

SENATE BILL REPORT

HB 2039

As of March 20, 1995

Title: An act relating to certain applications for water rights or water transfers.

Brief Description: Prescribing rights for certain applications for water rights or water transfers.

Sponsors: Representatives Kremen and Chandler.

Brief History:

Committee Activity: Water Policy: 3/20/95.

SENATE SELECT COMMITTEE ON WATER POLICY

Staff: Gary Wilburn (786-7453)

Background: With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water were to be established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempt from this permit requirement. The permit system is based on the prior appropriation doctrine that "first in time is first in right." Prior to these enactments, rights to water were obtained in a variety of ways and under a variety of water doctrines. These pre-code rights to surface water could be obtained by appropriation, prescription, or by virtue of riparian land ownership.

In some basins of the state, there are numerous water users who have not obtained a valid water right by obtaining a permit for the use. Many of these users have submitted an application to the state within the past two years, and seek to have their future use a legal one through a valid water right.

Summary of Bill: A person is granted a water right if: (1) the person filed an application with the Department of Ecology for a water right or water right transfer before December 31, 1994; (2) the person placed water to beneficial use for irrigation or stock watering purposes before January 1, 1993, but a permit or certificate is not issued by the department or its predecessor for the use; and (3) there is not a period of nonuse for five successive years. The priority date for such a water right is the effective date of the bill. The amount of water that may be withdrawn under it may not exceed the maximum annual amount put to beneficial use during the five-year period before January 1, 1993.

Appropriation: None.

Fiscal Note: Requested on February 27, 1995.

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