
SECOND SUBSTITUTE HOUSE BILL 1957

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives G. Chandler, Linville, Mastin, Reardon, Sump, Schoesler and Ericksen)

Read first time 03/08/1999.

1 AN ACT Relating to water right transfers, changes, and amendments;
2 amending RCW 90.03.380, 90.03.390, 90.44.100, 90.80.010, 90.80.020,
3 90.80.030, 90.80.040, 90.80.050, 90.80.070, 90.80.080, 90.80.090,
4 90.80.120, and 90.80.140; adding new sections to chapter 90.03 RCW;
5 adding a new section to chapter 90.44 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03 RCW
8 to read as follows:

9 (1) The department shall process and render decisions on
10 applications for changes or transfers of water rights under this
11 chapter and amendments of ground water rights under chapter 90.44 RCW
12 as a matter of higher priority than processing and rendering decisions
13 on applications for new water rights.

14 (2) Any application for a new water right for which a permit
15 decision has not been made by the department at the time a transfer or
16 change is approved may not be considered an existing water right
17 subject to analysis as to whether the application may be injured,
18 impaired, or detrimentally affected by the transfer or change. This
19 subsection does not apply if the transfer or change involves changing

1 the place of use for the right or a portion of the right to a place
2 outside of the watershed in which the water is used under the right
3 before the transfer or change. For the purposes of this subsection, a
4 watershed is composed of the main stem of a stream that empties
5 directly into the Columbia or Snake river or directly into marine
6 water, all of the surface water tributaries to the stream, and the
7 surface area drained by the stream and its tributaries.

8 **Sec. 2.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to
9 read as follows:

10 (1) The right to the use of water which has been applied to a
11 beneficial use in the state shall be and remain appurtenant to the land
12 or place upon which the same is used: PROVIDED, HOWEVER, That the
13 right may be transferred to another or to others and become appurtenant
14 to any other land or place of use without loss of priority of right
15 theretofore established if such change can be made without detriment or
16 injury to existing rights. The point of diversion of water for
17 beneficial use or the purpose of use may be changed, if such change can
18 be made without detriment or injury to existing rights. A change in
19 the place of use, point of diversion, and/or purpose of use of a water
20 right to enable irrigation of additional acreage or the addition of new
21 uses may be permitted if such change results in no increase in the
22 annual consumptive quantity of water used under the water right. For
23 purposes of this section, "annual consumptive quantity" means the
24 estimated or actual annual amount of water diverted pursuant to the
25 water right, reduced by the estimated annual amount of return flows,
26 averaged over the most recent five-year period of continuous beneficial
27 use of the water right. Before any transfer of such right to use water
28 or change of the point of diversion of water or change of purpose of
29 use can be made, any person having an interest in the transfer or
30 change, shall file a written application therefor with the
31 department((7)) and, if the place of use of the right to be transferred
32 or changed is located within the jurisdictional boundaries of a water
33 conservancy board created under chapter 90.80 RCW, with the water
34 conservancy board. The application shall not be granted until notice
35 of the application is published as provided in RCW 90.03.280. If it
36 shall appear that such transfer or such change may be made without
37 injury or detriment to existing rights, the department shall issue to
38 the applicant a certificate in duplicate granting the right for such

1 transfer or for such change of point of diversion or of use. The
2 certificate so issued shall be filed and be made a record with the
3 department and the duplicate certificate issued to the applicant may be
4 filed with the county auditor in like manner and with the same effect
5 as provided in the original certificate or permit to divert water.

6 (2) If an application for change proposes to transfer water rights
7 from one irrigation district to another, the department shall, before
8 publication of notice, receive concurrence from each of the irrigation
9 districts that such transfer or change will not adversely affect the
10 ability to deliver water to other landowners or impair the financial
11 integrity of either of the districts.

