

HOUSE BILL REPORT

HB 1730

As Reported By House Committee On:

Agriculture & Ecology

Title: An act relating to sufficient cause for nonuse of water rights.

Brief Description: Changing provisions relating to sufficient cause for nonuse of water rights.

Sponsors: Representatives Chandler, Schoesler and Grant.

Brief History:

Committee Activity:

Agriculture & Ecology: 2/19/97, 2/27/97 [DPS].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Delvin; Koster; Mastin and Sump.

Minority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper and Regala.

Staff: Kenneth Hirst (786-7105).

Background: Relinquishment of a Water Right for Nonuse. If a person abandons or voluntarily fails to use beneficially all or any part of a water right for five successive years without sufficient cause, the right or portion unused reverts to the state. A number of exemptions from this relinquishment requirement are listed by statute. Among the circumstances providing exemptions are: if the water right is claimed for municipal water supply purposes; and if the water right is claimed for power development purposes and annual license fees are paid. A procedure has been established under which the Department of Ecology may determine and the Pollution Control Hearings Board may confirm that a water right has reverted to the state for nonuse.

Permit Deadline. If a person applies for a water right and the department issues a water use permit, the permit will contain deadlines by which construction required for the water use be completed and beneficial use of the water take place. These deadlines may be extended by the department under certain circumstances. If the water use is perfected under the terms of the permit, the department issues the permit holder a water right certificate.

Summary of Substitute Bill: A water right is not subject to relinquishment for nonuse if: the right is claimed for the water supply of an irrigation district and the purpose of the use is authorized under the general irrigation district laws; or the right is leased to another under a transfer or change of the right. Added to the sufficient causes for nonuse that also exempt the right from relinquishment are federal or state agency leases of or options to purchase lands or water rights which preclude or reduce the use of the right by the water right owner. The nonuse for five successive years that causes relinquishment is itself clarified: it is nonuse for five successive years while the right is held by one person that results in relinquishment.

If federal or state laws prevent or restrict water use otherwise authorized under a water use permit, the Department of Ecology must extend the deadlines set in the permit for commencing work, completing work, and applying water to beneficial use. The extension must be for a period that is not less than the period of nonuse or restricted use caused by the federal or state laws.

Substitute Bill Compared to Original Bill: Added by the substitute bill are the provisions: exempting from relinquishment nonuse caused by leases or options to purchase and clarifying the period of nonuse that causes relinquishment. The substitute bill also expressly requires an extension of the deadlines for development under a water use permit when federal or state laws restrict the use of water under the permit.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (1) The practical result of a federal moratorium on additional contracts for water by an irrigation district is that the district is precluded from supplying water to acreage that it is capable of serving under a 1991 water permit. The deadline set by the permit for putting water to use under the permit should be stayed. (2) The bill will put irrigation districts on the same footing with municipalities; they will not lose their water rights while developing water service.

Testimony Against: None.

Testified: Shannon McDaniel, Washington State Water Resource Association (in favor).