

# ***ANALYSIS OF HB 2925***

---

---

***House Agriculture & Ecology Committee***

***February 2, 1998***

---

---

## **BACKGROUND:**

Interties are interconnections between two public water systems which allow water to be delivered or exchanged between those water systems. Interties existing before January 1, 1991 may continue without review unless the Department of Ecology receives complaints that the intertie is impairing other water rights. A 1996 Attorney General's Opinion found that this grandfathering language applied to the amount of water that flowed through the intertie as of 1991 and not the capacity of the intertie. Interties beginning use after January 1, 1991 may be permitted under certain circumstances, including not adversely affecting existing water rights.

Interties may not be used for the development of new sources of supply to meet future demand.

Water rights which have been put to beneficial use may be transferred without a loss of priority if the change can be made without impairing existing rights.

A permit for a water right normally sets forth the timelines for when construction work must begin and be completed on the project for which the permit was issued, as well as when the water must be put to beneficial use. The Department of Ecology issues a water right certificate if the Department is satisfied that the water right has been perfected by the water being put to beneficial use. Municipal water rights were historically considered to be perfected in the state when the municipality had the necessary infrastructure (pumps and pipes) in place to provide service, even though the water had not yet been put to beneficial use. There is litigation before the Washington Supreme Court which focuses on whether municipal water rights must be put to beneficial use before they are considered to be perfected.

In general, if a person fails to put all or part of a water right to beneficial use without sufficient cause for five consecutive years, then that water right or portion of water right is deemed to have been relinquished and reverts to the state. Sufficient cause— is defined as nonuse as a result of drought or other unavailability of water, active service in the United States armed forces during a military crisis, involuntary service in the United States armed forces, the operation of legal proceedings, or federal laws imposing land or water use restrictions either directly or through the landowner's voluntary enrollment in a federal program implementing those laws. Time periods which elapse while an application for transferring a water right to a public water supplier for municipal purposes, and conserved water do not constitute sufficient cause to

---

*Prepared for the House Agriculture & Ecology Committee  
by Bill Lynch, (786-7092)  
Office of Program Research*

prevent relinquishment for nonuse of water.

**SUMMARY:**

An intertie which was in use prior to January 1, 1991 may be used to its full design or built capacity within the most recently approved retail or wholesale service area without further approval by the Department of Ecology, and without regard to the capacity actually used before January 1, 1991.

The prohibition against interties being used to meet future demand for water is deleted. An intertie may be used to meet future demands if the water system or systems receiving water through the intertie efficiently use existing sources of water supply and the provision of water is consistent with local land use plans. A public water system is considered to be efficiently using its existing source of water if it is in full compliance with the Department of Health's conservation guidelines for such systems.

The Department of Ecology may not prohibit or limit a change in place of use for an intertie on the grounds that the holder of the permit has not yet put all of the water authorized in the permit to a beneficial use.

The instantaneous and annual withdrawal rates specified in a water right certificate are considered to be perfected if water is being provided under a certificated water right, and the water is being provided by a public water system providing water for municipal supply purposes, a federal reclamation project providing water for reclamation purposes, or an irrigation district providing water pursuant to the irrigation district laws.

The definition of what constitutes sufficient cause— for purposes of finding that the nonuse of a water right does not result in relinquishment of that water right is expanded to include a lapse of time occurring while a request or application is processed for transferring or changing a water right to use by a public water supplier for municipal purposes; and the implementation of more efficient practices, technologies, or facilities than what was previously used under the water right.