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SENATE BILL 5922

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State of Washington

57th Legislature

2001 Regular Session

By Senators T. Sheldon, Rasmussen, Honeyford, Fraser and Morton

Read first time 02/08/2001. Referred to Committee on Environment,  
Energy & Water.

1 AN ACT Relating to appeals of water right decisions regarding water  
2 rights subject to a general stream adjudication; reenacting and  
3 amending RCW 43.21B.110 and 34.05.514; and adding a new section to  
4 chapter 90.03 RCW.

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

6 **Sec. 1.** RCW 43.21B.110 and 1998 c 262 s 18, 1998 c 156 s 8, and  
7 1998 c 36 s 22 are each reenacted and amended to read as follows:

8 (1) The hearings board shall only have jurisdiction to hear and  
9 decide appeals from the following decisions of the department, the  
10 director, local conservation districts, and the air pollution control  
11 boards or authorities as established pursuant to chapter 70.94 RCW, or  
12 local health departments:

13 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,  
14 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and  
15 90.56.330.

16 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
17 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,  
18 90.14.130, 90.48.120, and 90.56.330.

1 (c) The issuance, modification, or termination of any permit,  
2 certificate, or license by the department or any air authority in the  
3 exercise of its jurisdiction, including the issuance or termination of  
4 a waste disposal permit, the denial of an application for a waste  
5 disposal permit, the modification of the conditions or the terms of a  
6 waste disposal permit, or a decision to approve or deny an application  
7 for a solid waste permit exemption under RCW 70.95.300.

8 (d) Decisions of local health departments regarding the grant or  
9 denial of solid waste permits pursuant to chapter 70.95 RCW.

10 (e) Decisions of local health departments regarding the issuance  
11 and enforcement of permits to use or dispose of biosolids under RCW  
12 70.95J.080.

13 (f) Decisions of the department regarding waste-derived fertilizer  
14 or micronutrient fertilizer under RCW 15.54.820, and decisions of the  
15 department regarding waste-derived soil amendments under RCW 70.95.205.

16 (g) Decisions of local conservation districts related to the denial  
17 of approval or denial of certification of a dairy nutrient management  
18 plan; conditions contained in a plan; application of any dairy nutrient  
19 management practices, standards, methods, and technologies to a  
20 particular dairy farm; and failure to adhere to the plan review and  
21 approval timelines in RCW 90.64.026.

22 (h) Any other decision by the department or an air authority which  
23 pursuant to law must be decided as an adjudicative proceeding under  
24 chapter 34.05 RCW.

25 (2) The following hearings shall not be conducted by the hearings  
26 board:

27 (a) Hearings required by law to be conducted by the shorelines  
28 hearings board pursuant to chapter 90.58 RCW.

29 (b) Hearings conducted by the department pursuant to RCW 70.94.332,  
30 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

31 (c) (~~Proceedings by the department~~) Hearings relating to general  
32 adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW,  
33 except for appeals of decisions on transfers or changes of water rights  
34 subject to a general stream adjudication.

35 (d) Hearings conducted by the department to adopt, modify, or  
36 repeal rules.

37 (3) Review of rules and regulations adopted by the hearings board  
38 shall be subject to review in accordance with the provisions of the  
39 Administrative Procedure Act, chapter 34.05 RCW.

1       **Sec. 2.** RCW 34.05.514 and 1995 c 347 s 113 and 1995 c 292 s 9 are  
2 each reenacted and amended to read as follows:

3       (1) Except as provided in subsection (2) of this section,  
4 proceedings for review under this chapter shall be instituted by paying  
5 the fee required under RCW 36.18.020 and filing a petition in the  
6 superior court, at the petitioner's option, for (a) Thurston county,  
7 (b) the county of the petitioner's residence or principal place of  
8 business, or (c) in any county where the property owned by the  
9 petitioner and affected by the contested decision is located.

10       (2) For proceedings involving institutions of higher education, the  
11 petition shall be filed either in the county in which the principal  
12 office of the institution involved is located or in the county of a  
13 branch campus if the action involves such branch.

14       (3) For proceedings involving appeals of water right transfer and  
15 change decisions for water rights subject to a general stream  
16 adjudication, the petition shall be filed in the county in which the  
17 general stream adjudication is being conducted.

18       NEW SECTION. **Sec. 3.** A new section is added to chapter 90.03 RCW  
19 to read as follows:

20       Decisions of the department relating to the transfer or change of  
21 water rights subject to a general stream adjudication shall be appealed  
22 from the pollution control hearings board only to the superior court  
23 conducting the adjudication.

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