

SENATE BILL REPORT

ESHB 2026

AS OF REPORTED BY COMMITTEE ON AGRICULTURE & WATER RESOURCES,  
APRIL 5, 1991

**Brief Description:** Providing for comprehensive water resources management.

**SPONSORS:** House Committee on Natural Resources & Parks (originally sponsored by Representatives Fraser, Miller, Valle, Rayburn, McLean, Belcher, Jacobsen, Nealey, Paris, Winsley and Chandler; by request of Jnt Sel Com on Water Resource Policy).

**HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS**

**HOUSE COMMITTEE ON REVENUE**

**SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES**

**Majority Report:** Do pass as amended.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, Gaspard, Hansen, and Newhouse.

**Staff:** Bob Lee (786-7404)

**Hearing Dates:** March 29, 1991; April 5, 1991

**BACKGROUND:**

In 1990 the Joint Select Committee on Water Resource Policy sponsored legislation requiring the development of a comprehensive water resource planning process, to be implemented on a regional basis with involvement of state, local, and tribal governments and interested parties. The legislation provided that the department, with advice from appropriate state agencies, Indian tribes, local governments, and interested parties were to designate two pilot areas for water resource planning to occur. The two pilot areas were to be designated by January 1, 1991.

Following passage of ESHB 2932 by the 1990 Legislature, the governments and interest groups worked together to develop the comprehensive regional planning process, to be implemented in 1991 in two pilot regions in the state. Persons representing state, local, and tribal governments, agriculture, business, environmental, fisheries, and recreation interests participated in developing the planning process.

In addition to a regional water resource planning process, several elements were developed that the governments and interest groups considered essential for success. A conflict resolution mechanism was created through which the governments can resolve disputes that occur in areas that have not yet

developed regional plans to address existing water resource problems. A water resources forum was established with representation of all interests, to act as an ongoing policy advisory group to state agencies regarding water resource issues and policies.

The governments and interest groups developed recommendations containing incentives and requirements regarding water conservation and efficiency.

**SUMMARY:**

A preference is stated for water conservation and water use efficiency efforts to meet current water supply needs and to assist in meeting future needs. Priority is to be given to state funded water conservation projects achieving greatest water savings.

A trust water rights program is created, providing for state acquisition of saved water resulting from state or federal funded water conservation improvements. The state may also receive trust water rights through voluntary purchase or gift. Trust water rights held by the state may be made available to meet instream or out-of-stream needs.

Sales of plumbing fixtures which do not meet the efficiency standards contained in the 1989 Water Use Efficiency Act are prohibited. The Building Code Council must adopt rules for labeling conforming fixtures.

A water restoration account is created in the state treasury for receipts associated with water right violations. Expenditures from the account must be used for restoration of water and related resources damaged by such violations. A water management account is created. Expenditures from the water management account are to be used for water resource planning and management.

A tax is imposed on water system operators equal to \$2 per year for each customer served. Funds collected are deposited in the water management account to be used exclusively to fund grants to local governments for participation in water resource planning. The tax expires June 30, 1993.

A one-time fee of \$15 is imposed on persons holding water rights or claims established under chapters 90.03, 90.14, or 90.44 RCW. The funds collected are to be used to update pertinent information on each right or claim in the water resource information system. Unpaid fees become a lien on the property associated with the water right or claim.

A real and personal property tax exemption is provided for water conserving irrigation equipment, and expires on December 31, 1993. An exemption from business and occupation taxes and from use tax is provided for the purchase and use of effluent water. Cities, towns, and water and sewer districts are authorized to build incentives to conservation within their rate structures.

A one-time general fund appropriation of \$4,856,000 is provided for various state agencies to implement the regional water resources planning process, the critical areas consultation and conflict resolution mechanism, interest group participation, and the water resources forum, in addition to the conservation and efficiency recommendations and enhanced compliance efforts by state agencies. Each of these appropriations are effective unless a specific appropriation is provided in the Omnibus Appropriations Act.

**Appropriation:** \$4,856,000

**Revenue:** yes

**Fiscal Note:** requested

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

The two year exemption from property taxes for water conserving irrigation equipment is deleted.

The \$2 fee per year per customer of public water systems and the \$15 fee for each water right permit and claim are deleted.

The sections appropriating funds are deleted. A clause is included that if funding for the bill is not provided, the bill is null and void.

The provision that allows a transfer of net water savings is retained with technical changes. Also, additional language is included that assures that the program is not to adversely affect existing water users. A legislative recognition is inserted that there is a need to develop and test a procedure to transfer net water savings. The transfer of net water savings provisions are available to be tested in the two pilot planning areas. The deadline for designating the two pilot project planning areas is extended from January 1, 1991 to July 1, 1991. The Joint Select Committee on Water Resource Policy is to review the proposed guidelines regarding the transfer of net saved water prior to their adoption.

The provision that required tribal approval prior to the state contracting for water conservation projects within the boundaries of reservations is replaced with a provision that it is not the intent of the Legislature that jurisdictional authorities that exist in law be expanded, diminished or altered.

A provision is included that it is the policy of the State of Washington to recognize and preserve water rights in accordance with existing law. Also, language is added to clarify that conservation and water use efficiency programs include storage.

The tax exemptions for the reuse of processed effluent waters by municipalities are retained.

The changes to the state plumbing code are retained. However, the requirement that the Building Code Council establish methods for testing and identifying conforming fixtures and develop a list of fixtures meeting state standards is made applicable to the 1993 standards only. The requirement that the Building Code Council adopt rules for labeling conforming fixtures is likewise made applicable to the 1993 standards only.

The authority for various types of water systems to establish a water conserving rate structure is retained.

Water rights, other than net water savings, acquired by the state are subject to existing water transfer laws. Transfers of water within an irrigation district must only be approved by the board of an irrigation district. In addition to municipalities and the state, irrigation districts are exempt from the water right relinquishment statute if such water is to be used for the benefit of lands lying within the district.

**TESTIMONY FOR:**

The legislation is necessary to move forward on water resource planning. Some testified that this is a bill that represents a consensus of varied interests and that the bill should be viewed as a package. The fees are no longer needed because of the approval by the Governor that general fund money can be used. Specific funds are needed to carry out the Chelan Agreement.

**TESTIMONY AGAINST:**

Several changes are needed to make the bill sound from a legal, technical and policy basis. Some provisions of the bill violate western water law and should not be made. There is a lack of protection for existing water right holders. Storage should be included as a source of additional water supply. Some of the provisions of the bill are unworkable. There is a need to separate the bill from the Chelan Agreement.

**TESTIFIED:** Shannon McDaniel, Washington State Water Resources Association; James W. Trull, WSWRA; Dave Siburg, Washington Public Utility District Association; Polly Dyer, Water Resources Forum; Kim Danry, Seattle Water Department; Kathleen Collins, AWC (pro); Arlie Clinkenbeard, Okanogan County (pro); Dan Coyne, Dairy Federation (pro); Alice Parker, Water Resources Forum (pro); Darrell O. Turner, Don Jacobs, Ray Poe, Washington State Farm Bureau (con); John Krogh, Washington Cattlemen; Steve Hailey, Hailey Co.; Mary Burke (pro); Randy Ray, Washington Association of Wheat Growers (pro); Jim Miller, Lloyd Warner, Local Government (pro); Ralph Mackey, WEC (pro); Terry Williams, NW Indian Fisheries Commission (pro); Fred Saeger