
SUBSTITUTE SENATE BILL 5579

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Senate Select Committee on Water Policy
(originally sponsored by Senators Swecker, Rasmussen, Morton, Wood,
Moyer, Palmer and Haugen)

Read first time 03/01/95.

1 AN ACT Relating to a general permit system for appropriating water;
2 adding new sections to chapter 90.03 RCW; adding a new section to
3 chapter 90.44 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the present delay
6 in the processing of water right applications is not beneficial to the
7 citizens of the state nor is it in keeping with the goal of managing
8 the resource to the highest possible standard and maximum net benefit.

9 The legislature further finds that water conservation efforts would
10 be greatly enhanced by a permit system that encourages water right
11 applicants to use only for the amount of water actually necessary to
12 meet their needs.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW
14 to read as follows:

15 (1) The department shall develop a general permit system for
16 appropriating small quantities of surface and ground water. This
17 system must be designed and used to streamline the consideration of
18 applications for small water uses. The general permit system may be

1 applicable state-wide or within a specified geographic area. For a
2 state-wide general permit, all waters of the state shall be eligible
3 for coverage under the system unless the department in consultation
4 with the affected county or counties determines that insufficient
5 waters are available in specific areas to allow additional allocations
6 based on concerns for (a) impairment of existing water rights, (b)
7 declining ground water levels, or (c) fish and wildlife habitat
8 impacts.

9 (2) The evaluation and report required for an application under RCW
10 90.03.290 are not required for applications processed under the general
11 permit system.

12 (3) The notice requirements of RCW 90.03.280, including the receipt
13 of protests of the application, apply for applications to acquire water
14 under a general permit. If a protest appears to have merit and cannot
15 be readily resolved, the department shall remove the application from
16 further consideration under the general permit and shall instead
17 process the application as a standard application to appropriate public
18 water.

19 (4) The fee for general permits authorized under chapter . . . ,
20 Laws of 1995 (this act) shall be the same as the fee charged for the
21 same quantity of water established under chapter 90.03 RCW.

22 (5) The department's decision to approve, condition, or deny an
23 application under a general permit is appealable as provided in RCW
24 43.21B.110.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.03 RCW
26 to read as follows:

27 (1) For the purposes of this section:

28 (a) "Agricultural use" means a use of not more than one-tenth of
29 one cubic foot per second of ground or surface water for any purpose
30 generally accepted as integral to agricultural production;

31 (b) "Multiunit residential use" means a use of not more than one-
32 tenth of one cubic foot per second of ground water to provide domestic
33 water to housing developments of more than one unit;

34 (c) "Nonconsumptive, nonbypass use" means a use of water in which
35 water is diverted from a stream or withdrawn from an aquifer and
36 following its use is discharged, as determined by the department, back
37 to or near the point of diversion or withdrawal without diminishment in
38 quantity or quality. Hydraulic permit approval by the department of

1 fish and wildlife, in accordance with chapter 75.20 RCW, shall be
2 evidence of satisfactory consideration of fish and wildlife habitat
3 protection for any use; and

4 (d) "Without diminishment of quality" means that, before being
5 discharged back to its source, the water being discharged meets state
6 water quality standards adopted under chapter 90.48 RCW.

7 (2) The department shall immediately commence efforts to establish
8 state-wide general permits for nonconsumptive, nonbypass uses,
9 agricultural uses, and multiunit residential uses by adopting rules in
10 accordance with chapter 34.05 RCW. Before the adoption of rules for a
11 general permit system, the department shall consult with
12 representatives of the following groups: Agriculture; aquaculture;
13 home construction and development; county government; city government;
14 tribal governments; other local governmental entities with water system
15 authority; and the environmental community. At least four public
16 hearings must be held at various locations around the state. The rules
17 must identify criteria for proposed uses of water for which
18 applications will be processed under the system and must establish
19 procedures for filing and processing applications under the general
20 permit system.

21 (3) Before January 1, 1996, the department shall file a report with
22 the appropriate standing committees of the legislature regarding
23 progress made toward adoption of the rules required by this section.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.03 RCW
25 to read as follows:

26 (1) An application for appropriating water under a general permit
27 system established under chapter . . . , Laws of 1995 (this act) must be
28 made on a form adopted and provided by the department. Within sixty
29 days of the completion of the protest period, the department shall
30 determine whether the proposed use is eligible to be processed under
31 the general permit system. If the department determines that the
32 proposed use is eligible to be processed under the system, the
33 application must be processed under the system within the following
34 sixty days.

35 (2) The priority date of the water right established pursuant to
36 this section is the date that the application is submitted.

37 (3) If the department determines that the proposed use is not
38 eligible for the processing, the department shall explain to the

1 applicant in writing the reasons for its determination. For a proposed
2 use determined ineligible for the processing, if the department finds
3 that the information contained on the application form substantially
4 satisfies the information requirements for an application for a use
5 that would normally be filed for processing the application outside of
6 the general permit system, the department shall notify the applicant of
7 its finding and shall process the application as if it were filed for
8 processing outside of the system. If the department finds that the
9 information does not substantially satisfy the requirements, the
10 application must be considered to be incomplete for the processing and
11 the applicant must be notified of this consideration.

12 (4) Nothing in sections 2 and 3 of this act and this section is
13 intended to authorize the impairment or operate to impair any existing
14 water rights. A water right holder who establishes a right under the
15 provisions of sections 2 and 3 of this act and this section shall not
16 make withdrawals that impair a senior water right. A holder of a
17 senior water right who believes his or her water right is impaired may
18 file a complaint with the department of ecology. Where such complaints
19 of impairment have been received, the department of ecology shall make
20 all reasonable efforts to resolve them in a timely manner through
21 agreement of the parties or through available administrative remedies.

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.44 RCW
23 to read as follows:

24 An individual well serving a group domestic use and pumping not
25 more than five thousand gallons per day that is established under the
26 small use exemption provided in RCW 90.44.050 may provide water service
27 for up to twelve housing units unless expressly prohibited by the
28 county or city with land use jurisdiction. The department shall
29 require metering of these wells unless it determines that in certain
30 locations or situations metering is not appropriate. This section
31 expires on December 31, 1996.

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