

---

SENATE BILL 5958

---

State of Washington

54th Legislature

1995 Regular Session

By Senators Morton, Sellar, Hale, Heavey, A. Anderson, Prince, Hochstatter, Deccio, McCaslin, Swecker, Schow and Rasmussen

Read first time 02/17/95. Referred to Committee on Senate Select Committee on Water Policy.

1 AN ACT Relating to water storage applications; amending RCW  
2 90.03.320 and 90.14.140; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The state of Washington, pursuant to its  
5 concern regarding increasing demands on its diminishing water  
6 resources, has and does encourage water storage as a preferred method  
7 of addressing the dilemma.

8 It is the legislature's intent to accommodate the needs of the  
9 applicants and permittees who anticipated the future need of storage  
10 projects, while recognizing that actual construction may be deferred  
11 until the applicant's or permittee's requirements dictate the  
12 expenditure of capital to implement the project.

13 **Sec. 2.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to read  
14 as follows:

15 (1) Actual construction work shall be commenced on any project for  
16 which permit has been granted within such reasonable time as shall be  
17 prescribed by the department, and shall thereafter be prosecuted with  
18 diligence and completed within the time prescribed by the department.

1 The department, in fixing the time for the commencement of the work, or  
2 for the completion thereof and the application of the water to the  
3 beneficial use prescribed in the permit, shall take into consideration  
4 the cost and magnitude of the project and the engineering and physical  
5 features to be encountered, and shall allow such time as shall be  
6 reasonable and just under the conditions then existing, having due  
7 regard for the public welfare and public interests affected: and, for  
8 good cause shown, it shall extend the time or times fixed as aforesaid,  
9 and shall grant such further period or periods as may be reasonably  
10 necessary, having due regard to the good faith of the applicant and the  
11 public interests affected. If the terms of the permit or extension  
12 thereof, are not complied with the department shall give notice by  
13 registered mail that such permit will be canceled unless the holders  
14 thereof shall show cause within sixty days why the same should not be  
15 so canceled. If cause be not shown, said permit shall be canceled.

16 (2) Where an application has been received for future development  
17 of water storage, as referenced in RCW 90.42.005, commencement of  
18 construction need not occur until such time as the applicant or  
19 permittee has need for development. Should another applicant seek  
20 development of the same water storage, the current permittee shall have  
21 two years within which to commence construction or the permit will be  
22 subject to cancellation in accordance with the procedures in RCW  
23 90.03.320. Nothing in this section shall prevent cancellation of a  
24 permit where the purpose for which the permit was issued has been  
25 abandoned. This section shall operate retroactively with respect to  
26 applications on file or permits in existence, including Reservoir  
27 Permit No. 1 in favor of the Oroville-Tonasket irrigation district  
28 which shall be construed as being in full force and effect. Any action  
29 by the department of ecology contrary to this subsection shall be  
30 considered withdrawn and of no force and effect.

31 **Sec. 3.** RCW 90.14.140 and 1987 c 125 s 1 are each amended to read  
32 as follows:

33 (1) For the purposes of RCW 90.14.130 through 90.14.180,  
34 "sufficient cause" shall be defined as the nonuse of all or a portion  
35 of the water by the owner of a water right for a period of five or more  
36 consecutive years where such nonuse occurs as a result of:

37 (a) Drought, or other unavailability of water;

1 (b) Active service in the armed forces of the United States during  
2 military crisis;

3 (c) Nonvoluntary service in the armed forces of the United States;

4 (d) The operation of legal proceedings;

5 (e) Federal laws imposing land or water use restrictions either  
6 directly or through the voluntary enrollment of a landowner in a  
7 federal program implementing those laws, or acreage limitations, or  
8 production quotas.

9 (2) Notwithstanding any other provisions of RCW 90.14.130 through  
10 90.14.180, there shall be no relinquishment of any water right:

11 (a) If such right is claimed for power development purposes under  
12 chapter 90.16 RCW and annual license fees are paid in accordance with  
13 chapter 90.16 RCW, or

14 (b) If such right is used for a standby or reserve water supply to  
15 be used in time of drought or other low flow period so long as  
16 withdrawal or diversion facilities are maintained in good operating  
17 condition for the use of such reserve or standby water supply, however,  
18 in those situations where no withdrawal or diversion facilities or  
19 impoundment structures are required until needed, no maintenance shall  
20 be required until facilities are actually constructed, or

21 (c) If such right is claimed for a determined future development to  
22 take place either within fifteen years of July 1, 1967, or the most  
23 recent beneficial use of the water right, whichever date is later, or

24 (d) If such right is claimed for municipal water supply purposes  
25 under chapter 90.03 RCW, or

26 (e) If such waters are not subject to appropriation under the  
27 applicable provisions of RCW 90.40.030 as now or hereafter amended.

--- END ---