12 (3) A change in place of use by an individual water user or users
13 of water provided by an irrigation district need only receive approval
14 for the change from the board of directors of the district if the use
15 of water continues within the irrigation district, and when water is
16 provided by an irrigation entity that is a member of a board of joint
17 control created under chapter 87.80 RCW, approval need only be received
18 from the board of joint control if the use of water continues within
19 the area of jurisdiction of the joint board and the change can be made
20 without detriment or injury to existing rights.

21 (4) If the place of use of a right to be transferred or changed is
22 located within the jurisdictional boundaries of a water conservancy
23 board created under chapter 90.80 RCW, the application for the transfer
24 or change filed under this section shall be reviewed by the board. The
25 department shall conduct its review of such a transfer or change under
26 this section only after the board submits a report and a proposed
27 certificate conditionally approving the transfer or change or a report
28 and record of its decision denying the application under RCW 90.80.080.
29 Except as provided by this subsection and section 6 of this act,
30 decisions on applications shall be made by the board or the department
31 in the order in which the applications are filed with it, and decisions
32 regarding the proposed certificates filed with the department by a
33 board under RCW 90.80.080 shall be made by the department in the order
34 in which the certificates are filed with the department by that board.
35 If review of an application or proposed certificate has begun and
36 gathering information beyond that available at the time of the review
37 is required, neither the board nor the department must await the
38 availability of that information to review the next application or

1 applications or next proposed certificate or certificates in the order
2 otherwise required by this subsection.

3 (5) This section shall not apply to trust water rights acquired by
4 the state through the funding of water conservation projects under
5 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

6 **Sec. 3.** RCW 90.03.390 and 1991 c 350 s 3 are each amended to read
7 as follows:

8 (1) RCW 90.03.380 shall not be construed to prevent water users
9 from making a seasonal or temporary change of point of diversion or
10 place of use of water when such change can be made without detriment to
11 existing rights, but in no case shall such change be made without the
12 permission of the water master of the district in which such proposed
13 change is located, or of the department. Nor shall RCW 90.03.380 be
14 construed to prevent construction of emergency interties between public
15 water systems to permit exchange of water during short-term emergency
16 situations, or rotation in the use of water for bringing about a more
17 economical use of the available supply, provided however, that the
18 department of health in consultation with the department of ecology
19 shall adopt rules or develop written guidelines setting forth standards
20 for determining when a short-term emergency exists and the
21 circumstances in which emergency interties are permitted. The rules or
22 guidelines shall be consistent with the procedures established in RCW
23 43.83B.400 through 43.83B.420. Water users owning lands to which water
24 rights are attached may rotate in the use of water to which they are
25 collectively entitled, or an individual water user having lands to
26 which are attached water rights of a different priority, may in like
27 manner rotate in use when such rotation can be made without detriment
28 to other existing water rights, and has the approval of the water
29 master or department.

30 (2) If the place of use of a right to be transferred or changed
31 under this section is located within the jurisdictional boundaries of
32 a water conservancy board created under chapter 90.80 RCW, the
33 application for the transfer or change shall be filed with both the
34 department and with the board. The application shall be reviewed by
35 the board. Except as provided in subsection (3) of this section, the
36 department or its water master shall review the transfer or change
37 under this section only after the board submits a report and a proposed
38 certificate conditionally approving the transfer or change or a report

1 and record of its decision denying the application under RCW 90.80.080.
2 Except as provided by this subsection and section 6 of this act,
3 decisions on applications shall be made by the board, department, or
4 water master in the order in which the applications are filed with it,
5 and decisions regarding the proposed certificates filed with the
6 department by a board under RCW 90.80.080 shall be made by the
7 department or its water master in the order in which the certificates
8 are filed with the department by that board. If review of an
9 application or proposed certificate has begun, and gathering
10 information beyond that available at the time of the review is
11 required, neither the board nor the department or its water master must
12 await the availability of that information to review the next
13 application or applications or next proposed certificate or
14 certificates in the order otherwise required by this subsection.

