

E2SSB 6267 - H AMD 1634

By Representative Blake

ADOPTED 03/11/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** Water is an essential element for economic
4 prosperity and it generates new, family-wage jobs and state revenues.
5 It is the intent of the legislature to provide both water right
6 applicants and the department of ecology with the necessary tools to
7 expedite the processing of water right applications depending on the
8 needs of the project and agency workload.

9 NEW SECTION. **Sec. 2.** Sufficient resources to support the
10 department of ecology's water resource program are essential for
11 effective and sustainable water management that provides certainty to
12 processed applications. The department of ecology shall review current
13 water resource functions and fee structures, and report to the
14 legislature and the governor by September 1, 2010, on improvements to
15 make the program more self- sustaining and efficient.

16 **Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read
17 as follows:

18 (1)(a) Any applicant for a new withdrawal or a change, transfer, or
19 amendment of a water right pending before the department(~~(τ)~~) may
20 initiate a cost-reimbursement agreement with the department to provide
21 expedited review of the application. A cost-reimbursement agreement
22 may (~~only~~) be initiated under this section if the applicant agrees to
23 pay for, or as part of a cooperative effort agrees to pay for, the cost
24 of processing his or her application and all other applications from
25 the same source of supply which must be acted upon before the
26 applicant's request because they were filed prior to the date of when
27 the applicant filed.

1 (b) The requirement to pay for the cost of other applications under
2 (a) of this subsection does not apply to an application for a new
3 appropriation that would not diminish the water available to earlier
4 pending applicants for new appropriations from the same source of
5 supply.

6 (c) The requirement to pay for the cost of processing other
7 applications under (a) of this subsection does not apply to an
8 application for a change, transfer, or other amendment that would not
9 diminish the water available to earlier pending applicants for changes
10 or transfers from the same source of supply.

11 (d) In determining whether an application would not diminish the
12 water available to earlier pending applicants, the department shall
13 consider any water impoundment or other water resource management
14 mitigation technique proposed by the applicant under RCW 90.03.255 or
15 90.44.055.

16 (e) The department may enter into cost-reimbursement agreements
17 provided resources are available and shall use the process established
18 under RCW 43.21A.690 for entering into cost-reimbursement agreements.
19 The department's share of work related to a cost-reimbursement
20 application, such as final certificate approval, must be prioritized
21 within the framework of other water right processing needs and as
22 determined by agency rule.

23 (f) Each individual applicant is responsible for his or her own
24 appeal costs that may result from a water right decision made by the
25 department under this section. In the event that the department's
26 approval of an application under this section is appealed under chapter
27 43.21B RCW by a third party, the applicant for the water right in
28 question must reimburse the department for the cost of defending the
29 decision before the pollution control hearings board unless otherwise
30 agreed to by the applicant and the department. If an applicant appeals
31 either an approval or a denial made by the department under this
32 section, the applicant is responsible only for its own appeal costs.

33 (2) In pursuing a cost-reimbursement project, the department must
34 determine the source of water proposed to be diverted or withdrawn
35 from, including the boundaries of the area that delimits the source.
36 The department must determine if any other water right permit
37 applications are pending from the same source. A water source may
38 include surface water only, groundwater only, or surface and

1 groundwater together if the department finds they are hydraulically
2 connected. The department shall consider technical information
3 submitted by the applicant in making its determinations under this
4 subsection. The department may recover from a cost-reimbursement
5 applicant its own costs in making the same source determination under
6 this subsection.

7 (3) Upon request of the applicant seeking cost-reimbursement
8 processing, the department may elect to initiate a coordinated cost-
9 reimbursement process. To initiate this process, the department must
10 notify in writing all persons who have pending applications on file for
11 a new appropriation, change, transfer, or amendment of a water right
12 from that water source. A water source may include surface water only,
13 groundwater only, or surface and groundwater together if the department
14 determines that they are hydraulically connected. The notice must be
15 posted on the department's web site and published in a newspaper of
16 general circulation in the area where affected properties are located.
17 The notice must also be made individually by way of mail to:

18 (a) Inform those applicants that cost-reimbursement processing of
19 applications within the described water source is being initiated;

20 (b) Provide to individual applicants the criteria under which the
21 applications will be examined and determined;

22 (c) Provide to individual applicants the estimated cost for having
23 an application processed on a cost-reimbursement basis;

24 (d) Provide an estimate of how long the cost-reimbursement process
25 will take before an application is approved or denied; and

26 (e) Provide at least sixty days for the applicants to respond in
27 writing regarding the applicant's decision to participate in the cost-
28 reimbursement process.

