
HOUSE BILL 2712

State of Washington

55th Legislature

1998 Regular Session

By Representatives Chandler and Sump

Read first time 01/19/98. Referred to Committee on Agriculture & Ecology.

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

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

4 **Sec. 1.** RCW 90.03.320 and 1997 c 445 s 3 are each amended to read
5 as follows:

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

1 regard to the good faith of the applicant and the public interests
2 affected. If federal or state laws prevent or restrict water use
3 otherwise authorized under the permit, the department shall extend the
4 time or times fixed for commencing work, completing work, and applying
5 water to beneficial use and the extension shall be for a period that is
6 not less than the period of nonuse or restricted use caused by the
7 federal or state laws. In fixing construction schedules and the time,
8 or extension of time, for application of water to beneficial use for
9 municipal water supply purposes, the department shall also take into
10 consideration the term and amount of financing required to complete the
11 project, delays that may result from planned and existing conservation
12 and water use efficiency measures implemented by the public water
13 system, and the supply needs of the public water system's service area,
14 consistent with an approved comprehensive plan under chapter 36.70A
15 RCW, or in the absence of such a plan, a county-approved comprehensive
16 plan under chapter 36.70 RCW or a plan approved under chapter 35.63
17 RCW, and related water demand projections prepared by public water
18 systems in accordance with state law. An existing comprehensive plan
19 under chapter 36.70A or 36.70 RCW, plan under chapter 35.63 RCW, or
20 demand projection may be used. If the terms of the permit or extension
21 thereof, are not complied with the department shall give notice by
22 registered mail that such permit will be canceled unless the holders
23 thereof shall show cause within sixty days why the same should not be
24 so canceled. If cause is not shown, the permit shall be canceled.

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

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

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

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

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

35 (d) The operation of legal proceedings;

36 (e) Federal laws imposing land or water use restrictions either
37 directly or through the voluntary enrollment of a landowner in a

1 federal program implementing those laws, or acreage limitations, or
2 production quotas.

3 (2) Notwithstanding any other provisions of RCW 90.14.130 through
4 90.14.180, there shall be no relinquishment of any water right:

5 (a) If such right is claimed for power development purposes under
6 chapter 90.16 RCW and annual license fees are paid in accordance with
7 chapter 90.16 RCW(~~(~~or~~)~~);

8 (b) If such right is used for a standby or reserve water supply to
9 be used in time of drought or other low flow period so long as
10 withdrawal or diversion facilities are maintained in good operating
11 condition for the use of such reserve or standby water supply(~~(~~or~~)~~);

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

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

17 (e) If such waters are not subject to appropriation under the
18 applicable provisions of RCW 90.40.030 (~~(as now or hereafter amended)~~);
19 or
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21 (f) If such right is claimed for the water supply of an irrigation
22 district organized under chapter 87.03 RCW and the purpose of use is
23 authorized by that chapter.

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