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SENATE BILL 5584

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State of Washington

55th Legislature

1997 Regular Session

By Senator Fraser

Read first time 01/31/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to water permit processing; and amending RCW  
2 90.03.290.

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

4 **Sec. 1.** RCW 90.03.290 and 1994 c 264 s 84 are each amended to read  
5 as follows:

6 (1) When an application complying with the provisions of this  
7 chapter and with the rules ((and regulations)) of the department has  
8 been filed, the ((same)) application shall be placed on record with the  
9 department, and it shall be ((its)) the department's duty to  
10 ((investigate the application, and)) determine what water, if any, is  
11 available for appropriation, and find and determine to what beneficial  
12 use or uses it can be applied. The department shall investigate the  
13 application. It is the duty of the applicant to provide a completed  
14 application form. In addition to providing the information requested  
15 on the form, however, the applicant shall also provide such information  
16 as may be required for the department's investigation, determinations,  
17 and findings regarding the application and may provide additional  
18 information. The information provided by the applicant must satisfy  
19 the protocols, that is, study plans and criteria, established by the

1 department for obtaining and providing the information. If an  
2 applicant provides the information and the protocols set by the  
3 department for obtaining and providing it have been satisfied, the  
4 department shall review the information and may take actions to verify  
5 that the information is accurate.

6 (2) With regard to an application:

7 (a) If it is proposed to appropriate water for irrigation purposes,  
8 the department shall investigate, determine, and find what lands are  
9 capable of irrigation by means of water found available for  
10 appropriation((-))i

11 (b) If it is proposed to appropriate water for the purpose of power  
12 development, the department shall investigate, determine, and find  
13 whether the proposed development is likely to prove detrimental to the  
14 public interest, having in mind the highest feasible use of the waters  
15 belonging to the public.

16 (3) If the application does not contain, and the applicant does not  
17 promptly furnish sufficient information on which to base such findings,  
18 the department may issue a preliminary permit, for a period of not to  
19 exceed three years, requiring the applicant to make such surveys,  
20 investigations, studies, and progress reports, as in the opinion of the  
21 department may be necessary. If the applicant fails to comply with the  
22 conditions of the preliminary permit, it and the application or  
23 applications on which it is based shall be automatically canceled and  
24 the applicant so notified. If the holder of a preliminary permit  
25 shall, before its expiration, file with the department a verified  
26 report of expenditures made and work done under the preliminary permit,  
27 which, in the opinion of the department, establishes the good faith,  
28 intent, and ability of the applicant to carry on the proposed  
29 development, the preliminary permit may, with the approval of the  
30 governor, be extended, but not to exceed a maximum period of five years  
31 from the date of the issuance of the preliminary permit.

32 (4) The department shall make and file as part of the record in the  
33 matter, written findings of fact concerning all things investigated.  
34 The department shall make a summary of the record of examination, and  
35 the proposed permit if the department proposes to issue the permit,  
36 available to the public and provide a period of at least sixty days for  
37 the public to submit comments thereon. The department shall consider  
38 the comments received and the entire record, and if it shall find that  
39 there is water available for appropriation for a beneficial use, and

1 the appropriation thereof as proposed in the application will not  
2 impair existing rights or be detrimental to the public welfare, it  
3 shall issue a permit stating the amount of water to which the applicant  
4 shall be entitled and the beneficial use or uses to which it may be  
5 applied: PROVIDED, That where the water applied for is to be used for  
6 irrigation purposes, it shall become appurtenant only to such land as  
7 may be reclaimed thereby to the full extent of the soil for  
8 agricultural purposes. But where there is no unappropriated water in  
9 the proposed source of supply, or where the proposed use conflicts with  
10 existing rights, or threatens to prove detrimental to the public  
11 interest, having due regard to the highest feasible development of the  
12 use of the waters belonging to the public, it shall be duty of the  
13 department to reject such application and to refuse to issue the permit  
14 asked for. If the permit is refused because of conflict with existing  
15 rights and such applicant shall acquire same by purchase or  
16 condemnation under RCW 90.03.040, the department may thereupon grant  
17 such permit. Any application may be approved for a less amount of  
18 water than that applied for, if there exists substantial reason  
19 therefor, and in any event shall not be approved for more water than  
20 can be applied to beneficial use for the purposes named in the  
21 application. In determining whether or not a permit shall issue upon  
22 any application, it shall be the duty of the department to investigate  
23 all facts relevant and material to the application. After the  
24 department approves said application in whole or in part and before any  
25 permit shall be issued thereon to the applicant, such applicant shall  
26 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the  
27 event a permit is issued by the department upon any application, it  
28 shall be its duty to notify the director of fish and wildlife of such  
29 issuance.

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