

# ANALYSIS OF HB 1111

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House Agriculture & Ecology Committee  
1997

January 20,

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## **BACKGROUND:**

Code and Pre-Code Rights. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. (RCW 90.03.250 and 90.44.050.) However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. (RCW 90.44.050.) The permit system is based on the prior appropriation doctrine that "first in time is first in right." (RCW 90.03.010.) Prior to these enactments, rights to water were obtained in a variety of way and under a variety of water doctrines. These pre-code rights to surface water could be obtained by appropriation, prescription, or by virtue of riparian land ownership. The doctrine in effect in this state prior to the adoption of the groundwater code in 1945 was the reasonable use and correlative rights doctrine. (*Evans v. Seattle*, 182 Wash 450 (1935) at page 459.) It is similar to the riparian doctrine for surface water rights in that it is based on land ownership.

## **SUMMARY:**

A person who placed surface or ground water to beneficial use for irrigation or stock watering purposes before January 1, 1993, for which a permit or certificate was not issued by the Department of Ecology (DOE) or its predecessors, is granted a water right in the amount beneficially used. The right is granted if the person files with the DOE a statement of claim for the right during a filing period beginning September 1, 1997, and ending midnight, June 30, 1998; and the person files with the statement of claim certain specified evidence that the water described in the claim was used beneficially before January 1, 1993. Rights are not granted for the withdrawal of water in an area that is the subject of an ongoing general adjudication proceeding for water rights.

The priority date of the water right is the date a claim for the right is filed. Such a right may not affect or impair a right that existed before the opening of the claim filing period.