

SENATE BILL REPORT

ESHB 2094

As of March 30, 1999

Title: An act relating to water rights claims.

Brief Description: Requiring the department of ecology to file certain rejected water rights claims in the claims registry.

Sponsors: House Committee on Agriculture & Ecology (originally sponsored by Representatives G. Chandler and Linville).

Brief History:

Committee Activity: Environmental Quality & Water Resources: 3/30/99.

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY & WATER RESOURCES

Staff: Genevieve Pisarski (786-7488)

Background: Following adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. Both codes acknowledge the validity of water rights established prior to their enactment and make rights established under the codes subject to previously existing rights.

In 1967, the state required persons with claims that predated the surface or groundwater code to register the claims with the Department of Ecology by June 30, 1974. However, the filing period was reopened on a limited basis in 1979 and again in 1985. A person who failed to file a statement of claim as required is to be deemed to have waived and relinquished the water right.

In 1997, legislation again opened a filing period beginning September 1, 1997 and ending June 30, 1998. Exempt from this filing period were rights being adjudicated in a general adjudication proceeding for water rights or regulated by groundwater acreage expansion rules. The claims filed during this period were made subordinate to water right permits or certificates issued before the claim was filed and subordinate to claims filed in previous filing periods.

Summary of Bill: If a person submitted a water right claim form to the Department of Ecology during the latest filing period and the claim was rejected as incomplete, the person may, under certain circumstances, submit additional information in support of the claim between July 1, 1999, and December 31, 1999. The circumstances that must be satisfied are: the person checked the box labeled "other" on the water right claim form regarding the legal doctrine under which the water right is claimed; and the premise of the claim for a groundwater right is that a right to groundwater was inherent in and appurtenant to the original land patent issued by the federal government at the time the person's land was severed from federal ownership. However, this premise need not have been asserted in the claim.

If these circumstances are met, the person may submit a statement that the groundwater right claim is based on this assertion for lands they now own or occupy. Such a claimant must also submit a bona fide copy of the original land patent document issued by the United States. If this is done, the water right claim is deemed sufficient in lieu of compliance with other procedures and must be accepted for filing in the water rights claims registry.

This authority does not apply to other claims rejected as ineligible for being incomplete, for failure to remit a filing fee, or for submitting a claim for a purpose that is exempt from the filing requirement.

Accepting such a claim for the registry confers no special status to or recognition of the claim.

Appropriation: None.

Fiscal Note: Not requested.

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