

HOUSE BILL REPORT

HB 2544

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to a pilot process for the upper Columbia water rights adjudication.

Brief Description: Concerning a pilot process for the upper Columbia water rights adjudication.

Sponsors: Representatives Springer, Waters, Lekanoff and Nance.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/28/26, 2/3/26 [DPS].

Brief Summary of Substitute Bill

- Requires a general water adjudication of the Upper Columbia River using a two-stage pilot process.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Reeves, Chair; Morgan, Vice Chair; Dent, Ranking Minority Member; Engell, Assistant Ranking Minority Member; Bernbaum, Nance, Richards and Springer.

Minority Report: Do not pass. Signed by 1 member: Representative Orcutt.

Minority Report: Without recommendation. Signed by 2 members: Representatives McClintock and Schmick.

Staff: Lily Smith (786-7175).

Background:

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.

Water Rights Adjudication.

Adjudication Scope.

A general water adjudication is a procedure for determining the validity of existing claims to water rights in a specific area, the amounts to which each person with a right is entitled, and the seniority of and other aspects of those rights. The adjudication is a fact-finding process that applies the existing prior appropriation doctrine (first in time, first in right).

Adjudication Process.

The Department of Ecology (Ecology) begins the adjudication process by filing a statement of the facts and a plan or map of the area in the superior court of the county in which the water is located. The statement includes information about the water rights to be adjudicated, including area property owners without municipal water and all known persons claiming a right to the water (claimants).

Once the statement and map have been filed, the judge issues an order directing summons to be served. The summons must contain a brief statement of the objects and purpose of the proceedings and require claimants to appear on the return day and file a claim. The summons must include the return day and state that unless parties appear and assert their claim, judgment will be entered determining their rights according to the evidence.

The provisions for general adjudications encourage the early use of a settlement process, which may include one or many claimants. Parties to the adjudication not included in the settlement must be provided its terms, and may object or offer modifications at a hearing.

Federal Reserved Water Rights.

The doctrine of federally reserved water rights provides that there is an implied reservation of water rights when the federal government reserves land for a federal use, including for an Indian reservation. The priority date for these reserved rights is the date the federal land was set aside, or for a tribal reservation, the date the reservation was established. Federal law allows federal reserved rights to be adjudicated in a state court under certain circumstances.

Summary of Substitute Bill:

Ecology must initiate a general water adjudication of the upper Columbia River. Before initiation, Ecology must inform the Legislature of the estimated budget needs to conduct the adjudication.

After initiation, there is a two-stage pilot process for the service of summonses. The first stage begins by the court directing Ecology to serve summonses by mail or personal service on federal and tribal government entities with known asserted water rights. After those claims are filed, Ecology may engage in settlement negotiations with the federal and tribal

claimants. During any settlement negotiation, the parties must file annual status reports to the court.

By 180 days after approval of a settlement or June 2033, whichever is earlier, the second stage begins by the court instructing Ecology to submit a report of any additional potential claimants not already served. Ecology must then serve summonses on those potential claimants by mail or personal service and publish the summons in a newspaper for six weeks for unidentified claimants and those whose mail was returned.

After the service of summonses, the adjudication must proceed consistent with existing adjudication procedure, except for a few obsolete requirements, such as claimants needing to make an appearance in court.

By June 15, 2035, Ecology must report an evaluation of the pilot process and recommendations for various efficiency changes to general adjudications.

Substitute Bill Compared to Original Bill:

The substitute bill includes affected federal Columbia basin project irrigation districts in potential settlement negotiations during the first phase of the adjudication.

An approved settlement that would trigger the second phase of the adjudication is specified to be one that settles all claims filed by federal and federally recognized tribal government claimants in the first stage.

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) Adjudications can take decades to complete, as water rights are complicated and difficult to assess. This covers a unique area with two very large federal water rights. This bill will make the process more efficient and streamlined by beginning the conversation with the complex uses early, without bogging the entire adjudication down. It is also cost efficient and means that most water users don't yet need to devote their time and resources to participation while the negotiation is happening. Tribal nations have inherent sovereign rights and federally reserved water rights that predate the state. It's imperative to begin the adjudication now as we are facing challenges to ensure an adequate quantity and quality of water. Multiple stakeholders have worked together on this.

(Opposed) The stated intent of the bill is to reduce costs and streamline the process. The Yakama nation understands this goal and has gone through and water adjudication itself. But this bill creates a limited scope that excludes certain tribes with in-stream water rights. The proposed adjudicated area is at the headwaters of the largest watershed in the United States, but it terminates at an arbitrary point.

Persons Testifying: (In support) Representative Larry Springer, prime sponsor; Jarred-Michael Erickson, Confederated Tribes of the Colville Reservation; Mel Tonasket, Confederated Tribes of the Colville Reservation; Michael Moran, Confederated Tribes of the Colville Reservation; Mike Schwisow, Columbia Basin Project Irrigation Districts; and Ria Berns, Dept. of Ecology, Water Resources Program.

(Opposed) Danielle Squeochs, Confederated Tribes and Bands of the Yakama Nation.

Persons Signed In To Testify But Not Testifying: None.