
HOUSE BILL 2996

State of Washington

56th Legislature

2000 Regular Session

By Representative G. Chandler

Read first time 01/25/2000. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to water rights for the water rights claims
2 registry; amending RCW 90.36.030 and 90.44.110; and adding a new
3 section to chapter 90.14 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.14 RCW
6 to read as follows:

7 (1) No public body may operate a free-flowing well for public use
8 on a year-round basis under RCW 90.36.030(2) or 90.44.110(4) without
9 first registering its authority to operate the well in this manner with
10 the department of ecology. Any public body desiring to operate a free-
11 flow well for public use on a year-round basis under RCW 90.36.030(2)
12 or 90.44.110(4) shall file a statement of claim with the department
13 identifying how each of the requirements listed in RCW 90.36.030(2) or
14 90.44.110(4) are satisfied, attesting that the well satisfies those
15 requirements, and identifying the water right for the well as it is
16 represented by a statement of claim that has been filed in the water
17 rights claims registry or a water right permit or certificate that has
18 been issued under chapter 90.44 RCW. Upon receiving such a statement
19 of claim for the free-flowing well, the department shall file the

1 statement in a portion of the water rights claims registry reserved for
2 claims to the right to operate such wells in the manner authorized by
3 RCW 90.36.030(2) and 90.44.110(4).

4 Filing of such a claim is required to use the well as authorized by
5 RCW 90.36.030(2) and 90.44.110(4), but does not in itself establish or
6 represent a water right to use the well. Such a statement of claim may
7 be filed at any time under this section. The provisions of this
8 subsection (1) are null and void if any of the provisions of subsection
9 (2) of this section are vetoed by June 30, 2000.

10 (2)(a) Certain persons who submitted a water right claim form with
11 the department between September 1, 1997, and June 30, 1998, and whose
12 claim was rejected by the department because the department deemed the
13 claim to be incomplete and thus not in compliance with RCW 90.14.051
14 may submit additional information as provided in (b) of this subsection
15 in support of the claim between July 1, 2000, and December 31, 2000.
16 The persons eligible to submit additional information under this
17 section and to receive further consideration for the registering of
18 their claims are those who meet the following qualifications:

19 (i) The person checked the box labeled "other" on the water right
20 claim form in part 12 where it asks the claimant to state the legal
21 doctrine under which the person is claiming a water right;

22 (ii) The premise of the person's claim of a water right for ground
23 water is that a right to ground water was inherent in and appurtenant
24 to the original land patent issued by the federal government at the
25 time the person's land was severed from federal ownership. The
26 original water right claim form submitted to the department need not
27 have asserted this premise for the person to be qualified to receive
28 further consideration under this section.

29 (b) Persons meeting the qualifications in (a) of this subsection
30 may submit to the department a statement that their claim to a ground
31 water right is based on the assertion that such right accompanied the
32 federally issued land patent for lands they now own or occupy. The
33 claimant must also submit with his or her statement a bona fide copy of
34 the original land patent document issued by the United States. The
35 water right claim of a person meeting the qualifications established in
36 this section and submitting the statement and bona fide copy of his or
37 her land patent as required by this subsection (2)(b) is deemed
38 sufficient in lieu of compliance with RCW 90.14.051 and 90.14.068 and

1 shall be accepted for filing in the water rights claims registry by the
2 department.

3 (c) This section does not apply to other claims the department
4 rejected as ineligible for filing under RCW 90.14.068 (5) or (6), for
5 failure to submit a substantially complete statement of claim as
6 required in RCW 90.14.051, for failure to remit the filing fee required
7 by RCW 90.14.061, or for submitting a claim for a purpose that is
8 exempt from the requirement to submit a claim under RCW 90.14.041. The
9 registering of claims under this section as directed by the legislature
10 confers upon those claims no special status or recognition and is
11 subject to this chapter as is any other claim submitted in a timely
12 manner.

