
HOUSE BILL 2856

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Pruitt, Dellwo and R. Johnson

Read first time 01/26/94. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to water rights; amending RCW 90.03.600 and
2 90.44.050; adding a new section to chapter 43.27A RCW; and adding a new
3 section to chapter 90.03 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 43.27A RCW
6 to read as follows:

7 The purpose of this section is to set forth the powers of the
8 department to regulate the withdrawal or diversion of public waters and
9 water or water rights related thereto including regulation based on
10 dates of priority or other pertinent factors.

11 (1) In a regulatory situation where a water right or all water
12 rights proposed for regulation by the department is or are embodied in
13 a certificate or certificates issued under RCW 90.03.240, 90.03.330, or
14 90.44.060 or a permit or permits issued pursuant to RCW 90.03.290 or
15 90.44.060, the department in its discretion is authorized to regulate
16 the right or rights under either RCW 43.27A.190 or subsection (2) of
17 this section.

18 (2) In a regulatory situation (a) where one or more of the water
19 rights proposed by the department for regulation are not embodied in a

1 permit or certificate as described in subsection (2) of this section,
2 or (b) where it appears to the department that public waters are being
3 withdrawn without any right or other appropriate authority whatsoever,
4 the department, as its sole and exclusive regulatory duty, is
5 authorized to bring an appropriate action at law or in equity,
6 including seeking injunctive relief, as it may deem necessary. Where
7 actions are brought in a state court, the actions shall be initiated in
8 the superior court of the county where the point or points of diversion
9 of the water right or rights proposed for regulation are located. If
10 the points of diversion are located in more than one county, the
11 department may bring the action in a county where a point of diversion
12 is located.

13 (3) Nothing in this section authorizes the department to accomplish
14 a general adjudication of water rights proceeding or the substantial
15 equivalent of a general adjudication of water rights. The exclusive
16 procedure for accomplishing a general adjudication of water rights is
17 under RCW 90.03.250 through 90.03.600 or 90.44.220.

18 (4) Nothing in this section shall have an impact on RCW 90.14.130
19 or 90.14.200.

20 (5) This section does not in any way modify regulatory powers
21 previously placed with the department except as provided in subsections
22 (1) and (2) of this section.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW
24 to read as follows:

25 In relationship to the transfer of ownership in whole or in part of
26 a water right embodied in a certificate issued under RCW 90.03.240,
27 90.03.330, 90.03.380, or 90.44.060 after the effective date of this
28 act, it shall be the responsibility of the transferee of the right to
29 file with the department of ecology, a written notice of the transfer
30 of ownership together with a copy of the relevant conveyance or other
31 document accomplishing the change of ownership where one exists. No
32 transferred right may be exercised by the new owner until the filing
33 requirement of this subsection has been satisfied.

34 **Sec. 3.** RCW 90.03.600 and 1987 c 109 s 157 are each amended to
35 read as follows:

36 The power is granted to the department of ecology to levy civil
37 penalties of up to (~~one~~) five hundred dollars per day for violation

1 of any of the provisions of this chapter and chapters 43.83B, 90.22,
2 and 90.44 RCW, and rules, permits, and similar documents and regulatory
3 orders of the department of ecology adopted or issued pursuant to such
4 chapters. The procedures of RCW 90.48.144 shall be applicable to all
5 phases of the levying of a penalty as well as review and appeal of the
6 same.

7 **Sec. 4.** RCW 90.44.050 and 1987 c 109 s 108 are each amended to
8 read as follows:

9 After June 6, 1945, no withdrawal of public ground waters of the
10 state shall be begun, nor shall any well or other works for such
11 withdrawal be constructed, unless an application to appropriate such
12 waters has been made to the department and a permit has been granted by
13 it as herein provided: EXCEPT, HOWEVER, That (~~any withdrawal of~~
14 ~~public ground waters for stock watering purposes, or for the watering~~
15 ~~of a lawn or of a noncommercial garden not exceeding one-half acre in~~
16 ~~area, or for single or group domestic uses in an amount not exceeding~~
17 ~~five thousand gallons a day, or for an industrial purpose in an amount~~
18 ~~not exceeding five thousand gallons a day, is and shall be exempt from~~
19 ~~the provisions of this section, but, to the extent that it is regularly~~
20 ~~used beneficially, shall be entitled to a right equal to that~~
21 ~~established by a permit issued under the provisions of this chapter:~~
22 ~~PROVIDED, HOWEVER, That the department from time to time may require~~
23 ~~the person or agency making any such small withdrawal to furnish~~
24 ~~information as to the means for and the quantity of that withdrawal:~~
25 ~~PROVIDED, FURTHER, That at the option of the party making withdrawals~~
26 ~~of ground waters of the state not exceeding five thousand gallons per~~
27 ~~day, applications under this section or declarations under RCW~~
28 ~~90.44.090 may be filed and permits and certificates obtained in the~~
29 ~~same manner and under the same requirements as is in this chapter~~
30 ~~provided in the case of withdrawals in excess of five thousand gallons~~
31 ~~a day.)) the following shall apply to applications for withdrawal for:~~
32 (1) Stockwater use not exceeding four hundred fifty gallons per day;
33 (2) single-family residence domestic use, including lawn and small
34 gardens, not exceeding four hundred fifty gallons per day; and (3)
35 noncommercial garden use not (a) exceeding one-third acre and (b) one
36 and one-third acre feet annually:

37 (i) No notice by newspaper publication is required;

1 (ii) No detailed statement as described in RCW 43.21C.030(1)(c) is
2 required to be prepared; and

3 (iii) Preference as to processing by the department shall be given
4 over other applications.

5 If the department does not rule upon an application for stockwater,
6 domestic, or garden use as described in subsections (1), (2), and (3)
7 of this section within one hundred twenty days of the date of filing of
8 the application with the department, the application shall be deemed
9 approved and the department shall issue a permit, with conditions
10 related to times for commencement and completion of work and extensions
11 of said times as provided in RCW 90.03.320, to the applicant within a
12 reasonable time thereafter not exceeding ninety days after the date of
13 deemed approval.

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