15 (3) The department shall adopt rules governing the processing and
16 approval of applications for seasonal or temporary changes in the point
17 of diversion or place of use that are filed under this section with a
18 water conservancy board. If a board processes and approves such an
19 application in conformance with these rules, the approval by the board
20 shall be considered to be an approval by the department without further
21 review by the department. However, the board shall file a copy of its
22 approval with the department. If the board denies such an application
23 under the rules, a record of the decision and report of the board shall
24 be filed with the department for review.

25 (4) The holder of a water right may change the place of use of the
26 right within contiguous lands owned or leased by the holder of the
27 right without having to secure approval of a transfer, change, or
28 amendment to the right under the following conditions:

29 (a) The holder of the water right files with the department a
30 request for changing the place of use by notification and submits with
31 the request evidence regarding the current quantity, beneficial use,
32 and place of use under the right;

33 (b) The department issues in writing a tentative determination
34 regarding the validity of these elements of the right; and

35 (c) The holder of the water right notifies the department in
36 writing each time the place of use under the right is changed within
37 such contiguous lands, which notification identifies the new place of
38 use.

1 The department shall issue a tentative determination under (b) of
2 this subsection within thirty days of the date a request and supporting
3 evidence are submitted to it or the elements of the right shall be
4 considered to be valid for the purposes of this section. Once the
5 elements of a right have been determined to be valid or are considered
6 valid under this subsection, subsequent requests and supporting
7 information do not have to be again submitted for changing the place of
8 use as authorized by this section as long as the notification is
9 provided under (c) of this subsection. This subsection (4) does not
10 apply to the use of water within an irrigation district or to changes
11 in use that increase the total amount of acreage irrigated under a
12 water right.

13 NEW SECTION. Sec. 4. A new section is added to chapter 90.44 RCW
14 to read as follows:

15 Any application for a new water right for which a permit decision
16 has not been made by the department at the time an amendment to a water
17 right is approved may not be considered an existing water right subject
18 to analysis as to whether the application may be injured, impaired, or
19 detrimentally affected by the amendment. This section does not apply
20 if the amendment involves changing the place of use for the right or a
21 portion of the right to a place outside of the watershed in which the
22 water is used under the right before the amendment. For the purposes
23 of this section, a watershed is composed of the main stem of a stream
24 that empties directly into the Columbia or Snake river or directly into
25 marine water, all of the surface water tributaries to the stream, and
26 the surface area drained by the stream and its tributaries.

27 **Sec. 5.** RCW 90.44.100 and 1997 c 316 s 2 are each amended to read
28 as follows:

29 (1) After an application to, and upon the issuance by the
30 department of an amendment to the appropriate permit or certificate of
31 ground water right, the holder of a valid right to withdraw public
32 ground waters may, without losing the holder's priority of right,
33 construct wells or other means of withdrawal at a new location in
34 substitution for or in addition to those at the original location, or
35 the holder may change the ((~~manner~~)) purpose or the place of use of the
36 water.

1 (2) An amendment to construct replacement or a new additional well
2 or wells at a location outside of the location of the original well or
3 wells or to change the ((manner)) purpose or place of use of the water
4 shall be issued only after publication of notice of the application and
5 findings as prescribed in the case of an original application. Such
6 amendment shall be issued by the department only on the conditions
7 that: (a) The additional or replacement well or wells shall tap the
8 same body of public ground water as the original well or wells; (b)
9 where a replacement well or wells is approved, the use of the original
10 well or wells shall be discontinued and the original well or wells
11 shall be properly decommissioned as required under chapter 18.104 RCW;
12 (c) where an additional well or wells is constructed, the original well
13 or wells may continue to be used, but the combined total withdrawal
14 from the original and additional well or wells shall not enlarge the
15 right conveyed by the original permit or certificate; and (d) other
16 existing rights shall not be impaired. The department may specify an
17 approved manner of construction and shall require a showing of
18 compliance with the terms of the amendment, as provided in RCW
19 90.44.080 in the case of an original permit.

