
SECOND SUBSTITUTE SENATE BILL 6152

State of Washington

62nd Legislature

2012 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hatfield and Honeyford)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to streamlining water right permitting and appeals;
2 amending RCW 90.03.320 and 43.21B.305; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the ongoing
5 economic recession has prevented water right holders from completing
6 projects with existing water right permits, and that existing law
7 allows such permits to be extended without increasing or decreasing the
8 quantity of water authorized. The legislature also finds that the
9 ongoing economic recession has impacted state agency budgets, including
10 the department of ecology's water resource program and environmental
11 and land use hearings office.

12 Therefore, it is the intent of the legislature to enact temporary
13 water rights permitting reforms to enable the department of ecology's
14 water permitting staff to focus on substantive permitting matters that
15 do not duplicate other permit review procedures.

16 **Sec. 2.** RCW 90.03.320 and 1999 c 400 s 1 are each amended to read
17 as follows:

18 (1) Actual construction work shall be commenced on any project for

1 which permit has been granted within such reasonable time as shall be
2 prescribed by the department, and shall thereafter be prosecuted with
3 diligence and completed within the time prescribed by the department.
4 The department, in fixing the time for the commencement of the work, or
5 for the completion thereof and the application of the water to the
6 beneficial use prescribed in the permit, shall take into consideration
7 the cost and magnitude of the project and the engineering and physical
8 features to be encountered, and shall allow such time as shall be
9 reasonable and just under the conditions then existing, having due
10 regard for the public welfare and public interests affected. For good
11 cause shown, the department shall extend the time or times fixed as
12 aforesaid, and shall grant such further period or periods as may be
13 reasonably necessary, having due regard to the good faith of the
14 applicant and the public interests affected. Good cause includes
15 prevention or restriction of water use by operation of federal laws for
16 the time or times fixed for commencing work, completing work, and
17 applying water to beneficial use otherwise authorized under a water
18 right permit issued for a federal reclamation project. In fixing
19 construction schedules and the time, or extension of time, for
20 application of water to beneficial use for municipal water supply
21 purposes, the department shall also take into consideration the term
22 and amount of financing required to complete the project, delays that
23 may result from planned and existing conservation and water use
24 efficiency measures implemented by the public water system, and the
25 supply needs of the public water system's service area, consistent with
26 an approved comprehensive plan under chapter 36.70A RCW, or in the
27 absence of such a plan, a county-approved comprehensive plan under
28 chapter 36.70 RCW or a plan approved under chapter 35.63 RCW, and
29 related water demand projections prepared by public water systems in
30 accordance with state law. An existing comprehensive plan under
31 chapter 36.70A or 36.70 RCW, plan under chapter 35.63 RCW, or demand
32 projection may be used. If the terms of the permit or extension
33 thereof, are not complied with the department shall give notice by
34 registered mail that such permit will be canceled unless the holders
35 thereof shall show cause within sixty days why the same should not be
36 so canceled. If cause is not shown, the permit shall be canceled.

37 (2) Notwithstanding the provisions of subsections (1) and (3) of
38 this section, for any water right permit, previously approved permit

1 extension, or water right change or transfer with a development
2 schedule requiring construction or application of water to beneficial
3 use between the effective date of this section and December 31, 2016,
4 the times for construction and the application of water to beneficial
5 use are both extended for five years. The extension must be issued by
6 the department after payment of the fee required by RCW 90.03.470. In
7 connection with the ministerial permit extension authorized in this
8 subsection, the department shall not increase or decrease the quantity
9 of water authorized under the permit or modify any other terms or
10 conditions of the permit. As an alternative to the ministerial permit
11 extension authorized in this subsection, a water right permit holder
12 may apply for a permit extension under subsection (1) of this section.

13 (3) The provisions of this section do not apply to the Quincy
14 groundwater subarea as defined in WAC 173-134A-040(8) as it existed on
15 the effective date of this section.

16 **Sec. 3.** RCW 43.21B.305 and 2005 c 34 s 2 are each amended to read
17 as follows:

18 In an appeal that involves a penalty of fifteen thousand dollars or
19 less, the appeal may be heard by one member of the board or by an
20 administrative law judge employed by the board, whose decision shall be
21 the final decision of the board. The board shall define by rule
22 alternative procedures to expedite appeals involving penalties of
23 fifteen thousand dollars or less. These alternatives may include:
24 Mediation, upon agreement of all parties; submission of testimony by
25 affidavit; or other forms that may lead to less formal and faster
26 resolution of appeals.

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