29 (4) The applicant initiating the cost-reimbursement request must
30 pay for the cost of the determination under subsections (2) and (3) of
31 this section and other costs necessary for the initial phase of cost-
32 reimbursement processing. The cost for each applicant for conducting
33 processing under a coordinated cost-reimbursement agreement must be
34 based primarily on the proportionate quantity of water requested by
35 each applicant. The cost may be adjusted if it appears that an
36 application will require a disproportionately greater amount of time
37 and effort to process due to its complexity.

1 (5)(a) Only the department may approve or deny a water right
2 application processed under this section, and such a final decision
3 remains solely the responsibility and function of the department. The
4 department retains full authority to amend, refuse, or approve any work
5 product provided by any consultant under this section. The department
6 may recover its costs related to: (i) The review of a consultant to
7 ensure that no conflict of interest exists; (ii) the management of
8 consultant contracts and cost-reimbursement agreements; and (iii) the
9 review of work products provided by participating consultants.

10 (b) For any cost-reimbursement process initiated under subsection
11 (1) of this section, the applicant may, after consulting with the
12 department, select a prequalified consultant listed by the department
13 under subsection (7) of this section or may be assigned such a
14 prequalified consultant by the department.

15 (c) For any coordinated cost-reimbursement process initiated under
16 subsection (3) of this section, the applicant may, after consulting
17 with the department, select a prequalified consultant listed by the
18 department under subsection (7) of this section or may be assigned a
19 prequalified consultant by the department.

20 (d) In lieu of having one or more of the work products performed by
21 a prequalified consultant listed under subsection (7) of this section,
22 the department may, at its discretion, recognize specific work
23 completed by an applicant or an applicant's consultant prior to the
24 initiation of cost-reimbursement processing. The department may also,
25 at its discretion, authorize the use of such a consultant to perform a
26 specific scope of the work that would otherwise be assigned to
27 prequalified consultants listed under subsection (7) of this section.

28 (e) At any point during the cost-reimbursement process, the
29 department may request or accept technical information, data, and
30 analysis from the applicant or the applicant's consultant to support
31 the cost-reimbursement process or the department's decision on the
32 application.

33 (6) The department is authorized to adopt rules or guidance
34 providing minimum qualifications and standards for any consultant's
35 submission of work products under this section, including standards for
36 submission of technical information, scientific analysis, work product
37 documentation, review for conflict of interest, and report presentation
38 that such a consultant must meet.

1 (7) The department must provide notice to potential consultants of
2 the opportunity to be considered for inclusion on the list of cost-
3 reimbursement consultants to whom work assignments will be made. The
4 department must competitively select an appropriate number of
5 consultants who are qualified by training and experience to investigate
6 and make recommendations on the disposition of water right
7 applications. The prequalified consultant list must be renewed at
8 least every six years, though the department may add qualified cost-
9 reimbursement consultants to the list at any time. The department must
10 enter a master contract with each consultant selected and thereafter
11 make work assignments based on availability and qualifications.

12 (8) The department may remove any consultant from the consultant
13 list for poor performance, malfeasance, or excessive complaints from
14 cost-reimbursement participants. The department may interview any
15 cost-reimbursement consultant to determine whether the person is
16 qualified for this work, and must spot-check the work of consultants to
17 ensure that the public is being competently served.

18 (9) When a prequalified cost-reimbursement consultant from the
19 department's list described in subsection (7) of this section is
20 assigned or selected to investigate an application or set of
21 applications, the consultant must document its findings and recommended
22 disposition in the form of written draft technical reports and
23 preliminary draft reports of examination. Within two weeks of the
24 department receiving draft technical reports and preliminary draft
25 reports of examination, the department shall provide the applicant such
26 documents for review and comment prior to their completion by the
27 consultant. The department shall consider such comments by the
28 applicant prior to the department's issuance of a draft report of
29 examination. The department may modify the preliminary draft reports
30 of examination submitted by the consultant. The department's decision
31 on a permit application is final unless it is appealed to the pollution
32 control hearings board under chapter 43.21B RCW.

