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SENATE BILL 5363

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State of Washington

53rd Legislature

1993 Regular Session

By Senators Newhouse, Sutherland, Snyder, Anderson, Loveland,  
Hochstatter and Barr

Read first time 01/25/93. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to claim of right to withdraw, divert, or use  
2 ground or surface waters; and adding a new section to chapter 90.14  
3 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) A person may file with the department of ecology not later than  
8 August 31, 1993, a statement of claim as provided in RCW 90.14.051(1)  
9 through (8) if: (a) The statement embodies a claim of a right to  
10 divert public waters with a priority date that is prior to June 6,  
11 1917; and (b) the statement is accompanied by a notarized affidavit or  
12 affidavits, relating to and supporting the rights claimed in the  
13 statement, that satisfy the requirements of this subsection.

14 (2) Affidavits accompanying a statement filed under this section  
15 shall be signed by a person or persons who attest in the affidavits to:  
16 (a) Having witnessed personally a posting of a notice of intent to  
17 establish a water right at the point of diversion of the claimed right;  
18 and (b) having direct knowledge of the diversion of waters associated  
19 with that right, through conveyance systems, to the places of

1 beneficial use without interruption each year for the fifty-year period  
2 immediately preceding the effective date of this section.

3 (3) The provisions of RCW 90.14.071, regarding waiving and  
4 relinquishing a water right or any title or interest in a right, do not  
5 apply to a claim filed pursuant to this section. However, reopening  
6 the period for filing a statement of claim for a water right as  
7 provided by this section shall not affect or impair in any respect  
8 whatsoever any water right existing prior to the effective date of this  
9 section whether such a previously existing right was established under  
10 territorial, state, or federal law or is embodied in rights derived  
11 under federal treaties or under federal doctrine regarding reserved  
12 rights for federal reservations of the public domain. Further, a water  
13 right embodied in a statement of claim filed under this section is,  
14 without regard to priority date, subordinate to any water right  
15 embodied in a permit or certificate issued pursuant to chapter 90.03 or  
16 90.44 RCW before the effective date of this section or embodied in a  
17 statement of claim filed in the water rights claims registry before the  
18 effective date of this section.

19 (4) Nothing in this section impacts or affects in any manner  
20 whatsoever the authority of the state, an Indian tribe, or any other  
21 governmental entity to allocate, regulate, or administer water rights  
22 on a federal reservation or changes the jurisdiction of any  
23 governmental entity.

24 (5) Nothing in this section shall be construed as (a) a recognition  
25 by the legislature that a right claimed in a statement of claim, as  
26 authorized for filing by this section, constitutes a valid claim or  
27 that such right does or does not exist, or (b) a determination by the  
28 legislature as to the applicability or inapplicability of state water  
29 rights laws to waters within any Indian reservation.

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