

# SENATE BILL REPORT

## SB 5517

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As Reported By Senate Select Committee On:  
Water Policy, February 28, 1995

**Title:** An act relating to reforming water resource and water quality administration.

**Brief Description:** Creating the Washington water resources and water quality commission.

**Sponsors:** Senators Haugen, Morton, Snyder, Sellar, Newhouse, Rasmussen, Swecker, Franklin and Deccio.

**Brief History:**

**Committee Activity:** Water Policy: 2/28/95.

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### SENATE SELECT COMMITTEE ON WATER POLICY

**Majority Report:** That Substitute Senate Bill No. 5517 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Haugen, Hochstatter, Morton, Newhouse, Oke, Rasmussen, Swecker and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Drew, Fraser, Spanel and Sutherland.

**Staff:** Rod McAulay (786-7754)

**Background:** The establishment of water policy and the administration of water resources and water quality occurs at all levels of government. Local governments are involved in irrigation; delivery of water for domestic, commercial and industrial consumption; aquifer protection; sewer and wastewater services; hydroelectric projects; enforcement of health standards and surface water management and flood control. The state government is involved in protection of water rights; issuance of permits for groundwater and surface water; pollution control; fish and wildlife habitat and harvest; oversight of health standards; lake level and stream flow standards; flood control and oversight of pilot regional planning among other things. The federal government operates hydroelectric facilities and irrigation and flood control projects. The federal government also has established standards for safe drinking water and protection of fish and wildlife habitat. Tribal interests and tribal treaty rights affect water policy and administration at all levels.

At the state level, the agencies primarily involved in water policy issues are the Department of Health (domestic consumption and wastewater); the Department of Fish and Wildlife (habitat and harvest); and the Department of Ecology (permits, planning, stream flows, flood control and pollution). A number of concerns have been raised with the formation and administration of water policy at the state level. These include:

\* inconsistency of rules and policies between departments;

- \* lack of understanding of local circumstances and priorities when granting permits or establishing stream flows;
- \* lack of balance in administration of water policies between environmental concerns and agricultural, domestic and commercial concerns;
- \* lack of authority to adequately protect water rights following the Supreme Court ruling in the "Sinking Creek" case; and
- \* lack of an established statewide procedure for developing and approving regional water resource plans.

**Summary of Substitute Bill:** A state Water Resources and Water Quality Commission is established. The commission consists of ten citizen members appointed by the Governor with the consent of the Senate and five ex officio members.

The ex officio members include four legislators, two appointed by the Speaker of the House, one from each caucus, and two appointed by the President of the Senate, one from each caucus. The Director of the Department of Ecology is the fifth ex officio member. The ex officio members have no vote except that the Director of the Department of Ecology (DOE) may vote to break a tie.

The ten citizen members must have expertise in water related issues. Areas of expertise may include: irrigation, hydroelectric production, fisheries, municipal and industrial supply, tribal interests, and water quality. Five of the members must reside east of the Cascade crest or in Skamania County, and five must reside west of the Cascade mountains, exclusive of Skamania County. No more than one citizen member may come from any one county. Of the five from the east side of the state, three must have a background in rural-related issues, and on the west side, at least three must have a background in urban-related issues.

The citizen members are appointed to four year terms. Terms are staggered and no member may serve more than two consecutive terms. The Governor may dismiss a citizen member for cause.

The commission sets statewide water resource and water quality policy within the parameters of state and federal law. The commission has the following powers and responsibilities:

- \* The commission may modify or void any rule of any state agency which is not consistent with state policies or is in conflict with the rule of another state agency;
- \* All current DOE water quantity authority is transferred to the commission (existing DOE staff is retained);
- \* The commission shall appoint a state water administrator to administer the water quantity authority transferred from DOE;
- \* The commission shall evaluate the potential for the development of water storage and the benefits of new storage;

- \* The commission may approve any inter-basin transfer which crosses the Cascade crest; and
- \* The commission may transfer program authority, funding, and personnel between the state water administrator and DOE to assure efficient administration.

The five citizen members from east of the Cascade crest and Skamania County and the five citizen members from west of the Cascade crest exclusive of Skamania County may operate in eastern and western divisions of the commission for the following purposes:

- \* The division may adopt rules consistent with state policy and commission rules;
- \* The division may approve the establishment of regional water planning groups and approve regional water plans; and
- \* The division may approve inter-basin water transfers within their respective jurisdictions.

The state water administrator shall have the following responsibilities:

- \* Development and coordination of water resource and water quality data;
- \* Issuance of water permits;
- \* Provision of technical assistance to regional planning groups;
- \* Establishment of in-stream flow requirements when not done by regional plan;
- \* Establish technical committees; and
- \* Institute general or individual adjudications of competing claims for water resources.

Water permits decisions must be made within 12 months in areas where no regional plan exists and within three months in areas with an approved plan.

Regional planning may be initiated by a petition submitted by any two local governments, including tribes or by one hundred water rights claimants in the region. The petition must:

1. describe the proposed region, which includes one or more water resource inventory area (WRIA);
2. identify all governments in the region and the governmental units to be in charge of the process;
3. identify the interest groups that will participate and indicate the method for choosing members from groups;
4. indicate a start and finish date and include a proposed budget.

The appropriate division must hold a hearing on the petition within 90 days of receipt and approve or deny the petition within 120 days of receipt.

A regional plan must be completed within two years unless special circumstances exist. The planning group must attempt to accommodate all interests, but approval of a draft final plan shall be by majority vote. The draft final plan is submitted to the county or counties in which the region is located, and at least two public hearings must be conducted in each county. Following the hearings, the draft final plan is reconsidered by the planning group and a final plan approved by majority vote. The final plan must then be approved by the county legislative authority for each county in which the region is located and by the appropriate division of the Water Resources and Water Quality Commission.

The division must evaluate a plan to assure that it is consistent with water policy and law. The division also considers whether the plan evaluates the potential for water storage, has general support in the affected area, whether fish protection is provided, is consistent with the Growth Management Act, has general support in the affected area, meets the needs of the population and economy in the area, and whether funds for implementation are available.

If a regional plan includes provisions for the protection of endangered or threatened species, the Governor must seek the cooperation of the federal government with regard to implementation of the plan.

The Washington State Conservation Commission is eligible to receive planning monies to assist in developing habitat conservation plans on private lands.

**Substitute Bill Compared to Original Bill:** The substitute bill represents a synthesis of SB 5316 and the original SB 5517. The fundamental changes from the original SB 5517 are:

- \* the original bill did not provide for a single state administrator, but establishes two state engineers selected by and operating under the respective eastern and western divisions;
- \* the substitute bill adds five ex officio members to the state commission, including the director of DOE who may break any tie vote;
- \* the original bill does not include specific requirements for county participation or public hearings in regional planning approval or include specific criteria regarding the formation of the planning process;
- \* the original bill does not include provisions requiring regional plans to be consistent with the GMA or provide for the Governor to seek cooperation with the federal government on endangered species act matters; and
- \* the original bill does not include support for the Washington State Conservation Commission.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.