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SECOND SUBSTITUTE HOUSE BILL 2198

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State of Washington

54th Legislature

1996 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Mastin, Chandler, Schoesler, Lisk, Mulliken, Grant, Honeyford, Koster, Delvin, Robertson, Campbell, Horn and Johnson)

Read first time 02/02/96.

1 AN ACT Relating to water rights claims; amending RCW 90.14.041 and  
2 90.14.071; and adding new sections to chapter 90.14 RCW.

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

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

6 (1) A new period for filing statements of claim for water rights is  
7 established. The filing period shall begin September 1, 1996, and  
8 shall end at midnight June 30, 1997. A statement filed during this  
9 filing period shall be filed as provided in RCW 90.14.051 and 90.14.061  
10 and shall be subject to the provisions of this chapter regarding  
11 statements of claim. This reopening of the period for filing  
12 statements of claim shall not affect or impair in any respect  
13 whatsoever any water right existing prior to the effective date of this  
14 section. A water right embodied in a statement of claim filed under  
15 this section is subordinate to any water right embodied in a permit or  
16 certificate issued under chapter 90.03 or 90.44 RCW prior to the date  
17 the statement of claim is filed with the department and is subordinate  
18 to any water right embodied in a statement of claim filed in the water  
19 rights claims registry before the effective date of this section.

1 (2) The department of ecology shall, at least once each week during  
2 the month of August 1996 and at least once each month during the filing  
3 period, publish a notice regarding this new filing period in newspapers  
4 of general circulation in the various regions of the state. The notice  
5 shall contain the substance of the following notice:

6 WATER RIGHTS NOTICE

7 Every person and entity, public or private, claiming water  
8 rights established under the laws of the state of Washington,  
9 are hereby notified that all water rights or claimed water  
10 rights relating to the withdrawal or diversion of public  
11 surface or ground waters of the state, except those water  
12 rights based upon the authority of a permit or certificate  
13 issued by the department of ecology or one of its predecessors,  
14 based on the exemption from permitting requirements provided by  
15 RCW 90.44.050 for certain limited uses of ground water, or  
16 based upon a statement of claim that has previously been filed  
17 in the state's water rights claims registry during other  
18 registration periods, must be registered with the department of  
19 ecology, Olympia, Washington, on or after September 1, 1996,  
20 and not later than June 30, 1997. FAILURE TO REGISTER AS  
21 REQUIRED BY LAW WILL RESULT IN A WAIVER AND RELINQUISHMENT OF  
22 SAID WATER RIGHT OR CLAIMED WATER RIGHT. For further  
23 information contact the department of ecology, Olympia,  
24 Washington, for a copy of the law providing this filing period  
25 and an explanation of the law and its requirements.

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

31 (3) The department of ecology shall ensure that employees of the  
32 department are readily available to respond to inquiries regarding  
33 filing statements of claim and that all of the information the  
34 department has at its disposal that is relevant to an inquiry regarding  
35 a particular potential claim, including information regarding other  
36 rights and claims in the vicinity of the potentially claimed right, is  
37 available to the person making the inquiry. The department shall  
38 dedicate additional staff in each of the department's regional offices

1 and in the department's central office to ensure that responses and  
2 information are provided in a timely manner during each of the business  
3 days during the month of August 1996 and during the new filing period.

4 (4) To assist the department in avoiding unnecessary duplication,  
5 the department shall provide to a requestor, within ten working days of  
6 receiving the request, the records of any water right claimed, listed,  
7 recorded, or otherwise existing in the records of the department or its  
8 predecessor agencies, including any report of a referee in a water  
9 rights adjudication. This information shall be provided as required by  
10 this subsection if the request is provided in writing from the owner of  
11 the water right or from the holder of a possessory interest in any real  
12 property for water right records associated with the property or if the  
13 requestor is an attorney for such an owner. The information regarding  
14 water rights in the area served by a regional office of the department  
15 shall also be provided within ten working days to any requestor who  
16 requests to review the information in person in the department's  
17 regional office. The information held by the headquarters office of  
18 the department shall also be provided within ten working days to any  
19 requestor who requests to review the information in person in the  
20 department's headquarters office. The requirements of this subsection  
21 that records and information be provided to requestors within ten  
22 working days may not be construed as limiting in any manner the  
23 obligations of the department to provide public access to public  
24 records as required by chapter 42.17 RCW.

