

72-14-44. Interstate stream commission; groundwater appropriation; water rights purchase; water planning funding.

A. The interstate stream commission is authorized to appropriate groundwater or purchase water rights on behalf of any of the various regions of the state.

B. Nothing in this section shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of Indian tribes.

C. The interstate stream commission is authorized to make grants or loans of funds for the purpose of regional water planning. Prior to approval of any proposal by a region for planning funds under this section, the commission shall develop criteria for evaluating such proposals. These criteria at a minimum shall provide for:

- (1) identification of the region requesting planning funds and why it is hydrologically and politically an appropriate applicant;
- (2) use of an appropriate planning process including opportunities for participation by those Indian tribes located within the various regions of the state;
- (3) reasonable proposed costs and time tables for completion of the planning process;
- (4) appropriate provisions for notice, review and comment where applicable;
- (5) adequate review of potential conflict with laws relating to impact on existing water rights;
- (6) adequate review of water conservation and the effect on the public welfare; and
- (7) identification of sources other than the interstate stream commission for funding of the proposed regional planning process.

D. A water planning region eligible for funding under this section is an area within the state that contains sufficient hydrological and political interests in common to make water planning feasible. The state as a whole shall not be considered a water planning region for purposes of this section.

E. No entity shall be made a part of a proposal for planning funds under this section without its consent.

F. No funds shall be granted under this act to any party or parties that are not within a water planning region. Whether a proposal for funding falls within a water planning region shall be determined on a case by case basis by the interstate stream commission after consultation with the state engineer and consideration of the following:

- (1) whether the source of water and the potential place of use of the water are located within the same hydrologic basin; and
- (2) if there is more than one party and the parties are requesting funds on a joint basis, whether the parties have demonstrated political and economic interests in common by entering into a binding intergovernmental agreement for carrying out the planning process.