

# SENATE BILL REPORT

## SB 5241

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As Passed Senate, March 4, 2011

**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 History:**

**Committee Activity:** Environment, Water & Energy: 2/04/11, 2/08/11 [DP, DNP].  
Passed Senate: 3/04/11, 42-6.

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### SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

**Majority Report:** Do pass.

Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase, Fraser, Morton and Ranker.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Ranking Minority Member; Delvin and Holmquist Newbry.

**Staff:** Karen Epps (786-7424)

**Background:** 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.

Public agencies may enter into interlocal agreements to form a watershed management partnership (partnership) to implement all or parts of a watershed management plan including coordination and oversight of plan implementation. If two or more entities with the power of eminent domain join to form a partnership, then the partnership itself will have the power of eminent domain as well. The power of eminent domain may not extend to a separate legal entity created by a partnership.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The separate legal entity created by a partnership to conduct the operations of the partnership may exercise the power of eminent domain if:

- the partnership was formed before July 1, 2006;
- all of the public agencies that form the partnership have the power of eminent domain;
- the partnership is governed by a board of directors consisting entirely of elected officials from the cities and districts constituting the partnership; and
- eminent domain authority is exercised only for those utility purposes for which the partnership was formed and solely for providing water services to its customers.

A partnership must comply with certain requirements before exercising eminent domain powers. The partnership must comply with statutory notice requirements and must provide notice 30 days before the partnership board authorizes condemnation to the city, town, or county having jurisdiction over the subject property.

Additionally, 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 five miles upstream from Lake Tapps along the White River. A process is created 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 that the partnership 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 five miles upstream from Lake Tapps along the White River is repealed. Additionally, the 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 is removed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: Auburn, Bonney Lake, Buckley, and Sumner, the four cities around Lake Tapps, have entered into an agreement on the Lake Tapps water supply operations. The four cities requested the language that is currently in statute when legislation was passed in 2009 as a safety net for the cities in case the cities and Cascade Water Alliance were not able to come to agreement. Agreement has been reached between the cities and Cascade Water Alliance with regards to water mitigation and the responsibilities of the cities and Cascade Water Alliance. Part of the agreement provided that

the four cities and Cascade Water Alliance would pursue legislation to remove the requirement that the partnership enter into an interlocal agreement with the four cities. Now that the agreement is in place, this provision would no longer apply.

**Persons Testifying:** PRO: Carolyn Robertson, City of Auburn; John Marchione, City of Redmond, Cascade Water Alliance Board.