25 (5) This section does not apply to claims for the use of ground  
26 water withdrawn in an area that is, during the period established by  
27 subsection (2) of this section, the subject of a general adjudication  
28 proceeding for water rights in superior court under RCW 90.03.110  
29 through 90.03.245 and the proceeding applies to ground water rights.  
30 This section does not apply to claims for the use of surface water  
31 withdrawn in an area that is, during the period established by  
32 subsection (2) of this section, the subject of a general adjudication  
33 proceeding for water rights in superior court under RCW 90.03.110  
34 through 90.03.245 and the proceeding applies to surface water rights.

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

37 All persons using or claiming the right to withdraw or divert and  
38 make beneficial use of public surface or ground waters of the state,

1 except as (~~hereinafter~~) provided in this section, RCW 90.14.043, and  
2 section 1 of this act, shall file with the department of ecology not  
3 later than June 30, 1974, a statement of claim for each water right  
4 asserted on a form provided by the department. Neither this section  
5 (~~shall not~~) nor section 1 of this act apply to any water rights which  
6 are based on the authority of a permit or certificate issued by the  
7 department of ecology or one of its predecessors. Further, section 1  
8 of this act does not apply to the beneficial uses of water which are  
9 the subject of statements of claim in the water rights claims registry  
10 prior to September 1, 1996, or which are exempted from permit and  
11 application requirements by RCW 90.44.050 and neither this section nor  
12 section 1 of this act requires that statements of claims for such uses  
13 be filed during the filing period established by section 1 of this act.

14 **Sec. 3.** RCW 90.14.071 and 1969 ex.s. c 284 s 16 are each amended  
15 to read as follows:

16 Except as provided in section 5 of this act or as exempted from  
17 filing by RCW 90.14.041, any person claiming the right to divert or  
18 withdraw waters of the state as set forth in RCW 90.14.041, who fails  
19 to file a statement of claim as provided in RCW 90.14.041, 90.14.043,  
20 or section 1 of this act and in RCW 90.14.051 and 90.14.061, shall be  
21 conclusively deemed to have waived and relinquished any right, title,  
22 or interest in said right.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.14 RCW  
24 to read as follows:

25 Any person or entity, or successor to such person or entity, having  
26 a statement of claim on file with the water rights claims registry on  
27 the effective date of this section, may submit to the department of  
28 ecology for filing an amendment to such a statement of claim as  
29 provided in this section. Such an amendment may be submitted only to  
30 correct an error in the statement filed and the person submitting the  
31 amendment shall attest in writing that the amendment does not  
32 constitute an expansion of the right for which the statement of claim  
33 was intended. Such an amendment may be submitted only during the  
34 period established in section 1 of this act for filing statements of  
35 claim.

36 The department shall accept any such submission and file the  
37 amendment in the registry unless the department by written

1 determination concludes that the requirements of this section have not  
2 been satisfied. Any person aggrieved by a determination of the  
3 department may obtain a review thereof by filing a petition for review  
4 with the pollution control hearings board within thirty days of the  
5 date of the determination by the department. The provisions of RCW  
6 90.14.081 shall apply to any amendment filed under this section. This  
7 section shall not be construed as limiting the authority of a person or  
8 entity to submit an amendment under RCW 90.14.065.

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

11 During the period beginning March 1, 1994, and ending at midnight  
12 June 30, 1997, neither the department of ecology nor the pollution  
13 control hearings board may determine or find that a water right has  
14 been waived or relinquished under this chapter based on the failure of  
15 any person or entity to file a statement of claim for the right under  
16 this chapter. Any finding or determination issued contrary to this  
17 section is void. If the department or the board determined that a  
18 person waived or relinquished a water right during the time period  
19 specified in this section, but prior to the effective date of this  
20 section, the sole remedy for the person shall be to file a new claim or  
21 submit an amendment under section 1 or 4 of this act or RCW 90.14.065.

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