20 (3) The construction of a replacement or new additional well or
21 wells at the location of the original well or wells shall be allowed
22 without application to the department for an amendment. However, the
23 following apply to such a replacement or new additional well: (a) The
24 well shall tap the same body of public ground water as the original
25 well or wells; (b) if a replacement well is constructed, the use of the
26 original well or wells shall be discontinued and the original well or
27 wells shall be properly decommissioned as required under chapter 18.104
28 RCW; (c) if a new additional well is constructed, the original well or
29 wells may continue to be used, but the combined total withdrawal from
30 the original and additional well or wells shall not enlarge the right
31 conveyed by the original water use permit or certificate; (d) the
32 construction and use of the well shall not interfere with or impair
33 water rights with an earlier date of priority than the water right or
34 rights for the original well or wells; (e) the replacement or
35 additional well shall be located no closer than the original well to a
36 well it might interfere with; (f) the department may specify an
37 approved manner of construction of the well; and (g) the department
38 shall require a showing of compliance with the conditions of this
39 subsection (3).

1 (4) If the place of use of a right to be amended under this section
2 is located within the jurisdictional boundaries of a water conservancy
3 board created under chapter 90.80 RCW, the application for the
4 amendment shall be filed with both the department and with the board.
5 The application shall be reviewed by the board. The department shall
6 review the amendment under this section only if the board submits a
7 report and a proposed certificate conditionally approving the amendment
8 or a report and record of its decision denying the application under
9 RCW 90.80.080. Except as provided by this subsection and section 6 of
10 this act, decisions on applications shall be made by the board or
11 department in the order in which the applications are filed with it,
12 and decisions regarding the proposed certificates filed with the
13 department by a board under RCW 90.80.080 shall be made by the
14 department in the order in which the certificates are filed with the
15 department by that board. If review of an application or proposed
16 certificate has begun and gathering information beyond that available
17 at the time of the review is required, neither the board nor the
18 department must await the availability of that information to review
19 the next application or applications or next proposed certificate or
20 certificates in the order otherwise required by this subsection.

21 (5) This section does not apply to a change of place of use that
22 may be made by notification under RCW 90.03.390(4).

23 (6) As used in this section, the "location of the original well or
24 wells" is the area described as the point of withdrawal in the original
25 public notice published for the application for the water right for the
26 well.

27 NEW SECTION. Sec. 6. A new section is added to chapter 90.03 RCW
28 to read as follows:

29 Once a water conservancy board is created or expanded under chapter
30 90.80 RCW, the department shall submit to the board the applications
31 for transfers, changes, and amendments that have been filed with the
32 department for water rights within the jurisdictional boundaries of the
33 board and that have not yet been decided. The department shall keep a
34 copy of each of the applications for its own records. The board shall
35 consider these applications in the order in which they were filed with
36 the department and before considering applications filed directly with
37 the board. The board shall notify each applicant that the application
38 is now before the board for review and invite the applicant to identify

1 whether the applicant wishes the application to be actively considered
2 or the applicant wishes to withdraw the application. An application
3 withdrawn is not before the board for consideration.

4 **Sec. 7.** RCW 90.80.010 and 1997 c 441 s 2 are each amended to read
5 as follows:

6 The following definitions apply throughout this chapter, unless the
7 context clearly requires otherwise.

8 (1) "Board" means a water conservancy board created under this
9 chapter.

10 (2) "Commissioner" means a member of a water conservancy board.

11 (3) "Department" means the department of ecology.

12 (4) "Director" means the director of the department of ecology.

13 (5) "Transfer" means a transfer, change, or amendment to a water
14 right referred to in RCW 90.03.380, 90.03.390, or 90.44.100.

15 **Sec. 8.** RCW 90.80.020 and 1997 c 441 s 3 are each amended to read
16 as follows:

17 (1) The county legislative authority of a county may create a water
18 conservancy board(~~(, subject to approval by the director,)~~) for the
19 purpose of expediting voluntary water transfers within the county.

