
SUBSTITUTE SENATE BILL 6872

State of Washington 56th Legislature 2000 2nd Special Session

By Senate Committee on Environmental Quality & Water Resources
(originally sponsored by Senators Fraser, Jacobsen and Swecker)

Read first time 04/26/2000.

1 AN ACT Relating to expediting the processing of pending
2 applications relating to existing water rights by clarifying when
3 pending applications for new water rights are not existing rights,
4 allowing pending applications relating to existing water rights to be
5 processed independently of pending applications for new water rights,
6 allowing applications to be processed ahead of previously filed
7 applications that have insufficient information, providing that
8 processing of applications for new water rights is not to be stopped,
9 requiring a report on the processing of water rights applications, and
10 creating an existing water rights account; amending RCW 90.03.380;
11 adding new sections to chapter 90.03 RCW; adding a new section to
12 chapter 90.44 RCW; adding a new section to chapter 43.21A RCW; creating
13 a new section; making an appropriation; providing an expiration date;
14 and declaring an emergency.

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

16 NEW SECTION. **Sec. 1.** The legislature finds that the size of the
17 current backlog of applications relating to existing water rights
18 should be reduced. By this act, the legislature intends to allow
19 pending applications relating to existing water rights to be processed

1 independently of pending applications for new water rights and without
2 regard to possible impairment of pending applications for new water
3 rights. The legislature intends, however, that timely processing of
4 all water rights applications for the same source of supply in the
5 order in which they were filed should occur to the extent allowed by
6 funding appropriated to the department of ecology.

7 **Sec. 2.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to
8 read as follows:

9 (1) The right to the use of water which has been applied to a
10 beneficial use in the state shall be and remain appurtenant to the land
11 or place upon which the same is used: PROVIDED, HOWEVER, That the
12 right may be transferred to another or to others and become appurtenant
13 to any other land or place of use without loss of priority of right
14 theretofore established if such change can be made without detriment or
15 injury to existing rights. The point of diversion of water for
16 beneficial use or the purpose of use may be changed, if such change can
17 be made without detriment or injury to existing rights. A change in
18 the place of use, point of diversion, and/or purpose of use of a water
19 right to enable irrigation of additional acreage or the addition of new
20 uses may be permitted if such change results in no increase in the
21 annual consumptive quantity of water used under the water right. For
22 purposes of this section, "annual consumptive quantity" means the
23 estimated or actual annual amount of water diverted pursuant to the
24 water right, reduced by the estimated annual amount of return flows,
25 averaged over the most recent five-year period of continuous beneficial
26 use of the water right. Before any transfer of such right to use water
27 or change of the point of diversion of water or change of purpose of
28 use can be made, any person having an interest in the transfer or
29 change, shall file a written application therefor with the department,
30 and the application shall not be granted until notice of the
31 application is published as provided in RCW 90.03.280. If it shall
32 appear that such transfer or such change may be made without injury or
33 detriment to existing rights, the department shall issue to the
34 applicant a certificate in duplicate granting the right for such
35 transfer or for such change of point of diversion or of use. The
36 certificate so issued shall be filed and be made a record with the
37 department and the duplicate certificate issued to the applicant may be

1 filed with the county auditor in like manner and with the same effect
2 as provided in the original certificate or permit to divert water.

3 (2) If an application for change proposes to transfer water rights
4 from one irrigation district to another, the department shall, before
5 publication of notice, receive concurrence from each of the irrigation
6 districts that such transfer or change will not adversely affect the
7 ability to deliver water to other landowners or impair the financial
8 integrity of either of the districts.

9 (3) A change in place of use by an individual water user or users
10 of water provided by an irrigation district need only receive approval
11 for the change from the board of directors of the district if the use
12 of water continues within the irrigation district, and when water is
13 provided by an irrigation entity that is a member of a board of joint
14 control created under chapter 87.80 RCW, approval need only be received
15 from the board of joint control if the use of water continues within
16 the area of jurisdiction of the joint board and the change can be made
17 without detriment or injury to existing rights.

18 (4) This section shall not apply to trust water rights acquired by
19 the state through the funding of water conservation projects under
20 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

21 (5) For purposes of this section, existing rights shall not include
22 pending applications for new water rights.

23 (6) Applications relating to existing water rights may be processed
24 and decisions on them rendered independently of processing and
25 rendering decisions on pending applications for new water rights within
26 the same source of supply without regard to the date of filing of the
27 pending applications for new water rights.

28 (7) Notwithstanding any other processing procedure for applications
29 relating to existing water rights, an application may be processed
30 ahead of a previously filed application, when sufficient information
31 for a decision on the previously filed application is not available and
32 the applicant for the previously filed application is sent written
33 notice that explains what information is not available and why and
34 informs the applicant that processing of the next application in order
35 of filing will begin. No such previously filed application shall lose
36 its priority date.

37 NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW
38 to read as follows:

1 Nothing in this chapter authorizes the processing of applications
2 relating to existing water rights to stop the processing of
3 applications for new water rights.

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

6 The department shall report to the legislature in July and January
7 of each year regarding the numbers, types, and locations of
8 applications for water rights processed during the preceding six
9 months. The report submitted each July shall also address applications
10 to be processed during the ensuing year. The report shall include
11 applications filed under chapter 90.80 RCW, shall note applications
12 with priority processing and the basis for priority, and shall note
13 applications relating to water rights issued under chapter 90.66 RCW.
14 This section expires February 1, 2003.

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

17 Sections 1 through 4 of this act apply to applications filed under
18 this chapter.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.21A RCW
20 to read as follows:

21 The existing water rights account is created in the state treasury.
22 Moneys may be placed in the account from legislative appropriations and
23 transfers, federal appropriations, or any other lawful source. Moneys
24 in the account may be spent only after appropriation. Expenditures
25 from the account may be used solely to process and render decisions on
26 applications relating to existing water rights filed under chapters
27 90.03 and 90.44 RCW, where the applications with sufficient information
28 for processing within the same source of supply are processed in the
29 order in which the applications were filed.

30 NEW SECTION. **Sec. 7.** The sum of 1.1 million dollars, or as much
31 thereof as may be necessary, is appropriated from the general fund to
32 the existing water rights account for the fiscal year ending June 30,
33 2001, to carry out the purposes of this act.

1 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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