
**Agriculture & Natural
Resources Committee**

ESB 5106

Brief Description: Concerning the annual consumptive quantity of a water right.

Sponsors: Senators Hewitt, Hale, T. Sheldon, Doumit, Sheahan, Rasmussen, Morton, Mulliken, Honeyford, Deccio and Parlette.

Brief Summary of Engrossed Bill

- Alters the calculation of the "annual consumptive quantity" of water that may be spread to new or additional uses.
- Allows changes of use within the general category of an agricultural use of water without the need to seek approval.

Hearing Date: 3/28/03

Staff: Kenneth Hirst (786-7105).

Background:

A water right has several elements or conditions that identify limitations on the use of water under the right. One is its priority. Other elements of the water right include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used. Certain of the elements or conditions of a water right may be modified with the approval of the DOE, either directly or through a water conservancy board. These modifications are referred to in the water codes as transfers, changes, and amendments. They cannot be approved if they would impair other existing water rights, whether junior or senior.

A change in the place of use, point of diversion, or purpose of use of a water right to allow the irrigation of additional acreage or the addition of new uses may be permitted if the change results in no increase in the "annual consumptive quantity" of water used under the water right. This quantity is defined as being the estimated or actual annual amount of water

diverted under the water right, reduced by the estimated annual amount of return flows, averaged over the two years of greatest use within the most recent five-year period of continuous beneficial use of the water right.

Summary of Bill:

Annual Consumptive Quantity. The calculation of the "annual consumptive quantity" of water that may be spread to new or additional uses is altered. It is the estimated or actual annual amount of water diverted under the water right, reduced by the estimated annual amount of return flows. It is not less than the actual peak historic use of a water right, even if the right is not being fully exercised at the time of the change or transfer, if:

- the reduced use is due to cropping patterns or system efficiencies;
- the water right holder intends to fully exercise the right; and
- the water right holder has the facilities in place to make beneficial use of the full right. (Section 1(1).)

Agricultural Use. The right to use water for any beneficial use within the general category of an agricultural use includes the right to use the water, without seeking approval, for any other beneficial use within the general category of an agricultural use. The general category of an agricultural use of water includes the beneficial use of water for stock watering, agricultural irrigation, agricultural frost control, processing agricultural commodities into agricultural products, and other agricultural uses. (Sections 1(8) and 2.)

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.