

2038-S

Sponsor(s): House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville and G. Chandler)

Brief Description: Clarifying "voluntarily fails" for water rights relinquishment purposes.

HB 2038-S - DIGEST

(DIGEST OF PROPOSED 1ST SUBSTITUTE)

Declares that, for the purposes of RCW 90.14.140 through 90.14.180, unless the context clearly requires otherwise, "voluntarily fails" means the nonuse of all or a portion of the water by the owner of the water right, where the nonuse occurs as a result of factors within the control of the water user.

Declares that a failure to use all or a portion of a water right for irrigation use is involuntary when the water needed for irrigation use under the right is reduced as a result of: (1) Varying weather conditions including but not limited to precipitation and temperature, so long as the water user's diversion and delivery facilities are maintained in good operating condition consistent with the beneficial use of the full amount of the water right. The burden is on the water user to prove that the weather conditions are significantly different from average conditions such that they resulted in the reduction of water use;

(2) The temporary presence of return flows used in lieu of water from the primary source of water supply under the right if the return flows are measured or reliably estimated using a scientific methodology accepted as reliable by the director of the department of ecology; or

(3) Crop rotation.