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**SENATE BILL 5828**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Shewmake, Lovelett, Dhingra, Lovick, and Nobles; by request of Administrative Office of the Courts

AN ACT Relating to water rights adjudication commissioners and referees; amending RCW 4.48.020 and 90.03.160; and adding new sections to chapter 90.03 RCW.

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

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

(1) In each county, the superior court may appoint one or more attorneys to act as water commissioners to assist the superior court in disposing of its business.

(2) The appointments provided for in this section shall be made by a majority vote of the judges of the superior court of the county and may be in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Water commissioners shall serve at the pleasure of the judges appointing them.

(3) In appointing a water commissioner, the court shall consider a potential commissioner's experience with water law and water use.

(4) The appointments may be full-time or part-time positions. A person appointed as a water commissioner may also be appointed to any other commissioner position authorized by law.

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

The judges of the superior court of the county by majority vote may authorize water commissioners, appointed pursuant to section 1 of this act, to perform any and all of the following in a water rights adjudication:

(1) Appoint guardians ad litem for claimants under RCW 90.03.150 as necessary;

(2) Hold evidentiary hearings to determine the facts underlying individual and multiple water right claims;

(3) Hold hearings on all contested claims, objections, and stipulated agreements;

(4) Issue decisions on factual and legal issues;

(5) Enter default judgments, settlement agreements, and conditional final orders;

(6) Cause the orders and findings of the adjudication to be entered in the same manner as orders and findings are entered in cases in the superior court; and

(7) Provide such supervision of the water rights adjudication in connection with the exercise of its jurisdiction as may be ordered by the presiding judge and assigned water adjudication judge.

**Sec.**  RCW 4.48.020 and 1984 c 258 s 513 are each amended to read as follows:

Where the parties do not consent, the court may, upon the application of either party, except for the appointment of a water rights adjudication referee under RCW 90.03.160, direct a reference in all cases formerly cognizable in chancery in which reference might be made:

(1) When the trial of an issue of fact shall require the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

(2) When the taking of an account shall be necessary for the information of the court, before judgment upon an issue of law, or for carrying a judgment or order into effect; or,

(3) When a question of fact other than upon the pleadings shall arise, upon motion or otherwise, in any stage of the action; or,

(4) When it is necessary for the information of the court in a special proceeding.

**Sec.**  RCW 90.03.160 and 2009 c 332 s 10 are each amended to read as follows:

(1) Upon filing of the department's motion or motions under RCW 90.03.640(3), any party with a claim filed under RCW 90.03.140 for the appropriation of water or waters of the subject adjudication may file and serve a response to the department's motion or motions within the time set by the court for such a response. Objections must include specific information in regard to the particular disposition against which the objection is being made. Objections must also state the underlying basis of the objection being made, including general information about the forms of evidence that support the objection. Any party may file testimony with the court and serve it on other parties. If a party intends to cross-examine a claimant or witness based on another party's prefiled testimony, the party intending to cross-examine shall file a notice of intent to cross-examine no later than fifteen days in advance of the hearing. If no notice of intent to cross-examine based on the prefiled testimony is given, then the claimant or witness is not required to appear at the hearing. Any party may present evidence in support of or in response to an objection.

(2) The superior court may appoint a referee or other judicial officer to assist the court. Consent of parties is not required for a court-appointed referee to hear water rights adjudication matters.

(3) The superior court may adopt special rules of procedure for an adjudication of water rights under this chapter, including simplified procedures for claimants of small uses of water. The rules of procedure for a superior court apply to an adjudication of water rights under this chapter unless superseded by special rules of the court under this subsection. The superior court is encouraged to consider entering, after notice and hearing and as the court determines appropriate, pretrial orders from an adjudication commenced on October 12, 1977.

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