
SENATE BILL 5203

State of Washington

57th Legislature

2001 Regular Session

By Senators Honeyford, Hewitt, Hale, Morton, Roach, Parlette, Hochstatter, Zarelli and Hargrove

Read first time 01/16/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to water conservancy board authority; amending RCW
2 90.80.010, 90.80.070, 90.80.120, and 90.80.140; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature, through
6 the provisions of this act, to clarify existing law. Namely, the
7 legislature intends to clarify the existing law and the authority of
8 the department of ecology and water conservancy boards.

9 **Sec. 2.** RCW 90.80.010 and 1997 c 441 s 2 are each amended to read
10 as follows:

11 The following definitions apply throughout this chapter, unless the
12 context clearly requires otherwise.

13 (1) "Board" means a water conservancy board created under this
14 chapter.

15 (2) "Commissioner" means a member of a water conservancy board.

16 (3) "Department" means the department of ecology.

17 (4) "Director" means the director of the department of ecology.

1 (5) "Transfer" means a transfer, change, or amendment to a water
2 right referred to in RCW 90.03.380, 90.03.390, or 90.44.100.

3 **Sec. 3.** RCW 90.80.070 and 1997 c 441 s 9 are each amended to read
4 as follows:

5 (1) Applications to the board for transfers shall be made on a form
6 provided by the department, and shall contain such additional
7 information as may be required by the board in order to review and act
8 upon the application. At a minimum, the application shall include
9 information sufficient to establish to the board's satisfaction of the
10 transferor's right to the quantity of water being transferred, and a
11 description of any applicable limitations on the right to use water,
12 including the point of diversion or withdrawal, place of use, source of
13 supply, purpose of use, quantity of use permitted, time of use, period
14 of use, and the place of storage.

15 (2) The transferor and the transferee of any proposed water
16 transfer may apply to a board for approval of the transfer if the water
17 proposed to be transferred is currently diverted, withdrawn, or used
18 within the geographic boundaries of the county, or would be diverted,
19 withdrawn, or used within the geographic boundaries of the county if
20 the transfer is approved. In the case of a proposed water transfer in
21 which the water is currently diverted or withdrawn or would be diverted
22 or withdrawn outside the geographic boundaries of the county, the board
23 shall hold a public hearing in the county of the diversion or
24 withdrawal or proposed diversion or withdrawal. The board shall
25 provide for prominent publication of notice of such hearing in a
26 newspaper of general circulation published in the county in which the
27 hearing is to be held for the purpose of affording an opportunity for
28 interested persons to comment upon the application.

29 (3) After an application for a transfer is filed with the board,
30 the board shall publish notice of the application in accordance with
31 the publication requirements and send notice to state agencies as
32 provided in RCW 90.03.280. Any person may submit comments to the board
33 regarding the application. Any water right holder claiming detriment
34 or injury to an existing water right may intervene in the application
35 before the board pursuant to subsection (4) of this section. If a
36 majority of the board determines that the application is complete, in
37 accordance with the law and the transfer can be made without injury or
38 detriment to existing water rights in accordance with RCW 90.03.380,

1 90.03.390, or 90.44.100, the board shall issue the applicant a
2 certificate conditionally approving the transfer, subject to review by
3 the director.

4 (4) If a water right holder claims a proposed transfer will cause
5 an impairment to that right, the water right holder is entitled to a
6 hearing before the board. The board shall receive such evidence as it
7 deems material and necessary to determine the validity of the claim of
8 impairment. If the party claiming the impairment establishes by a
9 preponderance of the evidence that his or her water right will be
10 impaired by the proposed transfer, the board may not approve the
11 transfer unless the applicant and the impaired party agree upon
12 compensation for the impairment.

13 **Sec. 4.** RCW 90.80.120 and 1997 c 441 s 16 are each amended to read
14 as follows:

15 (1) A commissioner of a water conservancy board who has an
16 ownership interest in a water right subject to an application for
17 approval of a transfer (~~or change~~) by the board, shall not
18 participate in the board's review or decision upon the application.

19 (2) A commissioner of a water conservancy board who also serves as
20 an employee or upon the governing body of a municipally owned water
21 system, shall not participate in the board's review or decision upon an
22 application for the transfer (~~or change~~) of a water right in which
23 that water system has or is proposed to have an ownership interest.

24 **Sec. 5.** RCW 90.80.140 and 1997 c 441 s 18 are each amended to read
25 as follows:

26 Nothing in this chapter affects transfers that may be otherwise
27 approved under chapter 90.03 or 90.44 RCW.

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