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**SUBSTITUTE SENATE BILL 5914**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Environment, Energy & Water (originally sponsored by Senator Fraser)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to conditions for transfer, change, or amendment of  
2 water rights established as family farm permits; amending RCW  
3 90.66.060; adding new sections to chapter 90.66 RCW; and adding a new  
4 section to chapter 90.44 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.66 RCW  
7 to read as follows:

8 (1) Transfer of water rights issued as family farm permits under  
9 this chapter may be approved as authorized under this section and under  
10 RCW 90.03.380, 90.03.390, or 90.44.100 or chapter 90.80 RCW as  
11 applicable.

12 (2) A water right issued as a family farm permit that is in  
13 compliance with this chapter may be transferred to other land:

14 (a) For use for agricultural irrigation purposes as authorized by  
15 RCW 90.66.060; or

16 (b) For any purpose of use that is a beneficial use of water if the  
17 transfer is seasonal or temporary, except that use for agricultural  
18 irrigation purposes shall be as authorized by RCW 90.66.060.

1 (3) If, prior to the application for transfer, the place of use of  
2 a water right issued as a family farm permit is located within the  
3 boundaries of a city or town or within the boundaries of an urban  
4 growth area designated under chapter 36.70A RCW, the water right may be  
5 transferred and, following transfer, may be used for any purpose of use  
6 that is a beneficial use of water, except that use for agricultural  
7 irrigation purposes shall be as authorized by RCW 90.66.060.

8 (4) If, prior to the application for transfer, the place of use of  
9 a water right issued as a family farm permit is not located within the  
10 boundaries of a city or town or within the boundaries of an urban  
11 growth area designated under chapter 36.70A RCW, the water right may be  
12 transferred and, following transfer, may be used for any purpose of use  
13 that is a beneficial use of water, if the point of diversion or  
14 withdrawal is located within the boundaries of a city or town or within  
15 the boundaries of an urban growth area designated under chapter 36.70A  
16 RCW and the diversion or withdrawal is from the same source of supply,  
17 except that use for agricultural irrigation purposes shall be as  
18 authorized by RCW 90.66.060.

19 (5) If a portion of the water governed by a water right established  
20 under the authority of a family farm permit is made surplus to the  
21 beneficial uses exercised under the right through the implementation of  
22 practices or technologies, including but not limited to conveyance  
23 practices or technologies, which are more efficient or more water-use  
24 efficient than those under which the right was perfected, the right to  
25 use the surplus water may be transferred to any purpose of use that is  
26 a beneficial use of water. Nothing in this subsection authorizes: A  
27 transfer of the portion of a water right that is necessary for the  
28 production of crops historically grown under the right; or a transfer  
29 of a water right or a portion of a water right that has not been  
30 perfected through beneficial use before the transfer. Water right  
31 transfers approved under this subsection must be consistent with the  
32 provisions of RCW 90.03.380(1).

33 (6) The authority granted by this section to transfer or alter the  
34 purpose of use of a water right established under the authority of a  
35 family farm permit shall not be construed as limiting in any manner the  
36 authority granted by RCW 90.03.380, 90.03.390, or 90.44.100 to alter  
37 other elements of such a water right.

38 (7) For any transfer under subsection (3) or (4) of this section,  
39 the provisions of section 4 of this act shall be recorded with the

1 county auditor of the county where the land from which the water right  
2 has been transferred is located.

3 **Sec. 2.** RCW 90.66.060 and 1979 c 3 s 6 are each amended to read as  
4 follows:

5 (1) The right to (~~withdraw~~) use water (~~for use~~) for the  
6 irrigation of agricultural lands under authority of a family farm  
7 permit shall have no time limit (~~but~~), shall be conditioned upon the  
8 land being irrigated complying with the definition of a family farm as  
9 defined at the time the permit is issued(~~PROVIDED, HOWEVER, That~~),  
10 and may be transferred as authorized by section 1 of this act.

11 (2) If the acquisition by any person of land and water rights by  
12 gift, devise, bequest, or by way of bona fide satisfaction of a debt,  
13 would otherwise cause land being irrigated pursuant to a family farm  
14 permit to lose its status as a family farm, such acquisition shall be  
15 deemed to have no effect upon the status of family farm water permits  
16 pertaining to land held or acquired by the person acquiring such land  
17 and water rights if all lands held or acquired are again in compliance  
18 with the definition of a family farm within five years from the date of  
19 such acquisition.

20 ((+2)) (3) If the department determines that water is being  
21 (~~withdrawn~~) used under a family farm permit (~~for use~~) on land not  
22 in conformity with the definition of a family farm, the department  
23 shall notify the holder of such family farm permit by personal service  
24 of such fact and the permit shall be suspended two years from the date  
25 of receipt of notice unless the person having a controlling interest in  
26 said land satisfies the department that such land is again in  
27 conformity with the definition of a family farm. The department may,  
28 upon a showing of good cause and reasonable effort to attain compliance  
29 on the part of the person having the controlling interest in such land,  
30 extend the two year period prior to suspension. If conformity is not  
31 achieved prior to five years from the date of notice, the (~~rights of~~  
32 ~~withdrawal~~) water right issued as a family farm permit shall be  
33 canceled.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.66 RCW  
35 to read as follows:

36 A water right issued as a family farm permit, a publicly owned land  
37 permit, or a public water entity permit that is in compliance with this

1 chapter is entitled to be issued a water right certificate as  
2 authorized by RCW 90.03.330.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.44 RCW  
4 to read as follows:

5 Notwithstanding RCW 90.44.050, land from which a water right issued  
6 as a family farm permit under chapter 90.66 RCW has been transferred  
7 must obtain a permit to make any withdrawal of public ground water that  
8 was not in existence on July 1, 2001.

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