
SUBSTITUTE SENATE BILL 5949

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Senate Select Committee on Water Policy
(originally sponsored by Senator Fraser)

Read first time 03/01/95.

1 AN ACT Relating to water supply regulation; and adding a new
2 section to chapter 43.27A 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 43.27A RCW
5 to read as follows:

6 The purpose of this section is to set forth the powers of the
7 department to regulate the withdrawal or diversion of public waters and
8 water or water rights related thereto including regulation based on
9 dates of priority or other pertinent factors. Regulatory actions taken
10 under this section shall be based on examination and determination by
11 the department or the court, as applicable, of the various water rights
12 involved according to the department's records and other records and
13 pertinent facts. The powers set forth in this section may be exercised
14 whether or not a general adjudication relating to the water rights
15 involved has been conducted.

16 (1) In a regulatory situation (a) where a water right or all water
17 rights proposed for regulation by the department, as well as any right
18 or rights of a senior priority that the proposed regulation is designed
19 to protect, is or are embodied in a certificate or certificates issued

1 under RCW 90.03.240, 90.03.330, 90.38.040, 90.42.040, or 90.44.060 or
2 a permit or permits issued pursuant to RCW 90.03.290 or 90.44.060; or
3 (b) where a flow or level has been established by rule pursuant to
4 chapter 90.22 or 90.54 RCW; or (c) where it appears to the department
5 that public waters are being withdrawn without any right or other
6 appropriate authority whatsoever, the department in its discretion is
7 authorized to regulate the right or rights under either RCW 43.27A.190
8 or subsection (2) of this section.

9 (2) In a regulatory situation where one or more of the water rights
10 proposed for regulation by the department, as well as any right or
11 rights of a senior priority that the proposed regulation is designed to
12 protect, is not or are not embodied in a permit or certificate as
13 described in subsection (1) of this section, the department, as its
14 sole and exclusive power to regulate, is authorized to bring an
15 appropriate action at law or in equity, including seeking injunctive
16 relief, as it may deem necessary. Where actions are brought in a state
17 court, the actions shall be initiated in the superior court of the
18 county where the point or points of diversion of the water right or
19 rights proposed for regulation are located. If the points of diversion
20 are located in more than one county, the department may bring the
21 action in a county where a point of diversion is located.

22 (3) Nothing in this section authorizes the department to accomplish
23 a general adjudication of water rights proceeding or the substantial
24 equivalent of a general adjudication of water rights. The exclusive
25 procedure for accomplishing a general adjudication of water rights is
26 under RCW 90.03.110 through 90.03.245 or 90.44.220.

27 (4) Nothing in this section shall amend, revise, or repeal RCW
28 90.14.130 or 90.14.200.

29 (5) This section does not in any way modify regulatory powers
30 previously placed with the department except as provided in subsections
31 (1) and (2) of this section.

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