
HOUSE BILL 1772

State of Washington

54th Legislature

1995 Regular Session

By Representatives Chandler, Kremen, Mastin, McMorris, Robertson, Honeyford, Koster, Mulliken, Campbell and Basich

Read first time 02/08/95. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to water rights acquired by prescription or adverse
2 use; amending RCW 90.14.220, 90.14.041, 90.14.071, 90.03.250, and
3 90.44.050; and adding a new section to chapter 90.14 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.14 RCW
6 to read as follows:

7 (1) The legislature expressly acknowledges that establishing rights
8 to the beneficial use of ground or surface waters of the state by
9 prescription or adverse use was not prohibited until July 1, 1967. The
10 legislature finds, however, that considerable confusion persists as to
11 whether statements of claims regarding such rights were authorized to
12 be filed during previous claim filing periods provided by this chapter.

13 (2) A filing period for filing statements of claims for water
14 rights acquired by prescription or adverse use is established. The
15 filing period shall begin September 1, 1995, and shall end at midnight
16 June 30, 1996. A statement filed during this filing period shall be
17 filed as provided in RCW 90.14.051 and 90.14.061 and shall be subject
18 to the provisions of this chapter regarding statements of claim. The
19 provisions of this chapter regarding the relinquishment of rights for

1 abandonment or failure beneficially to use water without sufficient
2 cause apply to rights claimed under this section. Each statement of
3 claim shall be accompanied by a signed certification that the waters
4 governed by the claimed right have been applied to beneficial use
5 continuously, with no period of nonuse exceeding five consecutive years
6 without sufficient cause, since July 1, 1967. The statement of claim
7 forms provided under RCW 90.14.051 shall identify or facilitate this
8 certification requirement.

9 (3) The department of ecology shall, at least once each week during
10 the month of August 1995 and at least once each month during the filing
11 period, publish a notice regarding this filing period in newspapers of
12 general circulation in the various regions of the state. The notice
13 shall contain the substance of the following notice:

14 WATER RIGHTS NOTICE

15 Every person and entity, public or private, claiming rights to
16 the beneficial use of water established by prescription or
17 adverse use must register the claim with the department of
18 ecology, Olympia, Washington, on or after September 1, 1995,
19 and not later than June 30, 1996. FAILURE TO REGISTER AS
20 REQUIRED BY LAW WILL RESULT IN A WAIVER AND RELINQUISHMENT OF
21 SAID WATER RIGHT OR CLAIMED WATER RIGHT. For further
22 information contact the department of ecology, Olympia,
23 Washington, for a copy of the law providing this filing period
24 and an explanation of the law and its requirements.

25 The department shall also prepare, make available to the public,
26 and distribute to the communications media information describing the
27 types of rights for which statements of claim need not be filed, the
28 effect of filing, the effect of RCW 90.14.071, the certification that
29 must accompany such a claim, and other information relevant to filings
30 and statements of claim for such rights.

31 **Sec. 2.** RCW 90.14.220 and 1967 c 233 s 22 are each amended to read
32 as follows:

33 Beginning July 1, 1967, no rights to the use of surface or ground
34 waters of the state affecting either appropriated or unappropriated
35 waters thereof may be acquired by prescription or adverse use.

1 **Sec. 3.** RCW 90.14.041 and 1988 c 127 s 73 are each amended to read
2 as follows:

3 All persons using or claiming the right to withdraw or divert and
4 make beneficial use of public surface or ground waters of the state,
5 except as ((hereinafter)) provided in this section, RCW 90.14.043, and
6 section 1 of this act, shall file with the department of ecology not
7 later than June 30, 1974, a statement of claim for each water right
8 asserted on a form provided by the department. This section shall not
9 apply to any water rights which are based on the authority of a permit
10 or certificate issued by the department of ecology or one of its
11 predecessors.

12 **Sec. 4.** RCW 90.14.071 and 1969 ex.s. c 284 s 16 are each amended
13 to read as follows:

14 Any person claiming the right to divert or withdraw waters of the
15 state as set forth in RCW 90.14.041, who fails to file a statement of
16 claim as provided in RCW 90.14.041, 90.14.043, or section 1 of this
17 act, and in RCW 90.14.051 and 90.14.061, shall be conclusively deemed
18 to have waived and relinquished any right, title, or interest in said
19 right.

20 **Sec. 5.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to read
21 as follows:

22 Except as provided in section 1 of this act, any person, municipal
23 corporation, firm, irrigation district, association, corporation or
24 water users' association hereafter desiring to appropriate water for a
25 beneficial use shall make an application to the department for a permit
26 to make such appropriation, and shall not use or divert such waters
27 until he has received a permit from the department as in this chapter
28 provided. The construction of any ditch, canal or works, or performing
29 any work in connection with said construction or appropriation, or the
30 use of any waters, shall not be an appropriation of such water nor an
31 act for the purpose of appropriating water unless a permit to make said
32 appropriation has first been granted by the department: PROVIDED, That
33 a temporary permit may be granted upon a proper showing made to the
34 department to be valid only during the pendency of such application for
35 a permit unless sooner revoked by the department: PROVIDED, FURTHER,
36 That nothing in this chapter contained shall be deemed to affect RCW
37 90.40.010 through 90.40.080 except that the notice and certificate

1 therein provided for in RCW 90.40.030 shall be addressed to the
2 department, and the department shall exercise the powers and perform
3 the duties prescribed by RCW 90.40.030.

4 **Sec. 6.** RCW 90.44.050 and 1987 c 109 s 108 are each amended to
5 read as follows:

6 Except as provided by section 1 of this act and this section, after
7 June 6, 1945, no withdrawal of public ground waters of the state shall
8 be begun, nor shall any well or other works for such withdrawal be
9 constructed, unless an application to appropriate such waters has been
10 made to the department and a permit has been granted by it as herein
11 provided(~~(:—EXCEPT, HOWEVER, That)~~). However, any withdrawal of
12 public ground waters for stock-watering purposes, or for the watering
13 of a lawn or of a noncommercial garden not exceeding one-half acre in
14 area, or for single or group domestic uses in an amount not exceeding
15 five thousand gallons a day, or for an industrial purpose in an amount
16 not exceeding five thousand gallons a day, is and shall be exempt from
17 the provisions of this section, but, to the extent that it is regularly
18 used beneficially, shall be entitled to a right equal to that
19 established by a permit issued under the provisions of this chapter:
20 PROVIDED, HOWEVER, That the department from time to time may require
21 the person or agency making any such small withdrawal to furnish
22 information as to the means for and the quantity of that withdrawal:
23 PROVIDED, FURTHER, That at the option of the party making withdrawals
24 of ground waters of the state not exceeding five thousand gallons per
25 day, applications under this section or declarations under RCW
26 90.44.090 may be filed and permits and certificates obtained in the
27 same manner and under the same requirements as is in this chapter
28 provided in the case of withdrawals in excess of five thousand gallons
29 a day.

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