

House Bill Analysis

HB 2966

HOUSE AGRICULTURE AND ECOLOGY COMMITTEE

February
3, 2000

BACKGROUND:

State water law authorizes the holder of an existing surface water right to file an application for change in place of use, point of diversion, or purpose of use. The holder of an existing ground water right may file an application for a change in place of use or in well location under certain circumstances. For both changes in surface water and ground water rights, the change is approved without any loss of priority in right if it can be made without detriment or injury to existing water rights. Changes in water rights may also be filed for changes on a seasonal or temporary basis.

Although it is easier to process an application for a change in place of use, point of diversion, or purpose of use because the water has already been determined to be available as opposed to an application for a new water right, the Department of Ecology does not have statutory authorization to process one type of application ahead of another type of application. In the 1983 Washington Supreme Court decision of Schuh v. Department of Ecology, the court held that an individual's place in line for a permit is an existing right to be considered under statute.

SUMMARY:

The Department of Ecology is authorized to process and make decisions on an application for change of a water right before processing and making decisions on pending applications for new water rights from the same water source, regardless of when the applications were filed.

Pending applications for new water rights are not entitled to protection against impairment or given priority for any available water if the department processes and makes a decision on an application for change of a water right from the same water source. If a new water right is issued after an application for change is approved from the same water source, the new water right is not entitled to protection from impairment or priority for any available water in relation to the changed water right, regardless of when the applications were filed.

Neither the department nor another state agency may require an applicant for change to give up a legal right or claim to any part of the applicant's water right unless a relinquishment has occurred.

Definitions are provided for application for change— and same water source—.

Appropriation: None
Fiscal Note: Requested
Effective Date: Ninety days after adjournment of regular session