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**SENATE BILL 5777**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senators McDonald, M. Rasmussen, Barr, Sellar, Jesernig, Hochstatter and Anderson

Read first time 02/12/93. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to incentives for trickle irrigation systems;  
2 adding a new chapter to Title 90 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that there is a  
5 significant number of high-value orchard and vineyard crops that can be  
6 grown utilizing highly water-efficient trickle irrigation systems. The  
7 legislature finds that over a period of several years, existing orchard  
8 plantings will be revitalized and replaced with new plantings, and that  
9 additional orchards will be planted which provide opportunities for  
10 improved water efficiency.

11 The legislature finds that significant water savings could be  
12 realized through the installation of trickle irrigation systems where  
13 climatically and economically suitable. The legislature also finds  
14 that positive economic incentives, establishment of necessary legal  
15 procedures, and removal of legal barriers are needed to stimulate the  
16 development of workable technologies and farming systems that rely on  
17 lesser quantities of water.

18 The purpose of this act is to stimulate the use of trickle  
19 irrigation systems by allowing the saved water to be voluntarily

1 transferred by the water right holder to other uses. Additionally, the  
2 purpose is to establish incentives through enabling self-funded,  
3 private capital or public funds to provide improved market-based  
4 incentives for adopting water saving technologies and to allow the  
5 benefits of the conserved water to be fully realized. It is the intent  
6 of this act that sufficient protections be provided to assure that  
7 existing water users are not adversely affected by transfers approved  
8 under this act.

9 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
10 otherwise, the definitions in this section apply throughout this  
11 chapter.

12 (1) "Contract" means a written legal instrument that provides for  
13 the transfer of a portion of a water right from an existing water right  
14 holder to another person for consideration.

15 (2) "Department" means the department of ecology.

16 (3) "Net water savings" has the same meaning as defined in RCW  
17 90.42.020.

18 (4) "Person" means a person, corporation, quasi-municipal  
19 corporation, municipal corporation, state, or federal agency.

20 (5) "Reduction in evaporative loss" means the amount of water that  
21 was needed to grow an orchard or other crops using conventional  
22 irrigation systems minus the quantity of water needed to grow the crops  
23 with the use of a trickle irrigation system. "Reduction in evaporative  
24 loss" includes the reduction in the amount of water used through  
25 transpiration by nonproductive plants such as cover crops.

26 (6) "Trickle irrigation system" means those types of systems which  
27 qualify, as determined by the department, that apply water at the base  
28 of a plant producing food or fiber with minimal evaporation, or  
29 transpiration loss to nonproductive vegetation.

30 (7) "Trust water right" means a water right transferred to and  
31 managed by the department for the benefit of instream flows or for the  
32 allocation to new uses as provided in chapter 90.38 or 90.42 RCW.

33 NEW SECTION. **Sec. 3.** A person holding a valid water right may  
34 enter into a contract with another person for the transfer of water  
35 saved through installation of a qualifying trickle irrigation system.  
36 In determining the amount that is transferrable, the department shall  
37 allow the transfer of an amount equal to the reduction in the

1 evaporative loss. The reduction in evaporative loss is a readily  
2 transferrable component of net water savings.

3 In addition, the department shall evaluate whether there are  
4 additional net water savings as defined in RCW 90.42.020 that could be  
5 transferred to the purchaser without detriment to other existing water  
6 users. The department may not delay because of decisions on the  
7 determination of additional net water savings the approval of the  
8 transfer of the water that constitutes the reduction in evaporative  
9 loss.

10 A person wishing to make application for a transfer of a water  
11 right under this chapter shall comply with RCW 90.03.380. A contract  
12 may allow for a permanent transfer of a portion of the original water  
13 right, or for lease agreements with set expiration dates. The  
14 applicant shall state that the contract is not permanent in the  
15 application if the contract is not permanent.

16 The transferred portion has the same date of priority as the water  
17 right from which it originated, but between them the transferred  
18 portion of the right is inferior in priority unless otherwise provided  
19 by the parties in the contract.

20 The department shall maintain a record of contracts with the  
21 certificate of water right for the transferred water.

22 NEW SECTION. **Sec. 4.** The department shall adopt rules, in  
23 accordance with chapter 34.05 RCW and by July 1, 1994, for procedures  
24 to be used to facilitate the processing of requests for water right  
25 transfers made under this chapter and to establish a streamlined  
26 procedure to quantify the reduction in the evaporative loss. In  
27 developing streamlined procedures, the department may use data from the  
28 United States soil conservation service or the Washington state  
29 cooperative extension service to base calculations of reduction in  
30 evaporative loss in various regions of the state.

31 The rules may establish procedures for the department to make  
32 preliminary findings that can be used as an initial basis for  
33 developing contracts by applicants.

34 NEW SECTION. **Sec. 5.** An applicant shall accompany an application  
35 for a water right transfer under this chapter with a fee of one hundred  
36 dollars.

1        NEW SECTION.    **Sec. 6.**    In processing applications for transfers of  
2 portions of water rights under this chapter, if the department is  
3 unable to conclusively determine the validity of the original water  
4 right, the department may include a presumption of validity in the  
5 certificate of water rights.    The presumption must provide to the  
6 contract purchaser the same right to the use of water as the holder of  
7 the original water right.

8        The presumption of validity may not be used as evidence as to the  
9 existence or nonexistence in a water right adjudication conducted under  
10 chapter 90.03 RCW.

11       NEW SECTION.    **Sec. 7.**    A holder of a water right may voluntarily  
12 enter into a contract with the department.    The department may utilize  
13 funds available from chapter 43.99E RCW to purchase water savings made  
14 available under this chapter.    The department shall utilize the same  
15 methods of calculating water that is transferrable to another party  
16 under this chapter in determining the amount of water that is  
17 transferrable to the state.    If additional net water saved is available  
18 for the benefit of only a stream segment, the calculations may be made  
19 on a case-by-case basis while assuring no detriment to existing water  
20 users occurs.

21       NEW SECTION.    **Sec. 8.**    A holder of a valid water right who installs  
22 a trickle irrigation system may apply for a transfer of the reduction  
23 in evaporative loss, plus any additional net water savings, for the  
24 irrigation of an additional parcel of previously unirrigated land, to  
25 land with less senior water rights, or that lacks a full and sufficient  
26 supply.    The application must be processed based upon the same criteria  
27 as if the transfer were to be made to another person.

28       NEW SECTION.    **Sec. 9.**    This chapter may be known and cited as the  
29 agricultural water conservation incentives act.

30       NEW SECTION.    **Sec. 10.**    Sections 2 through 9 of this act shall  
31 constitute a new chapter in Title 90 RCW.

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