

# HOUSE BILL REPORT

## HB 2924

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### As Reported By House Committee On:

Agriculture & Ecology  
Appropriations

**Title:** An act relating to granting water rights.

**Brief Description:** Granting water rights to certain persons who were water users before January 1, 1993.

**Sponsors:** Representatives Chandler and Robertson.

### Brief History:

#### Committee Activity:

Agriculture & Ecology: 2/5/98 [DP];

Appropriations: 2/7/98 [DPS].

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## HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** Do pass. Signed by 9 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Delvin; Koster; Mastin and Sump.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Cooper and Regala.

**Staff:** Carole Richmond (786-7114).

**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 of Bill:** A water right is granted to persons 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. The right is granted if a person: (1) files a statement of

claim for the right with DOE 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 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.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect July 1, 1998.

**Testimony For:** Water has been in use for years and people have had applications in for years. Water rights should conform with reality. Granting water rights would not change the water regime and this won't cost the state any money in processing. Water is being put to beneficial use by storing it in the winter and using it in the summer. A grant of water rights is better than a watershed planning process because it provides certainty. There's enough water for fish and farmers. Because water rights are property rights, courts should decide water rights; not the Department of Ecology.

**Testimony Against:** This will create conflicts: people who use water without a legal right are favored over people who have rights, but aren't using their water. In-stream flows must be addressed before any further rights to water are granted.

**Testified:** Percy Hoekema, self (Pro); Judy Turpin, Washington Environmental Council (Con); and Hal Beecher, Washington Department of Fish and Wildlife (Con).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Benson; Carlson; Cooke; Crouse; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; D. Schmidt; Sehlin and Talcott.

**Minority Report:** Do not pass. Signed by 12 members: Representatives H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Chopp; Cody; Grant; Keiser; Kenney; Kessler; Poulsen; Regala and Tokuda.

**Staff:** Jeff Olsen (786-7157).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology:** If specific funding is not provided in the Omnibus Appropriations Act, the bill is null and void.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect on July 1, 1998. However, the bill is null and void unless funded in the budget.

**Testimony For:** None.

**Testimony Against:** The bill provides water users a permit without a claim. It's not fair to others trying to obtain a permit, and it creates the expense of establishing another claims registry.

**Testified:** John Rosapepe, Sierra Club.