

HOUSE BILL REPORT

HB 2039

As Passed House:

March 9, 1995

Title: An act relating to certain applications for water rights or water transfers.

Brief Description: Prescribing rights for certain applications for water rights or water transfers.

Sponsors: Representatives Kremen and Chandler.

Brief History:

Committee Activity:

Agriculture & Ecology: 3/1/95 [DP].

Floor Activity:

Passed House: 3/9/95, 97-0.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass. Signed by 17 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; R. Fisher; Honeyford; Johnson; Kremen; Poulsen; Regala; Robertson; Rust and Schoesler.

Staff: Kenneth Hirst (786-7105).

Background:

Code and Pre-Code Rights. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water were to be established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. The permit system is based on the prior appropriation doctrine that "first in time is first in right." Prior to these enactments, rights to water were obtained in a variety of ways and under a variety of water doctrines. These pre-code rights to surface water could be obtained by appropriation, prescription, or by virtue of riparian land ownership. The doctrine in effect in this state prior to the adoption of the groundwater code in 1945 was the reasonable use and correlative rights doctrine. It is similar to the riparian doctrine for surface water rights in that it is based on land ownership.

Summary of Bill: A person is granted a water right if: the person has filed an application with the Department of Ecology for a water right or water right transfer before December 31, 1994; the person placed water to beneficial use for irrigation or stock watering purposes before January 1, 1993, but a permit or certificate was not issued by the department or its predecessor for the use; and there has not been a period of nonuse for five successive years. The priority date for such a water right is the effective date of the bill. The amount of water that may be withdrawn under it may not exceed the maximum annual amount put to beneficial use during the five year period before January 1, 1993.

Appropriation: None.

Fiscal Note: Requested on February 27, 1994.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) Most of the agricultural land in Whatcom County is being farmed without a water right. The bill will maintain a strong agricultural community and also permit the state to get a record of water use in the area.

Testimony Against: None.

Testified: Representative Kremen (prime sponsor).