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**HOUSE BILL 2101**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Goehner, Eslick, and Sutherland

Read first time 01/27/22. Referred to Committee on Rural Development, Agriculture & Natural Resources.

1 AN ACT Relating to modifying the scope of locations to which a  
2 water right established as a family farm permit may be transferred;  
3 and amending RCW 90.66.065 and 36.70A.360.

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

5 **Sec. 1.** RCW 90.66.065 and 2001 c 237 s 23 are each amended to  
6 read as follows:

7 (1) Transfers of water rights established as family farm permits  
8 under this chapter may be approved as authorized under this section  
9 and under RCW 90.03.380, 90.03.390, or 90.44.100 or chapter 90.80 RCW  
10 as appropriate.

11 (2) A family farm permit may be transferred:

12 (a) For use for agricultural irrigation purposes as limited by  
13 RCW 90.66.060 (1) and (2);

14 (b) To any purpose of use that is a beneficial use of water if  
15 the transfer is made exclusively under a lease agreement, except that  
16 transfers for the use of water for agricultural irrigation purposes  
17 shall be limited as provided by RCW 90.66.060 (1) and (2);

18 (c) To any purpose of use that is a beneficial use of water if  
19 the water right is for the use of water at a location that is, at the  
20 time the transfer is approved, within the boundaries of an urban  
21 growth area designated under chapter 36.70A RCW, a limited area of

1 more intensive rural development designated under chapter 36.70A RCW,  
2 a master planned resort designated under chapter 36.70A RCW, or, in  
3 counties not planning under chapter 36.70A RCW, within a city or town  
4 or within areas designated for urban growth in comprehensive plans  
5 prepared under chapter 36.70 RCW, except that transfers for the use  
6 of water for agricultural irrigation purposes shall be limited as  
7 provided by RCW 90.66.060 (1) and (2).

8 (3) If a portion of the water governed by a water right  
9 established under the authority of a family farm permit is made  
10 surplus to the beneficial uses exercised under the right through the  
11 implementation of practices or technologies, including but not  
12 limited to conveyance practices or technologies, that are more water-  
13 use efficient than those under which the right was perfected, the  
14 right to use the surplus water may be transferred to any purpose of  
15 use that is a beneficial use of water. Nothing in this subsection  
16 authorizes: A transfer of the portion of a water right that is  
17 necessary for the production of crops historically grown under the  
18 right; or a transfer of a water right or a portion of a water right  
19 that has not been perfected through beneficial use before the  
20 transfer. Water right transfers approved under this subsection must  
21 be consistent with the provisions of RCW 90.03.380(1).

22 (4) Before a change in purpose of a family farm water permit to  
23 municipal supply purpose or domestic purpose may be authorized, the  
24 public water system that is receiving the family farm water permit  
25 must be meeting the water conservation requirements of its current  
26 water system plan approved by the department of health or its small  
27 water system management program.

28 (5) The place of use for a water right transferred under the  
29 authority of this section shall remain within: The water resource  
30 inventory area containing the place of use for the water right before  
31 the transfer; or the urban growth area or contiguous urban growth  
32 areas of the place of use for the water right before the transfer if  
33 the urban growth area or contiguous urban growth areas cross  
34 boundaries of water resource inventory areas.

35 (6) The authority granted by this section to transfer or alter  
36 the purpose of use of a water right established under the authority  
37 of a family farm permit shall not be construed as limiting in any  
38 manner the authority granted by RCW 90.03.380, 90.03.390, or  
39 90.44.100 to alter other elements of such a water right.

1       **Sec. 2.** RCW 36.70A.360 and 1998 c 112 s 2 are each amended to  
2 read as follows:

3       (1) Counties that are required or choose to plan under RCW  
4 36.70A.040 may permit master planned resorts which may constitute  
5 urban growth outside of urban growth areas as limited by this  
6 section. A master planned resort means a self-contained and fully  
7 integrated planned unit development, in a setting of significant  
8 natural amenities, with primary focus on destination resort  
9 facilities consisting of short-term visitor accommodations associated  
10 with a range of developed on-site indoor or outdoor recreational  
11 facilities.

12       (2)(a) Capital facilities, utilities, and services, including  
13 those related to sewer, water, stormwater, security, fire  
14 suppression, and emergency medical, provided on-site shall be limited  
15 to meeting the needs of the master planned resort. Such facilities,  
16 utilities, and services may be provided to a master planned resort by  
17 outside service providers, including municipalities and special  
18 purpose districts, provided that all costs associated with service  
19 extensions and capacity increases directly attributable to the master  
20 planned resort are fully borne by the resort. A master planned resort  
21 and service providers may enter into agreements for shared capital  
22 facilities and utilities, provided that such facilities and utilities  
23 serve only the master planned resort or urban growth areas.

24       (b) Nothing in this subsection may be construed as: Establishing  
25 an order of priority for processing applications for water right  
26 permits, for granting such permits, or for issuing certificates of  
27 water right; altering or authorizing in any manner the alteration of  
28 the place of use for a water right; or affecting or impairing in any  
29 manner whatsoever an existing water right.

30       (c) All waters or the use of waters shall be regulated and  
31 controlled as provided in chapters 90.03 (~~and~~), 90.44, and 90.66  
32 RCW and not otherwise.

33       (3) A master planned resort may include other residential uses  
34 within its boundaries, but only if the residential uses are  
35 integrated into and support the on-site recreational nature of the  
36 resort.

37       (4) A master planned resort may be authorized by a county only  
38 if:

39       (a) The comprehensive plan specifically identifies policies to  
40 guide the development of master planned resorts;

1 (b) The comprehensive plan and development regulations include  
2 restrictions that preclude new urban or suburban land uses in the  
3 vicinity of the master planned resort, except in areas otherwise  
4 designated for urban growth under RCW 36.70A.110;

5 (c) The county includes a finding as a part of the approval  
6 process that the land is better suited, and has more long-term  
7 importance, for the master planned resort than for the commercial  
8 harvesting of timber or agricultural production, if located on land  
9 that otherwise would be designated as forestland or agricultural land  
10 under RCW 36.70A.170;

11 (d) The county ensures that the resort plan is consistent with  
12 the development regulations established for critical areas; and

13 (e) On-site and off-site infrastructure and service impacts are  
14 fully considered and mitigated.

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