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**HOUSE BILL 2101**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Goehner, Eslick, and Sutherland

AN ACT Relating to modifying the scope of locations to which a water right established as a family farm permit may be transferred; and amending RCW 90.66.065 and 36.70A.360.

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

**Sec.**  RCW 90.66.065 and 2001 c 237 s 23 are each amended to read as follows:

(1) Transfers of water rights established as family farm permits under this chapter may be approved as authorized under this section and under RCW 90.03.380, 90.03.390, or 90.44.100 or chapter 90.80 RCW as appropriate.

(2) A family farm permit may be transferred:

(a) For use for agricultural irrigation purposes as limited by RCW 90.66.060 (1) and (2);

(b) To any purpose of use that is a beneficial use of water if the transfer is made exclusively under a lease agreement, except that transfers for the use of water for agricultural irrigation purposes shall be limited as provided by RCW 90.66.060 (1) and (2);

(c) To any purpose of use that is a beneficial use of water if the water right is for the use of water at a location that is, at the time the transfer is approved, within the boundaries of an urban growth area designated under chapter 36.70A RCW, a limited area of more intensive rural development designated under chapter 36.70A RCW, a master planned resort designated under chapter 36.70A RCW, or, in counties not planning under chapter 36.70A RCW, within a city or town or within areas designated for urban growth in comprehensive plans prepared under chapter 36.70 RCW, except that transfers for the use of water for agricultural irrigation purposes shall be limited as provided by RCW 90.66.060 (1) and (2).

(3) If a portion of the water governed by a water right established under the authority of a family farm permit is made surplus to the beneficial uses exercised under the right through the implementation of practices or technologies, including but not limited to conveyance practices or technologies, that are more water-use efficient than those under which the right was perfected, the right to use the surplus water may be transferred to any purpose of use that is a beneficial use of water. Nothing in this subsection authorizes: A transfer of the portion of a water right that is necessary for the production of crops historically grown under the right; or a transfer of a water right or a portion of a water right that has not been perfected through beneficial use before the transfer. Water right transfers approved under this subsection must be consistent with the provisions of RCW 90.03.380(1).

(4) Before a change in purpose of a family farm water permit to municipal supply purpose or domestic purpose may be authorized, the public water system that is receiving the family farm water permit must be meeting the water conservation requirements of its current water system plan approved by the department of health or its small water system management program.

(5) The place of use for a water right transferred under the authority of this section shall remain within: The water resource inventory area containing the place of use for the water right before the transfer; or the urban growth area or contiguous urban growth areas of the place of use for the water right before the transfer if the urban growth area or contiguous urban growth areas cross boundaries of water resource inventory areas.

(6) The authority granted by this section to transfer or alter the purpose of use of a water right established under the authority of a family farm permit shall not be construed as limiting in any manner the authority granted by RCW 90.03.380, 90.03.390, or 90.44.100 to alter other elements of such a water right.

**Sec.**  RCW 36.70A.360 and 1998 c 112 s 2 are each amended to read as follows:

(1) Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.

(2)(a) Capital facilities, utilities, and services, including those related to sewer, water, stormwater, security, fire suppression, and emergency medical, provided on-site shall be limited to meeting the needs of the master planned resort. Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort. A master planned resort and service providers may enter into agreements for shared capital facilities and utilities, provided that such facilities and utilities serve only the master planned resort or urban growth areas.

(b) Nothing in this subsection may be construed as: Establishing an order of priority for processing applications for water right permits, for granting such permits, or for issuing certificates of water right; altering or authorizing in any manner the alteration of the place of use for a water right; or affecting or impairing in any manner whatsoever an existing water right.

(c) All waters or the use of waters shall be regulated and controlled as provided in chapters 90.03 ((~~and~~)), 90.44, and 90.66 RCW and not otherwise.

(3) A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

(4) A master planned resort may be authorized by a county only if:

(a) The comprehensive plan specifically identifies policies to guide the development of master planned resorts;

(b) The comprehensive plan and development regulations include restrictions that preclude new urban or suburban land uses in the vicinity of the master planned resort, except in areas otherwise designated for urban growth under RCW 36.70A.110;

(c) The county includes a finding as a part of the approval process that the land is better suited, and has more long-term importance, for the master planned resort than for the commercial harvesting of timber or agricultural production, if located on land that otherwise would be designated as forestland or agricultural land under RCW 36.70A.170;

(d) The county ensures that the resort plan is consistent with the development regulations established for critical areas; and

(e) On-site and off-site infrastructure and service impacts are fully considered and mitigated.

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