

---

HOUSE BILL 1729

---

State of Washington

54th Legislature

1995 Regular Session

By Representatives Horn, Chandler, Van Luven, Hargrove, Schoesler and Elliot

Read first time 02/06/95. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to the appropriation of water from lakes and  
2 reservoirs for single-family residential noncommercial garden and  
3 landscape irrigation; adding a new section to chapter 90.03 RCW; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that as demands on  
7 water resources increase, water must be used in a manner that is most  
8 beneficial to the natural resources of the state, while avoiding  
9 unnecessary capital costs and public infrastructure expenditures. The  
10 legislature also finds that in appropriate circumstances, use of water  
11 from lakes and reservoirs by shoreland owners will allow more water to  
12 remain in rivers and streams for fish, wildlife, municipal drinking  
13 water, and recreation. The legislature also finds that use of  
14 municipally treated drinking water for garden and landscape irrigation  
15 may in some cases be an unnecessary use of the public infrastructure,  
16 creating the need for additional public facilities to meet the demands  
17 of growing populations in the greater Puget Sound and other regions.  
18 The legislature also finds that by simplifying the process for  
19 appropriating water for some small volume uses, water users are more

1 likely to comply with requirements to use the water in appropriate  
2 circumstances and do so efficiently. The legislature also finds that  
3 establishing an overall quantity of water that may be appropriated for  
4 single-family residential noncommercial garden and landscape irrigation  
5 will assure protection of the state's water resources and not burden  
6 the department of ecology with a large number of water right  
7 applications.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW  
9 to read as follows:

10 (1) On its own initiative or on petition of at least ten percent of  
11 the owners of single-family residences abutting a lake or reservoir of  
12 four thousand acres or larger surface area, the department shall  
13 determine whether there is sufficient water in the lake or reservoir of  
14 four thousand acres or larger surface area to allow owners of single-  
15 family residences that abut the lake or reservoir to use water for  
16 noncommercial garden and landscape irrigation.

17 (2) In making the determination provided for in subsection (1) of  
18 this section, the department shall consider at least the following  
19 factors:

20 (a) Whether there is water available to be appropriated;

21 (b) Whether allowing additional appropriation from the lake or  
22 reservoir will have a significant adverse impact on existing water  
23 right holders and instream resources;

24 (c) The existing and future potential uses of water from the lake  
25 or reservoir;

26 (d) The effect on fish, wildlife, and other instream resources of  
27 allowing or not allowing withdrawal from the lake or reservoir; and

28 (e) The lake's or reservoir's physical characteristics, including  
29 depth, volume, surface area, inflows, outflows, and surface level  
30 control features.

31 (3) If the department determines that there may be sufficient water  
32 in the lake or reservoir to allow use of water for single-family  
33 residential noncommercial garden and landscape irrigation, it shall  
34 hold one or more public hearings in the area affected by the proposal.  
35 At the public hearing, the department shall report on the factors  
36 described in subsection (2) of this section, any additional factors it  
37 has used to evaluate the proposal, and options for use of the available  
38 water that will satisfy requirements for efficiency.

1 (4) After reviewing comments received at the public hearing, the  
2 department shall make a final determination whether there is sufficient  
3 water available for single-family residential noncommercial garden and  
4 landscape irrigation purposes. If the department determines there is  
5 sufficient water it shall, by rule:

6 (a) Establish the maximum quantity of water that may be withdrawn  
7 from the lake or reservoir on a yearly basis for single-family  
8 noncommercial garden and landscape irrigation under this section;

9 (b) Establish conditions and limitations on withdrawal by  
10 individual property owners. The conditions and limitations may  
11 include, but are not limited to: Time of day and year, maximum area  
12 that may irrigated, maximum flow and annual water usage allowed,  
13 protection for senior water right permit holders who may be affected by  
14 the withdrawal, and conservation and efficiency measures to be used.  
15 In adopting the terms and conditions, the department shall encourage  
16 water use efficiency and conservation; and

17 (c) Establish screening to protect fish life.

18 (5) A person withdrawing water under a rule adopted under  
19 subsection (4) of this section may, but shall not be required to, apply  
20 for a water right permit as otherwise provided by this chapter. The  
21 right to withdraw water under this section shall have a priority date  
22 of the effective date of the rule adopted pursuant to this section.

23 (6) The department may suspend temporarily the authority to  
24 withdraw water granted under this section if the department determines:

25 (a) Under chapter 43.83B RCW that drought conditions exist in the  
26 geographical area including a lake or reservoir for which the  
27 department has established water withdrawal standards under subsection  
28 (4) of this section; or

29 (b) By rule that continued withdrawal of water under this section  
30 will have a significant adverse impact on flows or lake levels below  
31 essential minimums necessary to assure the maintenance of fisheries  
32 requirements, or to protect federal or state interests including, but  
33 not limited to, power generation, navigation, shoreline facilities, and  
34 existing water rights.

35 (7) The department may temporarily suspend or impose conditions on  
36 the withdrawal of water authorized under this section if there is a  
37 water shortage in the geographical area including the lake or reservoir  
38 and a public water system with a water right affected by the withdrawal

1 authorized under this section has imposed use restrictions and has  
2 requested similar restrictions for water withdrawn under this section.

3 (8) Before considering any other lake or reservoir under this  
4 section, the department shall conduct the analysis required by this  
5 section for Lake Washington and Lake Sammamish. The department shall  
6 complete its review and, if it determines water is available, adopt the  
7 rule required by subsection (4) of this section not later than June 1,  
8 1996.

9 (9) If requested by a public water system that may be affected by  
10 the withdrawal of water authorized under subsection (4) of this  
11 section, the department shall notify the system of use restrictions  
12 that the department has established and shall consult with the system  
13 on methods to enforce the restrictions imposed under subsection (4) of  
14 this section.

15 (10) Any person withdrawing water under the provisions of this  
16 section who uses an irrigation system that has connections to both the  
17 supply from the lake or reservoir and a potable drinking water supply  
18 system shall assure that the irrigation system complies with all  
19 health, safety, and building code requirements.

20 NEW SECTION. **Sec. 3.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

--- END ---