13 **Sec. 2.** RCW 90.36.030 and 1929 c 138 s 2 are each amended to read
14 as follows:

15 (1) Except as provided in subsections (2) and (3) of this section,
16 it shall be the duty of every person, firm, corporation or company
17 having possession or control of any artesian well, as provided in RCW
18 90.36.020, to securely cap the same over on or before the fifteenth day
19 of October in each and every year in such manner as to prevent the flow
20 or escape of water therefrom, and to keep the same securely capped and
21 prevent the flow or escape of water therefrom until the fifteenth day
22 of March next ensuing(~~(; PROVIDED, HOWEVER,~~)).

23 (2) It (~~shall and may be~~) is lawful for any such person, firm,
24 corporation or company to insert a three-quarters inch stop and waste
25 cock in the piping of such well, and to take and use water therefrom
26 through such stop and waste cock at any time for household, stock, or
27 domestic purposes, but not otherwise.

28 (3) Any well completed into a confined aquifer shall be allowed to
29 flow freely for public uses if:

30 (a) The public body referred to in (d) of this subsection files a
31 statement of claim of the free-flowing public use of the well under
32 section 1 of this act;

33 (b) The well is constructed according to state law and agency rules
34 pertaining to well construction;

35 (c) The well has a discharge rate not to exceed twelve gallons per
36 minute;

37 (d) The well is owned, operated, and maintained by a recognized
38 public body and the public body files a written request with the

1 department of ecology that the well be allowed to flow freely for
2 public uses;

3 (e) The operator of the well ensures the unused portion of the flow
4 is piped from the well head and discharged directly into a surface
5 water body within the limits of a city; and

6 (f) The discharge does not allow for any degradation of water
7 quality.

8 As used in this subsection, "public body" means the state of
9 Washington or any agency, political subdivision, taxing district, or
10 municipal or public corporation thereof.

11 **Sec. 3.** RCW 90.44.110 and 1987 c 109 s 114 are each amended to
12 read as follows:

13 (1) No public ground waters that have been withdrawn shall be
14 wasted without economical beneficial use. Except as provided in
15 subsections (2), (3), and (4) of this section, the department shall
16 require:

17 (a) All wells producing waters which contaminate other waters to be
18 plugged or capped(~~(. The department shall also require))~~); and

19 (b) All flowing wells to be so capped or equipped with valves that
20 the flow of water can be completely stopped when the wells are not in
21 use under the terms of their respective permits or approved
22 declarations of vested rights(~~(. Likewise, the department shall also~~
23 require))); and

24 (c) Both flowing and nonflowing wells to be so constructed and
25 maintained as to prevent the waste of public ground waters through
26 leaky casings, pipes, fittings, valves, or pumps--either above or below
27 the land surface(~~(: PROVIDED, HOWEVER, That))~~).

28 (2) The withdrawal of reasonable quantities of public ground water
29 in connection with the construction, development, testing, or repair of
30 a well shall not be construed as waste(~~(; also, that))~~).

31 (3) The inadvertent loss of ((such)) water owing to breakage of a
32 pump, valve, pipe, or fitting shall not be construed as waste if
33 reasonable diligence is shown by the permittee in effecting the
34 necessary repair.

35 (4) Any well completed into a confined aquifer shall be allowed to
36 flow freely for public uses if:

1 (a) The public body referred to in (d) of this subsection files a
2 statement of claim of the free-flowing public use of the well under
3 section 1 of this act;

4 (b) The well is constructed according to state law and agency rules
5 pertaining to well construction;

6 (c) The well has a discharge rate not to exceed twelve gallons per
7 minute;

8 (d) The well is owned, operated, and maintained by a recognized
9 public body and the public body files a written request with the
10 department of ecology that the well be allowed to flow freely for
11 public uses;

12 (e) The operator of the well ensures the unused portion of the flow
13 is piped from the well head and discharged directly into a surface
14 water body within the limits of a city; and

15 (f) The discharge does not allow for any degradation of water
16 quality.

17 As used in this subsection, "public body" means the state of
18 Washington or any agency, political subdivision, taxing district, or
19 municipal or public corporation thereof.

20 (5) In the issuance of an original permit, or of an amendment to an
21 original permit or certificate of vested right to withdraw and
22 appropriate public ground waters under the provisions of this chapter,
23 the department may, as in ((his)) its judgment is necessary, specify
24 for the proposed well or wells or other works a manner of construction
25 adequate to accomplish the provisions of this section.

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