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## Judiciary Committee

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### SB 5241

**Title:** An act relating to the authority of a watershed management partnership.

**Brief Description:** Modifying the authority of a watershed management partnership.

**Sponsors:** Senators Roach and Tom.

#### Brief Summary of Bill

- Revises the requirements that apply to a watershed management partnership when exercising eminent domain within certain cities in the Lake Tapps area that are not members of the partnership.
- Eliminates the statutory process that allows Lake Tapps area cities to make and resolve a claim of negative impact based on a watershed management partnership's Lake Tapps water supply operations.

**Hearing Date:** 3/14/11

**Staff:** Edie Adams (786-7180).

#### **Background:**

##### Interlocal Cooperation Act.

The Interlocal Cooperation Act allows public agencies to enter into agreements with one another for joint or cooperative action. Any power, privilege, or authority held by a public agency may be exercised jointly with one or more other public agencies having the same power, privilege, or authority. A "public agency" for purposes of interlocal agreements includes any agency, political subdivision, or unit of local government. The term specifically includes municipal corporations, special purpose districts, local service districts, state agencies, federal agencies, recognized Indian tribes, and other states' political subdivisions.

##### Watershed Management Partnerships.

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State law establishes a mechanism for conducting watershed planning through a locally initiated process. The state law process requires watershed planning to include an assessment of water supply and use in the planning area. It also requires the development of strategies for future water use. Watershed planning may include elements such as water quality, habitat, and instream flow.

Under the Interlocal Cooperation Act, public agencies may enter into interlocal agreements to form a watershed management partnership to implement all or parts of a watershed management plan. A watershed management partnership may create a separate legal entity to conduct the cooperative undertaking of the partnership. The separate legal entity may contract indebtedness and may issue general obligation bonds.

The Interlocal Cooperation Act provides that if two or more entities with the power of eminent domain join to form a watershed management partnership, then the partnership itself will have the power of eminent domain. Prior to 2009, the Interlocal Cooperation did not specifically address whether the separate legal entity formed by a watershed management partnership also has the authority to exercise the partnership's eminent domain power.

#### 2009 Legislation.

In 2009 legislation was enacted that made clear that the separate legal entity created by a watershed management partnership that meets certain criteria has the authority to exercise eminent domain if all of the public agencies that form the partnership have the power of eminent domain. The partnership or legal entity may exercise eminent domain power only for those utility purposes for which the partnership was formed. In order to exercise this eminent domain power, the watershed management partnership must have been formed before July 1, 2006, and must be governed by a board of directors consisting entirely of elected officials from the cities and districts constituting the partnership. The effect of these criteria limits the application of this provision to one partnership, the Cascade Water Alliance, which is a water provider in the central Puget Sound region.

The 2009 legislation established notice requirements and other conditions before the partnership can exercise eminent domain. One of these conditions is that the partnership must enter into an interlocal agreement with a city to allow eminent domain within that city if the city is not a member of the partnership and has water or sewer service areas within one-half mile of Lake Tapps or within 5 miles upstream from Lake Tapps along the White River.

In addition, the legislation created a process for a city located within this area to file and resolve a claim that the partnership's Lake Tapps water supply operations have a negative impact on the city's water supplies. If a court determines that there has been a negative impact to the city, the partnership must implement a remedy acceptable to the city, and if the city and partnership do not agree on a remedy, the court must establish the terms of a remedy.

#### **Summary of Bill:**

The requirement is eliminated that a watershed management partnership enter into an interlocal agreement with non-partnership cities in the Lake Tapps area before exercising eminent domain

within those cities. Also eliminated is the process for these Lake Tapps area cities to make and resolve a claim of negative impact resulting from the partnership's Lake Tapps water supply operations.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.