20 (2) A water conservancy board may be initiated by: (a) A
21 resolution of the county legislative authority; (b) a resolution
22 presented to the county legislative authority calling for the creation
23 of a board by the legislative authority of an irrigation district,
24 public utility district that operates a public water system, a
25 reclamation district, a city operating a public water system, or a
26 water-sewer district that operates a public water system; (c) a
27 resolution by the governing body of a cooperative or mutual corporation
28 that operates a public water system serving one hundred or more
29 accounts; (d) a petition signed by five or more water rights holders,
30 including their addresses, who divert water for use within the county;
31 or (e) any combination of (a) through (d) of this subsection. The
32 resolution or petition must state the need for the board, include
33 proposed bylaws or rules and procedures that will govern the operation
34 of the board, identify the geographic boundaries where there is an
35 initial interest in transacting water sales or transfers, and describe
36 the proposed method for funding the operation of the board.

1 (3) After receiving a resolution or petition to create a board, a
2 county legislative authority shall determine its sufficiency. If the
3 county legislative authority finds that the resolution or petition is
4 sufficient, or if the county is initiating the creation of a board upon
5 its own motion, it shall hold at least one public hearing on the
6 proposed creation of the board. Notice of the hearing shall be
7 published at least once in a newspaper of general circulation in the
8 county not less than ten days nor more than thirty days before the date
9 of the hearing. The notice shall describe the time, date, place, and
10 purpose of the hearing, as well as the purpose of the board. Following
11 the hearing, the county legislative authority may adopt a resolution
12 (~~approving the creation of~~) creating the board if it finds that the
13 board's creation furtheres the purposes of this chapter and is in the
14 public interest.

15 (4) The county legislative authorities of two or more counties may
16 choose to join in the creation of one water conservancy board to serve
17 the counties. They may also choose to expand the jurisdiction of an
18 existing board to encompass one or more additional counties. Following
19 a public hearing held in each county to be included within the
20 jurisdiction of the board and held on the issue of creating such a
21 multicounty board or expanding the jurisdiction of an existing board,
22 each such county may adopt a resolution creating one multicounty board
23 for the counties or expanding the jurisdiction of an existing board to
24 include one or more additional counties. The resolution shall specify
25 each of the counties to be included within the jurisdiction of the
26 board. If the resolution is adopted in each of the counties so
27 specified, the board is created for those counties, or is expanded to
28 include within its jurisdiction those counties. If the jurisdiction of
29 an existing board is expanded in this manner, the terms of office of
30 the commissioners of the board so expanded shall terminate and
31 commissioners for the board with new terms of office shall be appointed
32 as provided in RCW 90.80.050.

33 **Sec. 9.** RCW 90.80.030 and 1997 c 441 s 4 are each amended to read
34 as follows:

35 (1) Following the adoption of a resolution creating a water
36 conservancy board, the county legislative authority shall forward a
37 copy of the resolution (~~or petition calling for the creation of the~~
38 board, a copy of the resolution approving the creation of the board,

1 and a summary of the public testimony presented at the public hearing))
2 to the director ((following the adoption of the resolution calling for
3 the board's creation)).

4 (2) ((The director shall approve or deny the creation of a board
5 within forty five days after the county legislative authority has
6 submitted all information required under subsection (1) of this
7 section. The director must determine whether the creation of the board
8 would further the purposes of this chapter and is in the public
9 interest. The director shall include a description of the necessary
10 training requirements for commissioners in the notice of approval sent
11 to the county legislative authority.)) Following the adoption of
12 resolutions creating a board for a multicounty area or expanding the
13 jurisdiction of a board under RCW 90.80.020(4), the county legislative
14 authority of each county within the jurisdiction of the board shall
15 forward a copy of its resolution to the director.

