

# ANALYSIS OF SSB 5783

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*House Agriculture & Ecology Committee*

*March 31, 1997*

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## **BACKGROUND:**

*When a person with a water right permit demonstrates to the Department of Ecology's satisfaction that the appropriation of water has been perfected, the department issues the permit holder a certificate for that water right. The certificate constitutes a vested right in the use of the water.*

*The process for perfecting a water right includes the requirements that actual construction work for a project be commenced within a reasonable time, pursued with diligence, and completed within the time prescribed by the department. In determining what constitutes a reasonable amount of time under a water permit to commence and complete a project and put the water to a beneficial use, the Department of Ecology is required to take into consideration the cost and magnitude of the project and the engineering and physical features to be encountered and allow such time as is reasonable and just after considering existing conditions and the public interest.*

*A water right for irrigation may only be perfected after the water has been applied for a beneficial use for that purpose. Historically, appropriations by municipal water systems have been perfected in Washington based upon when pumps and pipes— are installed to meet the requirements for increases in population. In 1994, the Department of Ecology interpreted the law to require municipal water systems to perfect their water rights in the same manner as irrigation rights. Municipal water rights, therefore, are only perfected once the water has been put to actual use.*

*A number of municipalities have expressed concern that they have not fully utilized the maximum amount of water authorized under their permits, but might need the water to serve future population growth.*

## **SUMMARY:**

*In fixing public water system construction schedules and the time for applying water to a beneficial use for a public water systems in urban growth areas, the Department of Ecology must consider the term and amount of financing required to complete the project, delays resulting from conservation and efficiency measures installed by the public water system, and the supply needs of the public water system's service area for the next 20-year period*

*consistent with an approved comprehensive plan and related demand projections for the next 20-year period.*

*For public water supplies in urban growth areas designed to accommodate future growth as defined by a state-approved water system plan, the amount of instantaneously diverted water that is being applied to beneficial use is based upon the capacity of the diversion structures installed at the time. The amount of annual appropriation of water considered to be applied to a beneficial use at the time of perfection is based upon the growth projection for the next 20-year period contained in the most current state-approved water system plan. The Department of Ecology may not issue a certificate for quantities of water which exceed those contained in any permit that has been issued. Water rights subject to the terms of a final adjudication decree are not subject to these provisions.*