

# HOUSE BILL REPORT

## HB 1752

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**As Passed House:**

February 8, 2024

**Title:** An act relating to modifying the application of the annual consumptive quantity calculation to change applications related to certain water rights held by the United States bureau of reclamation.

**Brief Description:** Modifying the application of the annual consumptive quantity calculation to change applications related to certain water rights held by the United States bureau of reclamation.

**Sponsors:** Representatives Dye, Dent, Graham and Eslick.

**Brief History:**

**Committee Activity:**

Agriculture and Natural Resources: 1/24/24, 1/30/24 [DP].

**Floor Activity:**

Passed House: 2/8/24, 97-0.

**Brief Summary of Bill**

- Authorizes the United States Bureau of Reclamation (Bureau) to apply for and obtain approval for a change in the number of acres that may be irrigated with water rights held by the Bureau for water use within the boundaries of the Columbia Basin Project, so long as certain criteria are met.

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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.

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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.*

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

**Background:**

Water Rights.

Washington operates under a water right permit system. With certain exceptions, new rights to use surface or groundwater must be established according to the permit system. Exemptions include any withdrawal of public groundwater for stock watering purposes, for watering a lawn, or for a noncommercial garden less than 0.5 acres. Single or group domestic uses or industrial purposes not exceeding 5,000 gallons a day are also exempt.

The Department of Ecology (Ecology) must consider a four-part test when deciding whether to issue a new water right, specifically whether:

- water is available;
- a beneficial use of water would be made;
- granting the right would impair existing rights; and
- the proposed use would detrimentally affect the public welfare.

If an application passes this test, Ecology issues a permit which establishes a timetable for constructing the infrastructure to access the water and for putting water to beneficial use. When the conditions of the permit are satisfied, Ecology issues a water right certificate.

Water Rights—Transfer.

A water right, once perfected, may be transferred without loss of priority of right if the transfer can be made without detriment or injury to existing rights. The point of diversion of water for beneficial use or the purpose of use may be changed, if such change can be made without detriment or injury to existing rights. A change in the place of use, point of diversion, or purpose of use of a water right to enable irrigation of additional acreage or the addition of new uses may be permitted if such change results in no increase in the annual consumptive quantity of water used under the water right.

Columbia Basin Project.

The Columbia Basin Project began in 1933 with the allocation of funds for the Grand Coulee Dam and was authorized by the United States Congress in 1943. The Columbia Basin Project currently serves about 671,000 acres, or approximately 65 percent of the 1,029,000 acres originally authorized by Congress, in portions of Grant, Lincoln, Adams, and Franklin counties, with some northern facilities located in Douglas County. The Columbia Basin Project is operated by the United States Bureau of Reclamation.

**Summary of Bill:**

For water rights held by the United States Bureau of Reclamation (Bureau) for water use within the boundaries of the Columbia Basin Project, the Bureau may apply for and obtain approval for a change in the number of acres that may be irrigated with such water rights, so

long as such a change does not result in any increase in the instantaneous or annual out-of-stream authorized quantity of such rights and so long as the Department of Ecology determines that such a change would not result in an impairment of any other water rights. The requirement that a change in a water right to irrigate additional acreage may be permitted if such change does not result in an increase in the annual consumptive quantity of water used under the water right does not apply to such a change.

**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) The crops grown within the Columbia Basin Project (CBP) produce the equivalent of the annual groceries purchased by 8.9 million Americans. The bill would correct an oversight in the law. Specifically, it would remove the application of the annual consumptive quantity calculation for water rights held by the United States Bureau of Reclamation (Bureau) within the CPB, which was never supposed to apply to water rights held by the federal government. There have been substantial improvements in irrigation efficiency over the last 75 years, so farmers can now irrigate many more acres now with the same amount of water.

The CBP is one of the largest reclamation projects in the United States. It supplies water for about one-third of all irrigated acres in Washington. Irrigators have gotten much, much more efficient over time. One irrigation district in the CBP is now 92 percent efficient in its irrigation.

(Opposed) None.

(Other) There are concerns that the bill could set a precedent for how water rights are processed using the annual consumptive quantity (ACQ) calculation. This bill would allow for improved and more efficient utilization of state water resources. The bill applies just to water rights held by the Bureau within the CPB. The Bureau already has the authority to capture return flows and reuse it for irrigation. The ACQ requirement is an element of the water rights transfer process in general, and is used to ensure no impacts to other water rights holders or to in-stream flows.

**Persons Testifying:** (In support) Representative Mary Dye, prime sponsor; and Mike Schwisow, Columbia Basin Project Irrigation Districts, Washington State Water Resources Association.

(Other) Tom Tebb, Office of Columbia River, Department of Ecology.

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