

1258-S

Sponsor(s): House Committee on Agriculture & Rural Development
(originally sponsored by Representative Rayburn)

Brief Description: Modifying water rights claims provision.

HB 1258-S - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Authorizes a person to file a water rights claim with the department of ecology if the claimed right has a priority date prior to June 6, 1917, and the statement is accompanied by a notarized affidavit supporting the claim.

Requires the claim to be filed by August 31, 1993.

Does not impact or affect the authority of the state, an Indian tribe, or other governmental entity to administer water rights on a federal reservation.

VETO MESSAGE ON HB 1258-S

May 18, 1993

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 1258 entitled:

"AN ACT Relating to claim of right to withdraw, divert, or use ground or surface waters;"

Under the Water Rights Claims Registration Act (Chapter 90.14 RCW), any person claiming a vested right to use water was required to file with the Department of Ecology a water right claim setting forth the particulars of the claim. A vested right to the use of surface water would have to have been initiated prior to the effective date of the 1917 Surface Water Code. Failure to file a claim would result in forfeiture of any right that might have existed.

In response to this law, and after extensive notification by the Department of Ecology, the Department received 165,000 water right claims by June 30, 1974 when the registration period closed. Because many entities failed to file a claim, the Legislature subsequently reopened the claims registry for the filing of claims two more times, the last occurring in 1985.

Given these opportunities to file claims for pre-1917 water rights, there must be strong reasons to reopen the claims registry once again. A closing date for filing such claims exists for a reason since a periodic reopening of the registration claims act can lead to great uncertainty for holders of water rights. A rationale explaining why it is in the public's interest to reopen the registration claim is not provided by the bill. In addition, Subsection 2 of the bill requires an affidavit that a person attest to "having personally witnessed a posting of intent to establish a water right." A witness to a pre-1917 posting would have to be alive today and would have to remember such an event. This severe

restriction suggests that very few could benefit from this legislation. This, in turn, raises the issue of equity since many who lost any right to pre-1917 water because of the failure to file a claim could not benefit from this bill. Given this lack of a strong rationale for reopening the claims registry, I am vetoing Substitute House Bill No. 1258.

For these reasons, I have vetoed Substitute House Bill No. 1258 in its entirety.

Respectfully submitted,
Mike Lowry
Governor