16 **Sec. 10.** RCW 90.80.040 and 1997 c 441 s 5 are each amended to read
17 as follows:

18 The director of the department may, as deemed necessary by the
19 director, adopt rules in accordance with chapter 34.05 RCW necessary to
20 carry out this chapter, including minimum requirements for the training
21 and continuing education of commissioners. Training courses for
22 commissioners shall include an overview of state water law and
23 hydrology. The training courses shall be provided by or through the
24 department. The department shall provide the initial training required
25 for a commissioner to take action under this chapter at training
26 sessions held once each year. These annual training sessions shall be
27 designed to accommodate all commissioners who have not yet received
28 such training. Prior to commissioners taking action on proposed water
29 right transfers, the commissioners shall comply with training
30 requirements that include state water law and hydrology.

31 **Sec. 11.** RCW 90.80.050 and 1997 c 441 s 6 are each amended to read
32 as follows:

33 A water conservancy board constitutes a public body corporate and
34 politic and a separate unit of local government in the state. The
35 public body corporate and politic of an existing board, the
36 jurisdiction of which is expanded under RCW 90.80.020(4), is continuous
37 with the body corporate and politic of the board created by the

1 expansion of jurisdiction. Each board shall consist of three
2 commissioners appointed by the county legislative authority or
3 authorities of the counties within the jurisdiction of the board for
4 six-year terms. The county legislative authority or authorities shall
5 stagger the initial appointment of commissioners so that the first
6 commissioners who are appointed shall serve terms of two, four, and six
7 years, respectively, from the date of their appointment. All vacancies
8 shall be filled for the unexpired term. The county legislative
9 authority or authorities shall consider, but ~~((is))~~ are not limited in
10 appointing, nominations to the board by people or entities petitioning
11 or requesting the creation of the board. However, the county
12 legislative authority or authorities shall ensure that individual water
13 right holders who divert water for use within the county are
14 represented on the board. In making appointments to the board, the
15 county legislative authority or authorities shall choose from among
16 persons who are residents of the county or a county that is contiguous
17 to the county that the water conservancy board is to serve. No
18 commissioner may participate in board decisions until he or she has
19 successfully completed the necessary training required under RCW
20 90.80.040. Commissioners shall serve without compensation, but are
21 entitled to reimbursement for necessary travel expenses in accordance
22 with RCW 43.03.050 and 43.03.060 and costs incident to training.

23 **Sec. 12.** RCW 90.80.070 and 1997 c 441 s 9 are each amended to read
24 as follows:

25 (1) Applications to the board for transfers shall be made on a form
26 provided by the department, and shall contain such additional
27 information as may be required by the board in order to review and act
28 upon the application. At a minimum, the application shall include
29 information sufficient to establish to the board's satisfaction of the
30 transferor's right to the quantity of water being transferred, and a
31 description of any applicable limitations on the right to use water,
32 including the point of diversion or withdrawal, place of use, source of
33 supply, purpose of use, quantity of use permitted, time of use, period
34 of use, and the place of storage.

35 (2) The transferor and the transferee of any proposed water
36 transfer may apply to a board for approval of the transfer if the water
37 proposed to be transferred is currently diverted, withdrawn, or used
38 within the geographic boundaries of the county, or would be diverted,

1 withdrawn, or used within the geographic boundaries of the county if
2 the transfer is approved. In the case of a proposed water transfer in
3 which the water is currently diverted or would be diverted outside the
4 geographic boundaries of the county, the board shall hold a public
5 hearing in the county of the diversion or proposed diversion. The
6 board shall provide for prominent publication of notice of such hearing
7 in a newspaper of general circulation published in the county in which
8 the hearing is to be held for the purpose of affording an opportunity
9 for interested persons to comment upon the application.

