
SENATE BILL 5828

State of Washington

68th Legislature

2024 Regular Session

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

Prefiled 12/11/23. Read first time 01/08/24. Referred to Committee on Law & Justice.

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

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03
6 RCW to read as follows:

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

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

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

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

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03
2 RCW to read as follows:

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

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

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

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

13 (4) Issue decisions on factual and legal issues;

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

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

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

22 **Sec. 3.** RCW 4.48.020 and 1984 c 258 s 513 are each amended to
23 read as follows:

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

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

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

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

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

1 **Sec. 4.** RCW 90.03.160 and 2009 c 332 s 10 are each amended to
2 read as follows:

3 (1) Upon filing of the department's motion or motions under RCW
4 90.03.640(3), any party with a claim filed under RCW 90.03.140 for
5 the appropriation of water or waters of the subject adjudication may
6 file and serve a response to the department's motion or motions
7 within the time set by the court for such a response. Objections must
8 include specific information in regard to the particular disposition
9 against which the objection is being made. Objections must also state
10 the underlying basis of the objection being made, including general
11 information about the forms of evidence that support the objection.
12 Any party may file testimony with the court and serve it on other
13 parties. If a party intends to cross-examine a claimant or witness
14 based on another party's prefiled testimony, the party intending to
15 cross-examine shall file a notice of intent to cross-examine no later
16 than fifteen days in advance of the hearing. If no notice of intent
17 to cross-examine based on the prefiled testimony is given, then the
18 claimant or witness is not required to appear at the hearing. Any
19 party may present evidence in support of or in response to an
20 objection.

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

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

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