33 (10) If an applicant elects not to participate in a cost-
34 reimbursement process, the application remains on file with the
35 department, retains its priority date, and may be processed under
36 regular processing, priority processing, expedited processing,
37 coordinated cost-reimbursement processing, cost-reimbursement

1 processing, or through conservancy board processing as authorized under
2 chapter 90.80 RCW.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.03 RCW
4 to read as follows:

5 The water rights processing account is created in the state
6 treasury. All receipts from the fees collected under sections 5, 7,
7 and 12 of this act must be deposited into the account. Money in the
8 account may be spent only after appropriation. Expenditures from the
9 account may only be used to support the processing of water right
10 applications for a new appropriation, change, transfer, or amendment of
11 a water right as provided in this chapter and chapters 90.42 and 90.44
12 RCW or for the examination, certification, and renewal of certification
13 of water right examiners as provided in section 7 of this act.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.03 RCW
15 to read as follows:

16 (1) The department may expedite processing of applications within
17 the same source of water on its own volition when there is interest
18 from a sufficient number of applicants or upon receipt of written
19 requests from at least ten percent of the applicants within the same
20 source of water.

21 (2) If the conditions of subsection (1) of this section have been
22 met and the department determines that the public interest is best
23 served by expediting applications within a water source, the department
24 must notify in writing all persons who have pending applications on
25 file for a new appropriation, change, transfer, or amendment of a water
26 right from that water source. A water source may include surface water
27 only, groundwater only, or surface and groundwater together if the
28 department determines that they are hydraulically connected. The
29 notice must be posted on the department's web site and published in a
30 newspaper of general circulation in the area where affected properties
31 are located. The notice must also be made individually by way of mail
32 to:

33 (a) Inform those applicants that expedited processing of
34 applications within the described water source is being initiated;

35 (b) Provide to individual applicants the criteria under which the
36 applications will be examined and determined;

1 (c) Provide to individual applicants the estimated cost for having
2 an application processed on an expedited basis;

3 (d) Provide an estimate of how long the expedited process will take
4 before an application is approved or denied; and

5 (e) Provide at least sixty days for the applicants to respond in
6 writing regarding the applicant's decision to participate in the
7 expedited processing of their applications.

8 (3) In addition to the application fees provided in RCW 90.03.470,
9 the department must recover the full cost of processing all the
10 applications from applicants who elect to participate within the water
11 source through expedited processing fees. The department must
12 calculate an expedited processing fee based primarily on the
13 proportionate quantity of water requested by each applicant and may
14 adjust the fee if it appears that the application will require a
15 disproportionately greater amount of time and effort to process due to
16 its complexity. Any application fees that were paid by the applicant
17 under RCW 90.03.470 must be credited against the applicant's share of
18 the cost of processing applications under the provisions of this
19 section.

20 (4) The expedited processing fee must be collected by the
21 department prior to the expedited processing of an application.
22 Revenue collected from these fees must be deposited into the water
23 rights processing account created in section 4 of this act. An
24 applicant who has stated in writing that he or she wants his or her
25 application processed using the expedited procedures in this section
26 must transmit the processing fee within sixty days of the written
27 request. Failure to do so will result in the applicant not being
28 included in expedited processing for that water source.

29 (5) If an applicant elects not to participate in expedited
30 processing, the application remains on file with the department, the
31 applicant retains his or her priority date, and the application may be
32 processed through regular processing, priority processing, expedited
33 processing, coordinated cost-reimbursement processing, cost-
34 reimbursement processing, or through conservancy board processing as
35 authorized under chapter 90.80 RCW. Such an application may not be
36 processed through expedited processing within twelve months after the
37 department's issuance of decisions on participating applications at the
38 conclusion of expedited processing unless the applicant agrees to pay

1 the full proportionate share that would otherwise have been paid during
2 such processing. Any proceeds collected from an applicant under this
3 delayed entry into expedited processing shall be used to reimburse the
4 other applicants who participated in the previous expedited processing
5 of applications, provided sufficient proceeds remain to fully cover the
6 department's cost of processing the delayed entry application and the
7 department's estimated administrative costs to reimburse the previously
8 expedited applicants.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.03 RCW
10 to read as follows:

11 The department must post notice on its web site and provide
12 additional electronic notice and opportunity for comment to affected
13 federally recognized tribal governments concurrently when providing
14 notice to applicants under RCW 90.03.265 and sections 5 and 12 of this
15 act.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.03 RCW
17 to read as follows:

18 (1) The department shall establish and maintain a list of certified
19 water right examiners. Certified water right examiners on the list are
20 eligible to perform final proof examinations of permitted water uses
21 leading to the issuance of a water right certificate under RCW
22 90.03.330. The list must be updated annually and must be made
23 available to the public through written and electronic media.

