

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1146

Chapter 70, Laws of 2013

63rd Legislature
2013 Regular Session

CERTIFIED WATER RIGHT EXAMINERS--INSURANCE OR BOND

EFFECTIVE DATE: 07/28/13

Passed by the House March 4, 2013
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2013
Yeas 47 Nays 1

BRAD OWEN

President of the Senate

Approved April 25, 2013, 1:48 p.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1146** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 25, 2013

**Secretary of State
State of Washington**

HOUSE BILL 1146

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Nealey, Blake, Chandler, Lytton, Warnick, Schmick,
Walsh, Ryu, and Haler

Read first time 01/17/13. Referred to Committee on Agriculture &
Natural Resources.

1 AN ACT Relating to certified water right examiner bonding
2 requirements; and amending RCW 90.03.665.

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

4 **Sec. 1.** RCW 90.03.665 and 2010 c 285 s 7 are each amended to read
5 as follows:

6 (1) The department shall establish and maintain a list of certified
7 water right examiners. Certified water right examiners on the list are
8 eligible to perform final proof examinations of permitted water uses
9 leading to the issuance of a water right certificate under RCW
10 90.03.330. The list must be updated annually and must be made
11 available to the public through written and electronic media.

12 (2) In order to qualify, an individual must be registered in
13 Washington as a professional engineer, professional land surveyor, or
14 registered hydrogeologist, or an individual must demonstrate at least
15 five years of applicable experience to the department, or be a board
16 member of a water conservancy board. Qualified individuals must also
17 pass a written examination prior to being certified by the department.
18 Such an examination must be administered by either the department or an

1 entity formally approved by the department. Each certified water right
2 examiner must demonstrate knowledge and competency regarding:

- 3 (a) Water law in the state of Washington;
- 4 (b) Measurement of the flow of water through open channels and
5 enclosed pipes;
- 6 (c) Water use and water level reporting;
- 7 (d) Estimation of the capacity of reservoirs and ponds;
- 8 (e) Irrigation crop water requirements;
- 9 (f) Aerial photo interpretation;
- 10 (g) Legal descriptions of land parcels;
- 11 (h) Location of land and water infrastructure through the use of
12 maps and global positioning;
- 13 (i) Proper construction and sealing of well bores; and
- 14 (j) Other topics related to the preparation and certification of
15 water rights in Washington state.

16 (3) Except as provided in subsection (9) of this section, upon
17 completion of a water appropriation and putting water to beneficial
18 use, in order to receive a final water right certificate, the permit
19 holder must secure the services of a certified water right examiner who
20 has been tested and certified by the department. The examiner shall
21 carry out a final examination of the project to verify its completion
22 and to determine and document for the permit holder and the department
23 the amount of water that has been appropriated for beneficial use, the
24 location of diversion or withdrawal and conveyance facilities, and the
25 actual place of use. The examiner shall take measurements or make
26 estimates of the maximum diversion or withdrawal, the capacity of water
27 storage facilities, the acreage irrigated, the type and number of
28 residences served, the type and number of stock watered, and other
29 information relevant to making a final determination of the amount of
30 water beneficially used. The examiner shall take photographs of the
31 facilities to document the use or uses of water and the photographs
32 must be submitted with the examiner's report to the department. The
33 department shall specify the format and required content of the reports
34 and may provide a form for that purpose.

35 (4) The department may suspend or revoke a certification based on
36 poor performance, malfeasance, failure to acquire continuing education
37 credits, or excessive complaints from the examiner's customers. The
38 department may require the retesting of an examiner. The department

1 may interview any examiner to determine whether the person is qualified
2 for this work. The department shall spot-check the work of examiners
3 to ensure that the public is being competently served. Any person
4 aggrieved by an order of the department including the granting, denial,
5 revocation, or suspension of a certificate issued by the department
6 under this chapter may appeal pursuant to chapter 43.21B RCW.

7 (5) The decision regarding whether to issue a final water right
8 certificate is solely the responsibility and function of the
9 department.

10 (6) The department shall make its final decision under RCW
11 90.03.330 within sixty days of the date of receipt of the proof of
12 examination from the certified water right examiner, unless otherwise
13 requested by the applicant or returned for correction by the
14 department. The department may return an initial proof of examination
15 for correction within thirty days of the department's receipt of such
16 initial proof from a certified water right examiner. Such proof must
17 be returned to both the certified water right examiner and the
18 applicant. Within thirty days of the department's receipt of such
19 returned proof from the certified water right examiner, the department
20 shall make its final decision under RCW 90.03.330, unless otherwise
21 requested by the applicant.

22 (7) Each certified water right examiner must complete eight hours
23 annually of qualifying continuing education in the water resources
24 field. The department shall determine and specify the qualifying
25 continuing education and shall inform examiners of the opportunities.
26 The department shall track whether examiners are current in their
27 continuing education and may suspend the certification of an examiner
28 who has not complied with the continuing education requirement.

29 (8) Each certified water right examiner must (~~be bonded for at~~
30 ~~least fifty thousand dollars~~) furnish evidence of insurance or
31 financial responsibility in a form acceptable to the department.

32 (9) The department may waive the requirement to secure the services
33 of a certified water right examiner in situations in which the
34 department has already conducted a final proof of examination or finds
35 it unnecessary for purposes of issuing a certificate of water right.

36 (10) The department shall establish and collect fees for the
37 examination, certification, and renewal of certification of water right
38 examiners. Revenue collected from these fees must be deposited into

1 the water rights processing account created in RCW 90.03.650. Pursuant
2 to RCW 43.135.055, the department is authorized to set fees for
3 examination, certification, and renewal of certification for water
4 right examiners.

5 (11) The department may adopt rules appropriate to carry out the
6 purposes of this section.

Passed by the House March 4, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.