

# HOUSE BILL REPORT

## ESHB 1730

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### As Amended by the Senate

**Title:** An act relating to sufficient cause for nonuse of water rights.

**Brief Description:** Changing provisions relating to sufficient cause for nonuse of water rights.

**Sponsors:** By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Schoesler and Grant).

**Brief History:**

**Committee Activity:**

Agriculture & Ecology: 2/19/97, 2/27/97 [DPS].

**Floor Activity:**

Passed House: 3/18/97, 63-35.

Senate Amended.

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### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Delvin; Koster; Mastin and Sump.

**Minority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper and Regala.

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

**Background:** Relinquishment of a Water Right for Nonuse. If a person abandons or voluntarily fails to use beneficially all or any part of a water right for five successive years without sufficient cause, the right or portion unused reverts to the state. A number of exemptions from this relinquishment requirement are listed by statute. Among the circumstances providing exemptions are: if the water right is claimed for municipal water supply purposes; and if the water right is claimed for power development purposes and annual license fees are paid. A procedure has been established under which the Department of Ecology may determine and the Pollution Control Hearings Board may confirm that a water right has reverted to the state for nonuse.

Permit Deadline. If a person applies for a water right and the department issues a water use permit, the permit will contain deadlines by which construction required for the water use be completed and beneficial use of the water take place. These deadlines may be extended by the department under certain circumstances. If the water use is perfected under the terms of the permit, the department issues the permit holder a water right certificate.

**Summary of Bill:** A water right is not subject to relinquishment for nonuse if: the right is claimed for the water supply of an irrigation district and the purpose of the use is authorized under the general irrigation district laws; or the right is leased to another under a transfer or change of the right. Added to the sufficient causes for nonuse that also exempt the right from relinquishment are federal or state agency leases of or options to purchase lands or water rights which preclude or reduce the use of the right by the water right owner.

If federal or state laws prevent or restrict water use otherwise authorized under a water use permit, the Department of Ecology must extend the deadlines set in the permit for commencing work, completing work, and applying water to beneficial use. The extension must be for a period that is not less than the period of nonuse or restricted use caused by the federal or state laws.

**EFFECT OF SENATE AMENDMENT(S):** The amendments remove the section of the bill exempting from relinquishment for nonuse: water rights claimed for the water supply of an irrigation district for district purposes; water rights leased to another under a transfer or change; or nonuse of a water right resulting from state or federal land or water leases or purchase options.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** (1) The practical result of a federal moratorium on additional contracts for water by an irrigation district is that the district is precluded from supplying water to acreage that it is capable of serving under a 1991 water permit. The deadline set by the permit for putting water to use under the permit should be stayed. (2) The bill will put irrigation districts on the same footing with municipalities; they will not lose their water rights while developing water service.

**Testimony Against:** None.

**Testified:** Shannon McDaniel, Washington State Water Resource Association (in favor).