10 (3) After an application for a transfer is filed with the board,
11 the board shall publish notice of the application in accordance with
12 the publication requirements and send notice to state agencies as
13 provided in RCW 90.03.280. Any person may submit comments to the board
14 regarding the application. Any water right holder claiming detriment
15 or injury to an existing water right may intervene in the application
16 before the board pursuant to subsection (4) of this section. If a
17 majority of the board determines that the application is complete, in
18 accordance with the law and the transfer can be made without injury or
19 detriment to existing water rights in accordance with RCW 90.03.380,
20 90.03.390, or 90.44.100, the board shall issue the applicant a
21 certificate conditionally approving the transfer, subject to review by
22 the director.

23 (4) If a water right holder claims a proposed transfer will cause
24 an impairment to that right, the water right holder is entitled to a
25 hearing before the board. The board shall receive such evidence as it
26 deems material and necessary to determine the validity of the claim of
27 impairment. If the party claiming the impairment establishes by a
28 preponderance of the evidence that his or her water right will be
29 impaired by the proposed transfer, the board may not approve the
30 transfer unless the applicant and the impaired party agree upon
31 compensation for the impairment.

32 **Sec. 13.** RCW 90.80.080 and 1997 c 441 s 11 are each amended to
33 read as follows:

34 (1) Except as provided in RCW 90.30.390(3), if a transfer is
35 approved by the board, the board shall submit a copy of the proposed
36 certificate conditionally approving the transfer to the department for
37 review. If the transfer is denied by the board, the board shall submit
38 a copy of a record of its decision denying the transfer to the

1 department for review. The board shall also submit a report
2 summarizing any factual findings on which the board relied in deciding
3 to approve or deny the proposed transfer. The board shall also
4 transmit notice by mail to any person who objected to the transfer or
5 who requested notice.

6 (2) The director shall review each proposed transfer conditionally
7 approved by a board and each decision by a board denying an application
8 for such a transfer for compliance with state water transfer laws
9 including RCW 90.03.380, 90.03.390, and 90.44.100, rules and guidelines
10 adopted by the department, and other applicable law.

11 (3) Any party to a transfer or a third party who alleges his or her
12 water right will be impaired by the proposed transfer may file
13 objections with the department. If objections to the transfer are
14 filed with the department, the board shall forward the files and
15 records upon which it based its decision to the department.

16 (4) The director shall review the action of the board and affirm,
17 reverse, or modify the action of the board within forty-five days of
18 receipt. The forty-five day time period may be extended for an
19 additional thirty days by the director, upon the consent of the parties
20 to the transfer. If the director fails to act within this time period,
21 the board's action is final. Upon approval of a water transfer by the
22 action or nonaction of the director, the conditional certificate issued
23 by the board is final and valid.

24 **Sec. 14.** RCW 90.80.090 and 1997 c 441 s 12 are each amended to
25 read as follows:

26 The decision of the director (~~(to approve an action to create a~~
27 ~~board, or))~~ to approve, deny, or modify a water transfer either by
28 action or nonaction shall be appealable in the same manner as other
29 water right decisions made pursuant to chapter 90.03 RCW.

30 **Sec. 15.** RCW 90.80.120 and 1997 c 441 s 16 are each amended to
31 read as follows:

32 (1) A commissioner of a water conservancy board who has an
33 ownership interest in a water right subject to an application for
34 approval of a transfer (~~(or change))~~ by the board, shall not
35 participate in the board's review or decision upon the application.

36 (2) A commissioner of a water conservancy board who also serves as
37 an employee or upon the governing body of a municipally owned water

1 system, shall not participate in the board's review or decision upon an
2 application for the transfer ((~~or change~~)) of a water right in which
3 that water system has or is proposed to have an ownership interest.

4 NEW SECTION. **Sec. 16.** If specific funding for the purposes of
5 this act, referencing this act by bill or chapter number, is not
6 provided by June 30, 1999, in the omnibus appropriations act, this act
7 is null and void.

8 **Sec. 17.** RCW 90.80.140 and 1997 c 441 s 18 are each amended to
9 read as follows:

10 Nothing in this chapter affects transfers that may be otherwise
11 approved under chapter 90.03 or 90.44 RCW.

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