

House Bill Analysis

SSB 6525

HOUSE AGRICULTURE AND ECOLOGY COMMITTEE

February

17, 2000

BACKGROUND:

State water law authorizes the holder of an existing surface water right to file an application for change in place of use, point of diversion, or purpose of use. The holder of an existing ground water right may file an application for a change in place of use or in well location under certain circumstances. For both changes in surface water rights and ground water rights, the change is approved without any loss of priority in right if it can be made without detriment or injury to existing water rights. Changes in water rights may also be filed for changes on a seasonal or temporary basis.

Although it is easier to process an application for a change or transfer of an existing water right because the water has already been determined to be available as opposed to an application for a new water right, the Department of Ecology does not have statutory authority to process one type of application ahead of another type of application. In the 1983 Washington Supreme Court decision of Schuh v. Department of Ecology, the court held that an individual's place in line for a permit is an existing right to be considered under statute. In a more recent case of Hillis v. Department of Ecology, the state supreme court upheld the department's practice of batching applications by watershed for purposes of processing, but required the department to use the rule-making process to establish the policies for prioritizing applications.

An application for a new water right requires notice to the general public. There is no similar requirement for the public to be notified regarding a proposed change or transfer in a water right.

SUMMARY:

The Department of Ecology may process and make decisions on applications for changes or transfers of water rights independently of pending applications for new water rights from the same source of supply, and independently of any applications for other sources of supply, regardless of when the applications were filed. The order in which applications are processed and decisions made upon them can continue to be established according to criteria

adopted by rule. Pending applications for new water rights are not impaired if the Department processes applications for changes or transfers of water rights before the applications for new water rights.

The department must publish notice of the commencement of processing applications for changes or transfers of existing water rights on the department's web page for the purpose of receiving public comment. The department must consider any public comments it receives in the course of processing applications for changes or transfers of existing water rights.

Appropriation: None

Fiscal Note: Requested

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