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**SENATE BILL 5005**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Padden, Takko, and Warnick

AN ACT Relating to identifying certain water rights held by municipal water suppliers as water rights available for municipal water supply purposes; amending RCW 90.03.560; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature recognizes that certain irrigation water rights held by municipal water suppliers in critical water supply service areas with developing residential, commercial, or industrial areas should be available for use by those municipal water suppliers for municipal water supply purposes. Municipal water suppliers operating in the counties identified in this act have encountered severe difficulties in ensuring that they will be able to provide needed water for municipal water supply purposes to communities in those areas, many of which have continued to experience above-average population growth in recent years. The legislature intends to relieve the burden on those communities, which are uniquely dependent on the ability of irrigation districts and others to serve as municipal water suppliers, by permitting municipal water suppliers to have water rights amended by the department of ecology to identify certain irrigation water rights as being available for municipal water supply purposes.

(2) The legislature further intends that, once identified as water rights available for municipal water supply purposes, the water rights should be retained by the municipal water supplier to be used for future growth, or, if not retained, only transferred among municipal water suppliers that are using the same waterbody as the source of water for municipal water supply purposes in a critical water supply service area, for future growth.

(3) This act is consistent with the general declaration of water utilization and management fundamentals expressed in RCW 90.54.020 because it encourages the development of water supply systems that provide water to the public generally in regional areas within the state.

**Sec.**  RCW 90.03.560 and 2003 1st sp.s. c 5 s 3 are each amended to read as follows:

(1) When requested by a municipal water supplier or when processing a change or amendment to the right, the department shall amend the water right documents and related records to ensure that water rights that are for municipal water supply purposes, as defined in RCW 90.03.015, are correctly identified as being for municipal water supply purposes. This section authorizes a water right or portion of a water right held or acquired by a municipal water supplier that is for municipal water supply purposes as defined in RCW 90.03.015 to be identified as being a water right for municipal water supply purposes. However, it does not authorize any other water right or other portion of a right held or acquired by a municipal water supplier to be so identified without the approval of a change or transfer of the right or portion of the right for such a purpose.

(2) Notwithstanding subsection (1) of this section, upon request by a municipal water supplier the department shall amend the water right documents and related records to identify irrigation purpose of use water rights or agricultural irrigation purpose of use water rights, or such portions of water rights, as being for municipal water supply purposes without reducing the amount of water available under the water rights if:

(a) The irrigation or agricultural irrigation purpose of use water rights were acquired by the municipal water supplier prior to September 9, 2003;

(b) The irrigation or agricultural irrigation purpose of use water rights are not currently being used for commercial agricultural purposes; and

(c) The amended water rights will be used within a critical water supply service area under a coordinated water system plan, as defined in RCW 70.116.030.

(3) A municipal water supplier operating under a coordinated water system plan may transfer all or a portion of water rights that were amended and identified as being for municipal water supply purposes under subsection (2) of this section to other municipal water suppliers that are operating under the coordinated water system plan and using water from the same waterbody as the transferor.

(4) A municipal water supplier that owns or operates separate water systems using water from the same waterbody and operating under a coordinated water system plan may transfer all or a portion of water rights that were amended and identified as being for municipal water supply purposes under subsection (2) of this section for use in any of the municipal water supplier's water systems.

(5) Subsections (2) through (4) of this section do not limit the ability of a municipal water supplier to apply for a change or transfer of any water right or portion of a water right.

(6) Subsections (2) through (5) of this section only apply in counties east of the crest of the Cascade mountain range with a population greater than four hundred fifty thousand.

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