
SUBSTITUTE HOUSE BILL 1730

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Schoesler and Grant)

Read first time 03/03/97.

1 AN ACT Relating to sufficient cause for nonuse of water rights; and
2 amending RCW 90.03.320, 90.14.140, 90.14.160, 90.14.170, and
3 90.14.180.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to read
6 as follows:

7 Actual construction work shall be commenced on any project for
8 which permit has been granted within such reasonable time as shall be
9 prescribed by the department, and shall thereafter be prosecuted with
10 diligence and completed within the time prescribed by the department.
11 The department, in fixing the time for the commencement of the work, or
12 for the completion thereof and the application of the water to the
13 beneficial use prescribed in the permit, shall take into consideration
14 the cost and magnitude of the project and the engineering and physical
15 features to be encountered, and shall allow such time as shall be
16 reasonable and just under the conditions then existing, having due
17 regard for the public welfare and public interests affected(~~and,~~
18 ~~for good cause shown, it~~). For good cause shown, the department shall
19 extend the time or times fixed as aforesaid, and shall grant such

1 further period or periods as may be reasonably necessary, having due
2 regard to the good faith of the applicant and the public interests
3 affected. If federal or state laws prevent or restrict water use
4 otherwise authorized under the permit, the department shall extend the
5 time or times fixed for commencing work, completing work, and applying
6 water to beneficial use and the extension shall be for a period that is
7 not less than the period of nonuse or restricted use caused by the
8 federal or state laws. If the terms of the permit or extension
9 thereof, are not complied with the department shall give notice by
10 registered mail that such permit will be canceled unless the holders
11 thereof shall show cause within sixty days why the same should not be
12 so canceled. If cause be not shown, said permit shall be canceled.

13 **Sec. 2.** RCW 90.14.140 and 1987 c 125 s 1 are each amended to read
14 as follows:

15 (1) For the purposes of RCW 90.14.130 through 90.14.180,
16 "sufficient cause" shall be defined as the nonuse of all or a portion
17 of the water by the owner of a water right for a period of five or more
18 consecutive years where such nonuse occurs as a result of:

19 (a) Drought, or other unavailability of water;

20 (b) Active service in the armed forces of the United States during
21 military crisis;

22 (c) Nonvoluntary service in the armed forces of the United States;

23 (d) The operation of legal proceedings;

24 (e) Federal or state agency leases of or options to purchase lands
25 or water rights which preclude or reduce the use of the right by the
26 owner of the water right;

27 (f) Federal laws imposing land or water use restrictions either
28 directly or through the voluntary enrollment of a landowner in a
29 federal program implementing those laws, or acreage limitations, or
30 production quotas.

31 (2) Notwithstanding any other provisions of RCW 90.14.130 through
32 90.14.180, there shall be no relinquishment of any water right:

33 (a) If such right is claimed for power development purposes under
34 chapter 90.16 RCW and annual license fees are paid in accordance with
35 chapter 90.16 RCW(~~(7-04)~~);

36 (b) If such right is used for a standby or reserve water supply to
37 be used in time of drought or other low flow period so long as

1 withdrawal or diversion facilities are maintained in good operating
2 condition for the use of such reserve or standby water supply(~~(~~or~~)~~);

3 (c) If such right is claimed for a determined future development to
4 take place either within fifteen years of July 1, 1967, or the most
5 recent beneficial use of the water right, whichever date is later(~~(~~or~~)~~);

6
7 (d) If such right is claimed for municipal water supply purposes
8 under chapter 90.03 RCW(~~(~~or~~)~~);

9 (e) If such waters are not subject to appropriation under the
10 applicable provisions of RCW 90.40.030 (~~(as now or hereafter amended)~~);

11 (f) If such right or portion of the right is leased to another in
12 accordance with a transfer of or change in the right, with regard to
13 the portion leased; or

14 (g) If such right is claimed for the water supply of an irrigation
15 district organized under chapter 87.03 RCW and the purpose of use is
16 authorized by that chapter.

17 **Sec. 3.** RCW 90.14.160 and 1981 c 291 s 1 are each amended to read
18 as follows:

19 Any person entitled to divert or withdraw waters of the state
20 through any appropriation authorized by enactments of the legislature
21 prior to enactment of chapter 117, Laws of 1917, or by custom, or by
22 general adjudication, who abandons (~~(the same)~~) his or her right, or
23 who voluntarily fails, without sufficient cause, to beneficially use
24 all or any part of (~~(said)~~) his or her right to divert or withdraw for
25 any period of five successive years after September 1, 1979, shall
26 relinquish (~~(such)~~) his or her right or portion thereof, and (~~(said)~~)
27 the right or portion thereof shall revert to the state, and the waters
28 affected by (~~(said)~~) the right shall become available for appropriation
29 in accordance with RCW 90.03.250.

30 **Sec. 4.** RCW 90.14.170 and 1967 c 233 s 17 are each amended to read
31 as follows:

32 Any person entitled to divert or withdraw waters of the state by
33 virtue of his or her ownership of land abutting a stream, lake, or
34 watercourse, who abandons the same, or who voluntarily fails, without
35 sufficient cause, to beneficially use all or any part of (~~(said)~~) his
36 or her right to withdraw or divert (~~(said)~~) his or her water for any
37 period of five successive years after July 1, 1967, shall relinquish

1 ((such)) his or her right or portion thereof, and ((such)) the right or
2 portion thereof shall revert to the state, and the waters affected by
3 ((said)) the right shall become available for appropriation in
4 accordance with the provisions of RCW 90.03.250.

5 **Sec. 5.** RCW 90.14.180 and 1987 c 109 s 101 are each amended to
6 read as follows:

7 Any person hereafter entitled to divert or withdraw waters of the
8 state through an appropriation authorized under RCW 90.03.330,
9 90.44.080, or 90.44.090 who abandons ((the same)) his or her right, or
10 who voluntarily fails, without sufficient cause, to beneficially use
11 all or any part of ((said)) his or her right to withdraw for any period
12 of five successive years shall relinquish ((such)) his or her right or
13 portion thereof, and ((such)) the right or portion thereof shall revert
14 to the state, and the waters affected by ((said)) the right shall
15 become available for appropriation in accordance with RCW 90.03.250.
16 All certificates hereafter issued by the department of ecology pursuant
17 to RCW 90.03.330 shall expressly incorporate this section by reference.

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