

SENATE BILL REPORT

SB 5212

As of January 14, 2025

Title: An act relating to filing of adjudication claims for precode uses of groundwater and surface water in the water resource inventory area 1 water rights adjudication.

Brief Description: Concerning filing of adjudication claims for precode uses of groundwater and surface water in the water resource inventory area 1 water rights adjudication.

Sponsors: Senators Shewmake and Short.

Brief History:

Committee Activity: Agriculture & Natural Resources: 1/16/25.

Brief Summary of Bill

- Provides that notwithstanding any time restrictions in current law, an adjudication claim form filed in Water Resource Inventory Area 1 after June 1, 2023 satisfies statement of claim filing requirements.

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Staff: Jeff Olsen (786-7428)

Background: Water Rights. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water were established under a permit system. The permit system is based on the prior appropriation doctrine of first in time is first in right.

Claims Registration. With the enactment of legislation in 1967, the state required persons with claims of rights to the use of water based on something other than a water right permit or certificate, to register the claims with the Department of Ecology (Ecology). Claims had to be filed by June 30, 1974. The filing period was reopened on a limited basis in 1979, and again in 1985 and 1997. For the filing period opening in 1985 authorizing the acceptance of

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a petition for certification, the filing may not affect or impair any water right existing prior to July 28, 1985.

From September 1, 1997, through June 30, 1998, a filing period for persons whose water rights pre-date the water codes but who failed to file statements of claims for the rights during the previous filing periods was established. Similar to the 1985 claim registration filing period, a water right embodied in a statement of claim filed during the opening is subordinate to existing water rights. A person who failed to file a statement of claim as required is deemed to have waived and relinquished the right.

Water Rights Adjudication. Washington State's Surface Water Code establishes a general adjudication procedure. An adjudication can determine rights to surface water, ground water, or both. An adjudication is conducted in a superior court with Ecology as the plaintiff, and the defendants being the persons or entities owning real property situated within the area to be adjudicated. Ecology filed a water rights adjudication for Water Resource Inventory Area 1 (WRIA 1), with the Whatcom County Superior Court on May 1, 2024. WRIA 1, or Nooksack Basin, includes the entire Nooksack River watershed as well as nearby Bellingham Bay, Birch Bay, Chuckanut, Drayton Harbor, Lake Whatcom, Lummi Bay, Point Roberts, and Sumas River watersheds.

Summary of Bill: Notwithstanding existing time restrictions for registering an existing water right, filing an adjudication claim form for an adjudication filed in WRIA 1 after June 1, 2023, satisfies the statement of claim filing requirements under current law.

Appropriation: None.

Fiscal Note: Requested on January 11, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.