

***Agriculture & Ecology Committee***

***HB 1870***

***Brief Description:*** *Regarding water rights established under the authority of family farm permits.*

***Sponsors:*** *Representatives Linville, G. Chandler, Grant, Doumit, Gombosky, Santos, Lovick, O'Brien, Wood, Edmonds and Jackley.*

***Brief Summary of Bill***

- *Allows an irrigation water right established under a family farm permit to be transferred, changed, or amended so that it may be used for any other agricultural use.*
- *Allows such a right that is currently used within an urban growth area under the Growth Management Act (GMA), or is currently used in a town or city that is located in a county not planning under the GMA, to be transferred, changed, or amended to any other purpose of use with certain restrictions.*

***Hearing Date:*** *2/13/01*

***Staff:*** *Kenneth Hirst (786-7105).*

***Background:***

***Modifying Existing Water Rights.*** *There are several fundamental elements of a water right. One is its priority (or seniority). Other elements of the water right include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used. Certain of these elements of a water right may be modified with the approval of the DOE if the modification would not impair other existing water rights. Alterations in water rights are referred to in statute as transfers, changes, and amendments of water rights. (RCW 90.03.380 and 90.44.100.)*

*Family Farm Permits. Family farm permits are water right permits issued under the Family Farm Water Act. The Act was adopted by the voters through the approval of Initiative Measure No. 59 in 1977. The Act requires that all water right permits issued after December 8, 1977, for irrigating agricultural lands be classified as: family farm permits, family farm development permits, public water entity permits, and publicly owned land permits. The principal permit for using water to irrigate privately owned agricultural lands under the Act is the family farm permit. (See RCW 90.66.050.) A family farm permit must limit the use of water withdrawn for irrigation of agricultural lands to land qualifying as a family farm. (RCW 90.66.050(1).) Under the Act, a family farm is not more than 2000 contiguous or noncontiguous acres of irrigated agricultural lands. (RCW 90.66.040(1).)*

*The Act states that the right to withdraw water for use for irrigating agricultural lands under such a permit is subject to the irrigated land's complying with the definition of a family farm as defined at the time the permit is issued. If a person's acquisition of land and water rights would otherwise cause land being irrigated under the permit to lose its status as a family farm, all lands held or acquired must again be in compliance with the definition of a family farm within 5 years from the date of the acquisition. (RCW 90.66.060(1).) Further, if the Department of Ecology (DOE) determines that water is being withdrawn under such a permit for use on land not in conformity with the definition of a family farm, the DOE must notify the permit holder and the permit must be suspended 2 years later unless the land is again in conformity with the definition of a family farm. The period may be extended in certain circumstances. If conformity is not achieved within 5 years of the notice, the withdrawal rights must be canceled. (RCW 90.66.060(2).) The DOE interprets these requirements as prohibiting the water right from being changed or amended so that it may be used for any purpose other than irrigating agricultural lands.*

### **Summary of Bill:**

*If the purpose of use of a water right established under a family farm permit is changed to another agricultural use (not an irrigation use), the provisions of the Family Farm Water Act that may currently be interpreted as restricting the use to irrigating not more than 2000 acres do not apply.*

*If the place of use for a water right established under a family farm permit is located within an urban growth area designated under the Growth Management Act or is located within a city or town in a county that is not planning under the Growth Management Act, the water right may be modified to the same extent as any other water right except that:*

- if the modification of the water right is to a use of water for municipal water supply purposes, the distribution works of the recipient of the altered water right must meet the water conservation standards established by the Department of Health for such works by rule or guideline in effect at the time the application for the modification is filed; and*
- if following such a modification, any portion of the use of water under the right is for agricultural irrigation purposes, that portion of the use is subject to the 2000 acre family farm restrictions of the Act.*

***Appropriation: None.***

***Fiscal Note: Requested on February 8, 2001.***

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