24 (2) In order to qualify, an individual must be registered in
25 Washington as a professional engineer, professional land surveyor, or
26 registered hydrogeologist, or an individual must demonstrate at least
27 five years of applicable experience to the department, or be a board
28 member of a water conservancy board. Qualified individuals must also
29 pass a written examination prior to being certified by the department.
30 Such an examination must be administered by either the department or an
31 entity formally approved by the department. Each certified water right
32 examiner must demonstrate knowledge and competency regarding:

33 (a) Water law in the state of Washington;

34 (b) Measurement of the flow of water through open channels and
35 enclosed pipes;

36 (c) Water use and water level reporting;

- 1 (d) Estimation of the capacity of reservoirs and ponds;
- 2 (e) Irrigation crop water requirements;
- 3 (f) Aerial photo interpretation;
- 4 (g) Legal descriptions of land parcels;
- 5 (h) Location of land and water infrastructure through the use of
- 6 maps and global positioning;
- 7 (i) Proper construction and sealing of well bores; and
- 8 (j) Other topics related to the preparation and certification of
- 9 water rights in Washington state.

10 (3) Except as provided in subsection (9) of this section, upon
11 completion of a water appropriation and putting water to beneficial
12 use, in order to receive a final water right certificate, the permit
13 holder must secure the services of a certified water right examiner who
14 has been tested and certified by the department. The examiner shall
15 carry out a final examination of the project to verify its completion
16 and to determine and document for the permit holder and the department
17 the amount of water that has been appropriated for beneficial use, the
18 location of diversion or withdrawal and conveyance facilities, and the
19 actual place of use. The examiner shall take measurements or make
20 estimates of the maximum diversion or withdrawal, the capacity of water
21 storage facilities, the acreage irrigated, the type and number of
22 residences served, the type and number of stock watered, and other
23 information relevant to making a final determination of the amount of
24 water beneficially used. The examiner shall take photographs of the
25 facilities to document the use or uses of water and the photographs
26 must be submitted with the examiner's report to the department. The
27 department shall specify the format and required content of the reports
28 and may provide a form for that purpose.

29 (4) The department may suspend or revoke a certification based on
30 poor performance, malfeasance, failure to acquire continuing education
31 credits, or excessive complaints from the examiner's customers. The
32 department may require the retesting of an examiner. The department
33 may interview any examiner to determine whether the person is qualified
34 for this work. The department shall spot-check the work of examiners
35 to ensure that the public is being competently served. Any person
36 aggrieved by an order of the department including the granting, denial,
37 revocation, or suspension of a certificate issued by the department
38 under this chapter may appeal pursuant to chapter 43.21B RCW.

1 (5) The decision regarding whether to issue a final water right
2 certificate is solely the responsibility and function of the
3 department.

4 (6) The department shall make its final decision under RCW
5 90.03.330 within sixty days of the date of receipt of the proof of
6 examination from the certified water right examiner, unless otherwise
7 requested by the applicant or returned for correction by the
8 department. The department may return an initial proof of examination
9 for correction within thirty days of the department's receipt of such
10 initial proof from a certified water right examiner. Such proof must
11 be returned to both the certified water right examiner and the
12 applicant. Within thirty days of the department's receipt of such
13 returned proof from the certified water right examiner, the department
14 shall make its final decision under RCW 90.03.330, unless otherwise
15 requested by the applicant.

16 (7) Each certified water right examiner must complete eight hours
17 annually of qualifying continuing education in the water resources
18 field. The department shall determine and specify the qualifying
19 continuing education and shall inform examiners of the opportunities.
20 The department shall track whether examiners are current in their
21 continuing education and may suspend the certification of an examiner
22 who has not complied with the continuing education requirement.

