

ANALYSIS OF HB 2924

House Agriculture & Ecology Committee

February 5, 1998

BACKGROUND:

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. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. The permit system is based on the prior appropriation doctrine that "first in time is first in right." Prior to these enactments, rights to water were obtained in a variety of ways and under a variety of water doctrines.

SUMMARY:

A person who placed surface or groundwater 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 for that use in the amount beneficially used. The right is granted if the person: (1) files with the DOE a statement of claim for the right during a filing period beginning September 1, 1998, and ending midnight, June 30, 1999; (2) files with the statement of claim certain specified evidence that the water described in the claim was used beneficially before January 1, 1993; and (3) has used the water to the full extent of the claim during at least three of the last five years.

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. These statements of claim are to be filed in a new registry of claims. The filing of a statement of claim does not constitute an adjudication of the claim between the claimant and the state or between a water use claimant and others. However, a statement of claim is admissible in a general adjudication of water rights as prima facie evidence of certain aspects of the right.

This granting of a water right does not apply: (1) in an area where similar rights are being adjudicated in a general adjudication proceeding; or (2) in an area that is currently regulated under rules establishing acreage expansion limitations as part of a groundwater management plan. These provisions granting rights and requiring the filing of statements of claim do not apply to water rights established under current law.

*Prepared for the House Agriculture & Ecology Committee
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