
SECOND SUBSTITUTE HOUSE BILL 2099

State of Washington 56th Legislature 2000 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives G. Chandler and Linville)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to an exemption from relinquishment of a water
2 right for nonuse resulting from the operation or pendency of legal
3 proceedings; amending RCW 90.14.140; and declaring an emergency.

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

5 **Sec. 1.** RCW 90.14.140 and 1998 c 258 s 1 are each amended to read
6 as follows:

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

- 11 (a) Drought, or other unavailability of water;
- 12 (b) Active service in the armed forces of the United States during
13 military crisis;
- 14 (c) Nonvoluntary service in the armed forces of the United States;
- 15 (d) The operation of legal proceedings;
- 16 (e) Federal or state agency leases of or options to purchase lands
17 or water rights which preclude or reduce the use of the right by the
18 owner of the water right;

1 (f) Federal laws imposing land or water use restrictions either
2 directly or through the voluntary enrollment of a landowner in a
3 federal program implementing those laws, or acreage limitations, or
4 production quotas.

5 (2) Notwithstanding any other provisions of RCW 90.14.130 through
6 90.14.180, there shall be no relinquishment of any water right:

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

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

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

17 (d) If such right is claimed for municipal water supply purposes
18 under chapter 90.03 RCW;

19 (e) If such waters are not subject to appropriation under the
20 applicable provisions of RCW 90.40.030; ((or))

21 (f) If such right or portion of the right is leased to another
22 person for use on land other than the land to which the right is
23 appurtenant as long as the lessee makes beneficial use of the right in
24 accordance with this chapter and a transfer or change of the right has
25 been approved by the department in accordance with RCW 90.03.380,
26 90.03.383, 90.03.390, or 90.44.100;

27 (g) If, after the effective date of this section, the superior
28 court issues an order excusing or prohibiting a person or entity from
29 exercising such right during the pendency of:

30 (i) A general adjudication of water rights initiated by the
31 department under RCW 90.03.120 or 90.44.220; or

32 (ii) A quiet title action under RCW 7.28.010; or

33 (h) If, during the pendency of the proceeding for the determination
34 of the surface water rights of the Yakima river basin, retroactive to
35 the commencement of that proceeding on October 12, 1977, such right is
36 the subject of a claim in the proceeding.

37 NEW SECTION. Sec. 2. This act is necessary for the immediate
38 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

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