23 (8) Each certified water right examiner must be bonded for at least
24 fifty thousand dollars.

25 (9) The department may waive the requirement to secure the services
26 of a certified water right examiner in situations in which the
27 department has already conducted a final proof of examination or finds
28 it unnecessary for purposes of issuing a certificate of water right.

29 (10) The department shall establish and collect fees for the
30 examination, certification, and renewal of certification of water right
31 examiners. Revenue collected from these fees must be deposited into
32 the water rights processing account created in section 4 of this act.
33 Pursuant to RCW 43.135.055, the department is authorized to set fees
34 for examination, certification, and renewal of certification for water
35 right examiners.

36 (11) The department may adopt rules appropriate to carry out the
37 purposes of this section.

1 **Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read
2 as follows:

3 (1)(a) Any person or entity, or successor to such person or entity,
4 having a statement of claim on file with the water rights claims
5 registry (~~(on April 20, 1987,)~~) may submit to the department of ecology
6 for filing(~~(7)~~) an amendment to such a statement of claim if the
7 submitted amendment is based on:

8 (~~(1)~~) (i) An error in estimation of the quantity of the
9 applicant's water claim prescribed in RCW 90.14.051 if the applicant
10 provides reasons for the failure to claim such right in the original
11 claim;

12 (~~(2)~~) (ii) A change in circumstances not foreseeable at the time
13 the original claim was filed, if such change in circumstances relates
14 only to the manner of transportation or diversion of the water and not
15 to the use or quantity of such water; or

16 (~~(3)~~) (iii) The amendment is ministerial in nature.

17 (b) The department shall accept any such submission and file the
18 same in the registry unless the department by written determination
19 concludes that the requirements of (a)(i), (ii), or (iii) of this
20 subsection (~~((1), (2), or (3) of this section))~~ have not been
21 satisfied.

22 (2) In addition to subsection (1) of this section, a surface water
23 right claim may be changed or transferred in the same manner as a
24 permit or certificate under RCW 90.03.380, and a water right claim for
25 groundwater may be changed or transferred as provided under RCW
26 90.03.380 and 90.44.100.

27 (3) Any person aggrieved by a determination of the department may
28 obtain a review thereof by filing a petition for review with the
29 pollution control hearings board within thirty days of the date of the
30 determination by the department. The provisions of RCW 90.14.081 shall
31 apply to any amendment filed or approved under this section.

32 **Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read
33 as follows:

34 (1) After an application to, and upon the issuance by the
35 department of an amendment to the appropriate permit or certificate of
36 groundwater right, the holder of a valid right to withdraw public
37 groundwaters may, without losing the holder's priority of right,

1 construct wells or other means of withdrawal at a new location in
2 substitution for or in addition to those at the original location, or
3 the holder may change the manner or the place of use of the water.

4 (2) An amendment to construct replacement or a new additional well
5 or wells at a location outside of the location of the original well or
6 wells or to change the manner or place of use of the water shall be
7 issued only after publication of notice of the application and findings
8 as prescribed in the case of an original application. Such amendment
9 shall be issued by the department only on the conditions that: (a) The
10 additional or replacement well or wells shall tap the same body of
11 public groundwater as the original well or wells; (b) where a
12 replacement well or wells is approved, the use of the original well or
13 wells shall be discontinued and the original well or wells shall be
14 properly decommissioned as required under chapter 18.104 RCW; (c) where
15 an additional well or wells is constructed, the original well or wells
16 may continue to be used, but the combined total withdrawal from the
17 original and additional well or wells shall not enlarge the right
18 conveyed by the original permit or certificate; and (d) other existing
19 rights shall not be impaired. The department may specify an approved
20 manner of construction and shall require a showing of compliance with
21 the terms of the amendment, as provided in RCW 90.44.080 in the case of
22 an original permit.

