

# SENATE BILL REPORT

## SB 5828

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As of January 15, 2024

**Title:** An act relating to water rights adjudication commissioners and referees.

**Brief Description:** Concerning water rights adjudication commissioners and referees.

**Sponsors:** Senators Shewmake, Lovelett, Dhingra, Lovick and Nobles; by request of Administrative Office of the Courts.

**Brief History:**

**Committee Activity:** Law & Justice: 1/16/24.

**Brief Summary of Bill**

- Authorizes court commissioners for water rights adjudications.
- Specifies the powers of water commissioners.
- Authorizes the appointment of water adjudication referees without consent of the parties.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** William Bridges (786-7312)

**Background:** Court Commissioners. Court commissioners are appointed by superior court judges to assist in hearing cases and other legal matters and have many of the same powers and duties of a superior court judge. The state constitution authorizes each county to appoint up to three commissioners. The Legislature may authorize additional commissioners by statute. For example, there are legislatively created commissioners for criminal and juvenile courts and commissioners for family law and mental health cases.

Water Code Referees. The state's Surface Water Code establishes a general adjudication

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process for determining rights to surface water, ground water, or both. Holders of water rights or watershed planning units may petition the Department of Ecology (Ecology) to start an adjudication which includes an evidentiary hearing conducted by Ecology subject to review by the superior court. The superior court may appoint a referee or other judicial officer to assist the court in the review.

2023-25 Biennial Budget. The 2023-25 budget for the Administrative Office of the Courts (AOC) funds a new commissioner or referee position. According to AOC, the money will be used to hire an attorney with specialized hydrology and water law expertise for the Whatcom County Superior Court.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Authorizing Court Commissioners for Water Rights Adjudications. Superior courts in every county are authorized to appoint one or more attorneys to act as full or part-time water commissioners. The appointments shall be made by majority vote of the county's superior court judges. Water commissioners may also be appointed to any other commissioner positions allowed by law.

Specifying the Powers of a Water Commissioner. Water commissioners may supervise water rights adjudications in the manner ordered by the presiding judge and assigned water adjudication judge. Powers may include holding evidentiary hearings and entering default judgments, settlement agreements, and conditional final orders.

Authorizing the Appointment of Water Adjudication Referees Without Consent of the Parties. A superior court that appoints a referee to hear water rights adjudication matters does not need the consent of the parties.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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