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SENATE BILL 6872

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State of Washington                      56th Legislature      2000 1st Special Session

By Senators Fraser, Morton, Jacobsen and Swecker

Read first time 04/07/2000.

1            AN ACT Relating to expediting the processing of pending  
2 applications relating to existing water rights by clarifying when  
3 pending applications for new water rights are not existing rights,  
4 allowing pending applications relating to existing water rights to be  
5 processed independently of pending applications for new water rights,  
6 allowing applications to be processed ahead of previously filed  
7 applications that have insufficient information, providing that  
8 processing of applications for new water rights is not to be stopped,  
9 requiring a report on the processing of water rights applications, and  
10 creating an existing water rights account; amending RCW 90.03.380;  
11 adding new sections to chapter 90.03 RCW; adding a new section to  
12 chapter 90.44 RCW; adding a new section to chapter 43.21A RCW; creating  
13 a new section; providing an expiration date; and declaring an  
14 emergency.

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

16            NEW SECTION.    **Sec. 1.** The legislature finds that the size of the  
17 current backlog of applications relating to existing water rights  
18 should be reduced. By this act, the legislature intends to allow  
19 pending applications relating to existing water rights to be processed

1 independently of pending applications for new water rights and without  
2 regard to possible impairment of pending applications for new water  
3 rights. The legislature intends, however, that timely processing of  
4 all water rights applications for the same source of supply in the  
5 order in which they were filed should occur to the extent allowed by  
6 funding appropriated to the department of ecology.

7 **Sec. 2.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to  
8 read as follows:

9 (1) The right to the use of water which has been applied to a  
10 beneficial use in the state shall be and remain appurtenant to the land  
11 or place upon which the same is used: PROVIDED, HOWEVER, That the  
12 right may be transferred to another or to others and become appurtenant  
13 to any other land or place of use without loss of priority of right  
14 theretofore established if such change can be made without detriment or  
15 injury to existing rights. The point of diversion of water for  
16 beneficial use or the purpose of use may be changed, if such change can  
17 be made without detriment or injury to existing rights. A change in  
18 the place of use, point of diversion, and/or purpose of use of a water  
19 right to enable irrigation of additional acreage or the addition of new  
20 uses may be permitted if such change results in no increase in the  
21 annual consumptive quantity of water used under the water right. For  
22 purposes of this section, "annual consumptive quantity" means the  
23 estimated or actual annual amount of water diverted pursuant to the  
24 water right, reduced by the estimated annual amount of return flows,  
25 averaged over the most recent five-year period of continuous beneficial  
26 use of the water right. Before any transfer of such right to use water  
27 or change of the point of diversion of water or change of purpose of  
28 use can be made, any person having an interest in the transfer or  
29 change, shall file a written application therefor with the department,  
30 and the application shall not be granted until notice of the  
31 application is published as provided in RCW 90.03.280. If it shall  
32 appear that such transfer or such change may be made without injury or  
33 detriment to existing rights, the department shall issue to the  
34 applicant a certificate in duplicate granting the right for such  
35 transfer or for such change of point of diversion or of use. The  
36 certificate so issued shall be filed and be made a record with the  
37 department and the duplicate certificate issued to the applicant may be

1 filed with the county auditor in like manner and with the same effect  
2 as provided in the original certificate or permit to divert water.

3 (2) If an application for change proposes to transfer water rights  
4 from one irrigation district to another, the department shall, before  
5 publication of notice, receive concurrence from each of the irrigation  
6 districts that such transfer or change will not adversely affect the  
7 ability to deliver water to other landowners or impair the financial  
8 integrity of either of the districts.

9 (3) A change in place of use by an individual water user or users  
10 of water provided by an irrigation district need only receive approval  
11 for the change from the board of directors of the district if the use  
12 of water continues within the irrigation district, and when water is  
13 provided by an irrigation entity that is a member of a board of joint  
14 control created under chapter 87.80 RCW, approval need only be received  
15 from the board of joint control if the use of water continues within  
16 the area of jurisdiction of the joint board and the change can be made  
17 without detriment or injury to existing rights.

18 (4) This section shall not apply to trust water rights acquired by  
19 the state through the funding of water conservation projects under  
20 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

21 (5) For purposes of this section, existing rights shall not include  
22 pending applications for new water rights.

23 NEW SECTION. Sec. 3. A new section is added to chapter 90.03 RCW  
24 to read as follows:

25 (1) Applications relating to existing water rights may be processed  
26 and decisions on them rendered independently of processing and  
27 rendering decisions on pending applications for new water rights within  
28 the same source of supply without regard to the date of filing of the  
29 pending applications for new water rights.

30 (2) Notwithstanding any other processing procedure, an application  
31 may be processed ahead of a previously filed application, if there is  
32 insufficient information to begin processing the previously filed  
33 application within a reasonable time of the start of processing of  
34 applications within the same source of supply.

35 NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW  
36 to read as follows:

1 Nothing in this chapter authorizes the processing of applications  
2 relating to existing water rights to stop the processing of  
3 applications for new water rights.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.03 RCW  
5 to read as follows:

6 The department shall report to the legislature in July and January  
7 of each year regarding the numbers, types, and locations of  
8 applications for water rights processed during the preceding six  
9 months. The report submitted each July shall also address applications  
10 to be processed during the ensuing year. This section expires February  
11 1, 2003.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.44 RCW  
13 to read as follows:

14 Sections 1 through 5 of this act apply to applications filed under  
15 this chapter.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21A RCW  
17 to read as follows:

18 The existing water rights account is created in the state treasury.  
19 Moneys may be placed in the account from legislative appropriations and  
20 transfers, federal appropriations, or any other lawful source. Moneys  
21 in the account may be spent only after appropriation. Expenditures  
22 from the account may be used solely to process and render decisions on  
23 applications relating to existing water rights filed under chapters  
24 90.03 and 90.44 RCW, where the applications with sufficient information  
25 for processing within the same source of supply are processed in the  
26 order in which the applications were filed.

27 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 immediately.

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