23 (3) The construction of a replacement or new additional well or
24 wells at the location of the original well or wells shall be allowed
25 without application to the department for an amendment. However, the
26 following apply to such a replacement or new additional well: (a) The
27 well shall tap the same body of public groundwater as the original well
28 or wells; (b) if a replacement well is constructed, the use of the
29 original well or wells shall be discontinued and the original well or
30 wells shall be properly decommissioned as required under chapter 18.104
31 RCW; (c) if a new additional well is constructed, the original well or
32 wells may continue to be used, but the combined total withdrawal from
33 the original and additional well or wells shall not enlarge the right
34 conveyed by the original water use permit or certificate; (d) the
35 construction and use of the well shall not interfere with or impair
36 water rights with an earlier date of priority than the water right or
37 rights for the original well or wells; (e) the replacement or
38 additional well shall be located no closer than the original well to a

1 well it might interfere with; (f) the department may specify an
2 approved manner of construction of the well; and (g) the department
3 shall require a showing of compliance with the conditions of this
4 subsection (3).

5 (4) As used in this section, the "location of the original well or
6 wells" of a water right permit or certificate is the area described as
7 the point of withdrawal in the original public notice published for the
8 application for the water right for the well. The location of the
9 original well or wells of a water right claim filed under chapter 90.14
10 RCW is the area located within a one-quarter mile radius of the current
11 well or wells.

12 (5) The development and use of a small irrigation impoundment, as
13 defined in RCW 90.03.370(8), does not constitute a change or amendment
14 for the purposes of this section. The exemption expressly provided by
15 this subsection shall not be construed as requiring an amendment of any
16 existing water right to enable the holder of the right to store water
17 governed by the right.

18 (6) This section does not apply to a water right involved in an
19 approved local water plan created under RCW 90.92.090 or a banked water
20 right under RCW 90.92.070.

21 **Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read
22 as follows:

23 (1) After an application to, and upon the issuance by the
24 department of an amendment to the appropriate permit or certificate of
25 groundwater right, the holder of a valid right to withdraw public
26 groundwaters may, without losing the holder's priority of right,
27 construct wells or other means of withdrawal at a new location in
28 substitution for or in addition to those at the original location, or
29 the holder may change the manner or the place of use of the water.

30 (2) An amendment to construct replacement or a new additional well
31 or wells at a location outside of the location of the original well or
32 wells or to change the manner or place of use of the water shall be
33 issued only after publication of notice of the application and findings
34 as prescribed in the case of an original application. Such amendment
35 shall be issued by the department only on the conditions that: (a) The
36 additional or replacement well or wells shall tap the same body of
37 public groundwater as the original well or wells; (b) where a

1 replacement well or wells is approved, the use of the original well or
2 wells shall be discontinued and the original well or wells shall be
3 properly decommissioned as required under chapter 18.104 RCW; (c) where
4 an additional well or wells is constructed, the original well or wells
5 may continue to be used, but the combined total withdrawal from the
6 original and additional well or wells shall not enlarge the right
7 conveyed by the original permit or certificate; and (d) other existing
8 rights shall not be impaired. The department may specify an approved
9 manner of construction and shall require a showing of compliance with
10 the terms of the amendment, as provided in RCW 90.44.080 in the case of
11 an original permit.

12 (3) The construction of a replacement or new additional well or
13 wells at the location of the original well or wells shall be allowed
14 without application to the department for an amendment. However, the
15 following apply to such a replacement or new additional well: (a) The
16 well shall tap the same body of public groundwater as the original well
17 or wells; (b) if a replacement well is constructed, the use of the
18 original well or wells shall be discontinued and the original well or
19 wells shall be properly decommissioned as required under chapter 18.104
20 RCW; (c) if a new additional well is constructed, the original well or
21 wells may continue to be used, but the combined total withdrawal from
22 the original and additional well or wells shall not enlarge the right
23 conveyed by the original water use permit or certificate; (d) the
24 construction and use of the well shall not interfere with or impair
25 water rights with an earlier date of priority than the water right or
26 rights for the original well or wells; (e) the replacement or
27 additional well shall be located no closer than the original well to a
28 well it might interfere with; (f) the department may specify an
29 approved manner of construction of the well; and (g) the department
30 shall require a showing of compliance with the conditions of this
31 subsection (3).

32 (4) As used in this section, the "location of the original well or
33 wells" of a water right permit or certificate is the area described as
34 the point of withdrawal in the original public notice published for the
35 application for the water right for the well. The location of the
36 original well or wells of a water right claim filed under chapter 90.14
37 RCW is the area located within a one-quarter mile radius of the current
38 well or wells.

