

2 **2SHB 2054** - S AMD TO S AMD (S-3322.1/97)  
3 By Senator Spanel

4 ADOPTED 4/25/97

5 On page 41, after line 21 of the amendment, insert the following:

6 "Sec. 801. RCW 90.03.380 and 1996 c 320 s 19 are each amended to  
7 read as follows:

8 (1) The right to the use of water which has been applied to a  
9 beneficial use in the state shall be and remain appurtenant to the land  
10 or place upon which the same is used: PROVIDED, HOWEVER, That ((said))  
11 the right may be transferred to another or to others and become  
12 appurtenant to any other land or place of use without loss of priority  
13 of right theretofore established if such change can be made without  
14 detriment or injury to existing rights. The point of diversion of  
15 water for beneficial use or the purpose of use may be changed, if such  
16 change can be made without detriment or injury to existing rights. A  
17 change in the place of use, point of diversion, and/or purpose of use  
18 of a water right to enable irrigation of additional acreage or the  
19 addition of new uses may be permitted if such change results in no  
20 increase in the annual consumptive quantity of water used under the  
21 water right. For purposes of this section, "annual consumptive  
22 quantity" means the estimated or actual annual amount of water diverted  
23 pursuant to the water right, reduced by the estimated annual amount of  
24 return flows, averaged over the most recent five-year period of  
25 continuous beneficial use of the water right. Before any transfer of  
26 such right to use water or change of the point of diversion of water or  
27 change of purpose of use can be made, any person having an interest in  
28 the transfer or change, shall file a written application therefor with  
29 the department, and ((said)) the application shall not be granted until  
30 notice of ((said)) the application ((shall-be)) is published as  
31 provided in RCW 90.03.280. If it shall appear that such transfer or  
32 such change may be made without injury or detriment to existing rights,  
33 the department shall issue to the applicant a certificate in duplicate  
34 granting the right for such transfer or for such change of point of  
35 diversion or of use. The certificate so issued shall be filed and be  
36 made a record with the department and the duplicate certificate issued

1 to the applicant may be filed with the county auditor in like manner  
2 and with the same effect as provided in the original certificate or  
3 permit to divert water.

4 (2) If an application for change proposes to transfer water rights  
5 from one irrigation district to another, the department shall, before  
6 publication of notice, receive concurrence from each of the irrigation  
7 districts that such transfer or change will not adversely affect the  
8 ability to deliver water to other landowners or impair the financial  
9 integrity of either of the districts.

10 (3) A change in place of use by an individual water user or users  
11 of water provided by an irrigation district need only receive approval  
12 for the change from the board of directors of the district if the use  
13 of water continues within the irrigation district, and when water is  
14 provided by an irrigation entity that is a member of a board of joint  
15 control created under chapter 87.80 RCW, approval need only be received  
16 from the board of joint control if the use of water continues within  
17 the area of jurisdiction of the joint board and the change can be made  
18 without detriment or injury to existing rights.

19 (4) This section shall not apply to trust water rights acquired by  
20 the state through the funding of water conservation projects under  
21 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

22 **Sec. 802.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to  
23 read as follows:

24 After an application to, and upon the issuance by the department of  
25 an amendment to the appropriate permit or certificate of ground water  
26 right, the holder of a valid right to withdraw public ground waters  
27 may, without losing his priority of right, construct wells or other  
28 means of withdrawal at a new location in substitution for or in  
29 addition to those at the original location, or he may change the manner  
30 or the place of use of the water(~~(:—PROVIDED, HOWEVER, That such)~~).  
31 An amendment shall be issued only after publication of notice of the  
32 application and findings as prescribed in the case of an original  
33 application. Such amendment shall be issued by the department only on  
34 the conditions that: (1) The additional or substitute well or wells  
35 shall tap the same body of public ground water as the original well or  
36 wells; (2) use of the original well or wells shall be discontinued upon  
37 construction of the substitute well or wells; (3) the construction of  
38 an additional well or wells shall not enlarge the right conveyed by the

1 original permit or certificate; and (4) other existing rights shall not  
2 be impaired. An amendment to a permit or certificate to change the  
3 place of use, point of withdrawal, and/or purpose of use of a ground  
4 water right to enable irrigation of additional acreage or the addition  
5 of new uses may be issued if such change results in no increase in the  
6 annual consumptive quantity of water used under a certificate or  
7 authorized for use under a permit. For purposes of this section,  
8 "annual consumptive quantity" means the estimated or actual annual  
9 amount of water withdrawn pursuant to a certificate or the amount  
10 authorized for use pursuant to a permit, reduced by the estimated  
11 annual amount of return flows. For permits or certificates under which  
12 actual amounts of water have been withdrawn, withdrawals and return  
13 flows shall be averaged over the most recent five-year period of  
14 continuous beneficial use of the ground water right or, if the period  
15 of actual continuous beneficial use is less than five years, such  
16 lesser period. The department may specify an approved manner of  
17 construction and shall require a showing of compliance with the terms  
18 of the amendment, as provided in RCW 90.44.080 in the case of an  
19 original permit."

20 Renumber the remaining sections consecutively and correct any  
21 internal references accordingly.

22 **2SHB 2054** - S AMD TO S AMD (S-3322.1/97) - 521  
23 By Senator Spanel

24 ADOPTED 4/25/97

25 On page 42, line 8 of the title amendment, after "90.14.200,"  
26 strike "and 90.66.080" and insert "90.66.080, 90.03.380, and 90.44.100"

--- END ---