SENATE BILL REPORT

SHB 1787

AS REPORTED BY COMMITTEE ON ENERGY & UTILITIES, MARCH 23, 1993

Brief Description: Eliminating certain provisions about water resource inventory and planning areas.

SPONSORS: House Committee on Natural Resources & Parks (originally sponsored by Representatives Linville, R. Johnson, Pruitt, Kremen, Rust, Foreman, Quall, Morton, Grant, Johanson, Mastin, Eide and Fuhrman)

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass.
Signed by Senators Sutherland, Chairman; Jesernig, Vice Chairman; Amondson, Hochstatter, McCaslin, Owen, Roach, Vognild, West, and Williams.

Staff: Phil Moeller (786-7445)

Hearing Dates: March 23, 1993

BACKGROUND:

In the western United States, including Washington, water law is based primarily on the doctrine of prior appropriation. Under this doctrine, a person who is "first in time" to put water to a beneficial use is "first in right" to the water used. The user retains this right to the water so long as he or she continues to put the water to beneficial use. However, if the user voluntarily, or without sufficient cause, fails to use all or part of the water for a given period of time, the user relinquishes his or her water right. That water then becomes available for appropriation to others. This "use it or lose it" aspect of the doctrine of prior appropriation creates a disincentive for users to conserve water.

In 1991, the Legislature authorized an experimental program to promote water conservation and greater water use efficiency. The Legislature authorized the state, through the Department of Ecology, to enter into voluntary contracts with water rights holders. Under this program, the state may assist in the financing of water conservation projects in exchange for a portion of the net water savings resulting from the projects. The state acquires a trust water right to this saved water, with the right retaining its original priority date. The state may then allocate this water to a variety of in-stream or off-stream uses. The Department of Ecology must make sure that other water right holders are not adversely affected by state acquisition of a trust water right.

Transfers of net water savings may be permanent or temporary. The department may also accept gifts of water rights.

Under current law, implementation of the trust water rights program is restricted to designated areas. These areas are the two pilot program areas identified as part of the Chelan agreement process; the Methow basin and the Dungeness-Quilcene basins. In addition, the program could be applied in up to eight water resource inventory areas with critical water supply problems. A separate trust water rights program is in place in the Yakima River basin. In all other areas of the state, a water rights holder who conserves water runs the risk of losing it because of the prior appropriation doctrine.

SUMMARY:

Provisions restricting the trust water rights program to the Methow and Dungeness-Quilcene basins and to designated water resource inventory areas are removed from statute. The trust water rights program would thus apply statewide.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This program creates proper incentives for using and conserving water. It is good policy to make it available statewide.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Representative Linville, prime sponsor; Pat Dunn, Intalco Aluminum; Ken Slattery, Ecology; Bruce Wishart, Sierra Club; Dave Arbaugh, WA PUD Assn.