensures a consistent, sustainable funding source, which is essential for effective drought planning. Investing in drought planning now will reduce future drought response costs. The drought of 2021 showed what happens when drought conditions occur outside of the legislative session: state agencies were severely limited in their ability to respond to the drought. The bill ensures the availability of response funds in the event a drought emergency is declared.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) In recent years, dryness and heat early in summer have created unexpected drought conditions after the Legislature is no longer in session. The bill builds in legislative oversight through the reporting to the Joint Legislative Committee on Water Supply. There is proposed language that would remove the transfer of \$2.5 million per biennium from the State General Fund to the State Drought Preparedness Account.

(Opposed) None.

**Persons Testifying (Agriculture and Natural Resources):** James Kraft, Washington Water Trust; Bill Clarke, Washington Public Utility District Association and Pierce County Water Cooperative; Ria Berns, Department of Ecology; and Jon Culp, State Conservation Commission.

**Persons Testifying (Appropriations):** Dave Christensen, Department of Ecology.

**Persons Signed In To Testify But Not Testifying (Agriculture and Natural Resources):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.