1 (5) The development and use of a small irrigation impoundment, as
2 defined in RCW 90.03.370(8), does not constitute a change or amendment
3 for the purposes of this section. The exemption expressly provided by
4 this subsection shall not be construed as requiring an amendment of any
5 existing water right to enable the holder of the right to store water
6 governed by the right.

7 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.44 RCW
8 to read as follows:

9 Applications to appropriate groundwater under a cost-reimbursement
10 agreement must be processed in accordance with RCW 90.03.265 when an
11 applicant requests the assignment of a cost-reimbursement consultant as
12 provided in RCW 43.21A.690.

13 NEW SECTION. **Sec. 12.** A new section is added to chapter 90.44 RCW
14 to read as follows:

15 (1) The department may expedite processing of applications within
16 the same source of water on its own volition when there is interest
17 from a sufficient number of applicants or upon receipt of written
18 requests from at least ten percent of the applicants within the same
19 source of water.

20 (2) If the conditions of subsection (1) of this section have been
21 met and the department determines that the public interest is best
22 served by expediting applications within a water source, the department
23 must notify in writing all persons who have pending applications on
24 file for a new appropriation, change, transfer, or amendment of a water
25 right from that water source. A water source may include surface water
26 only, groundwater only, or surface and groundwater together if the
27 department determines that they are hydraulically connected. The
28 notice must be posted on the department's web site and published in a
29 newspaper of general circulation in the area where affected properties
30 are located. The notice must also be made individually by way of mail
31 to:

32 (a) Inform those applicants that expedited processing of
33 applications within the described water source is being initiated;

34 (b) Provide to individual applicants the criteria under which the
35 applications will be examined and determined;

1 (c) Provide to individual applicants the estimated cost for having
2 an application processed on an expedited basis;

3 (d) Provide an estimate of how long the expedited process will take
4 before an application is approved or denied; and

5 (e) Provide at least sixty days for the applicants to respond in
6 writing regarding the applicant's decision to participate in expedited
7 processing of their applications.

8 (3) In addition to the application fees provided in RCW 90.03.470,
9 the department must recover the full cost of processing all the
10 applications from applicants who elect to participate within the water
11 source through expedited processing fees. The department must
12 calculate an expedited processing fee based primarily on the
13 proportionate quantity of water requested by each applicant and may
14 adjust the fee if it appears that an application will require a
15 disproportionately greater amount of time and effort to process due to
16 its complexity. Any application fees that were paid by the applicant
17 under RCW 90.03.470 must be credited against the applicant's share of
18 the cost of processing applications under the provisions of this
19 section.

20 (4) The expedited processing fee must be collected by the
21 department prior to the expedited processing of an application.
22 Revenue collected from these fees must be deposited into the water
23 rights processing account created in section 4 of this act. An
24 applicant who has stated in writing that he or she wants his or her
25 application processed using the expedited procedures in this section
26 must transmit the processing fee within sixty days of the written
27 request. Failure to do so will result in the applicant not being
28 included in expedited processing for that water source.

29 (5) If an applicant elects not to participate in expedited
30 processing, the application remains on file with the department, the
31 applicant retains his or her priority date, and the application may be
32 processed through regular processing, priority processing, expedited
33 processing, coordinated cost-reimbursement processing, cost-
34 reimbursement processing, or through conservancy board processing as
35 authorized under chapter 90.80 RCW. Such an application may not be
36 processed through expedited processing within twelve months after the
37 department's issuance of decisions on participating applications at the
38 conclusion of expedited processing unless the applicant agrees to pay

1 the full proportionate share that would otherwise have been paid during
2 such processing. Any proceeds collected from an applicant under this
3 delayed entry into expedited processing shall be used to reimburse the
4 other applicants who participated in the previous expedited processing
5 of applications, provided sufficient proceeds remain to fully cover the
6 department's cost of processing the delayed entry application and the
7 department's estimated administrative costs to reimburse the previously
8 expedited applicants.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 90.03 RCW
10 to read as follows:

11 Nothing in this act affects or diminishes the processing of water
12 right applications under any other existing authority, including but
13 not limited to existing authority for the priority processing of
14 applications by the department.

15 NEW SECTION. **Sec. 14.** Section 9 of this act expires June 30,
16 2019.

17 NEW SECTION. **Sec. 15.** Section 10 of this act takes effect June
18 30, 2019.

19 NEW SECTION. **Sec. 16.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected."

23 Correct the title.

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