
SUBSTITUTE SENATE BILL 6536

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Sutherland, Fraser, Morton, M. Rasmussen and Newhouse)

Read first time 02/04/94.

1 AN ACT Relating to water rights; and adding a new section to
2 chapter 43.27A RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.27A RCW
5 to read as follows:

6 The purpose of this section is to set forth the powers of the
7 department to regulate the withdrawal or diversion of public waters and
8 water or water rights related thereto including regulation based on
9 dates of priority or other pertinent factors. The powers set forth in
10 this section may be exercised whether or not a general adjudication
11 relating to the water rights involved has been conducted.

12 (1) In a regulatory situation (a) where a water right or all water
13 rights proposed for regulation by the department (as well as any right
14 or rights of a senior priority that the proposed regulation is designed
15 to protect) is or are embodied in a certificate or certificates issued
16 under RCW 90.03.240, 90.03.330, or 90.44.060 or a permit or permits
17 issued pursuant to RCW 90.03.290 or 90.44.060 or (b) where it appears
18 to the department that public waters are being withdrawn without any
19 right or other appropriate authority whatsoever, the department in its

1 discretion is authorized to regulate the right or rights under either
2 RCW 43.27A.190 or subsection (2) of this section.

3 (2) In a regulatory situation where one or more of the water rights
4 proposed for regulation by the department is or are not embodied in a
5 permit or certificate as described in subsection (1) of this section,
6 the department, as its sole and exclusive power to regulate, is
7 authorized to bring an appropriate action at law or in equity,
8 including seeking injunctive relief, as it may deem necessary. Where
9 actions are brought in a state court, the actions shall be initiated in
10 the superior court of the county where the point or points of diversion
11 of the water right or rights proposed for regulation are located. If
12 the points of diversion are located in more than one county, the
13 department may bring the action in a county where a point of diversion
14 is located.

15 (3) Nothing in this section authorizes the department to accomplish
16 a general adjudication of water rights proceeding or the substantial
17 equivalent of a general adjudication of water rights. The exclusive
18 procedure for accomplishing a general adjudication of water rights is
19 under RCW 90.03.110 through 90.03.245 or 90.44.220.

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

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

25 (6) For purposes of this section, a flow or level established by
26 rule pursuant to RCW 90.22.020 or chapter 90.54 RCW is deemed a water
27 right embodied in a certificate issued under RCW 90.03.330.

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