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SENATE BILL 5724

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State of Washington

56th Legislature

1999 Regular Session

By Senators Swecker, Fraser, Bauer and Snyder

Read first time . Referred to Committee on .

1 AN ACT Relating to relinquishment of water rights; and amending RCW  
2 90.14.140.

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

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

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

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

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

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

14 (d) The operation of legal proceedings;

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

18 (f) Federal laws imposing land or water use restrictions either  
19 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;

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;

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;

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

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

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

25 (3) The running of any period of five consecutive years as provided  
26 in RCW 90.14.160 through 90.14.180 shall be tolled at the time an  
27 application for a change of place or purpose of use or point of  
28 diversion is filed under RCW 90.03.380, 90.44.100, or 90.80.070 in the  
29 following circumstances:

30 (a) When an application for change is associated with the transfer  
31 of the ownership of the water right from one person or entity to  
32 another and sworn affidavits of the transferor and transferee,  
33 evidencing a binding written water right transfer or an agreement of  
34 sale of the water right, either accompanies the change application when  
35 filed or is submitted within four months of the filing of the  
36 application; or

37 (b) When an application for change of a water right, or portion  
38 thereof, (i) is associated in part with the transfer of the ownership  
39 of a water right to a municipal or public corporation, (ii) the part of

1 the right transferred to the corporation is proposed for change to  
2 municipal use of the corporation, and (iii) the application filed is  
3 signed by both the owner of the water right and the corporation.

4 (4) If an application as provided in subsection (3)(a) or (b) of  
5 this section is: (a) Approved, the period of tolling provided for in  
6 this section ends only after a superseding certificate embodying the  
7 approved change is issued and the ability to exercise the changed right  
8 shall thereafter be subject to the conditions of the certificate; (b)  
9 denied, the period of tolling of the running of the statute ends when  
10 the denial ruling is final. If any quasi-judicial or judicial  
11 proceedings are initiated to review a decision of either approval or  
12 denial of an application, a decision shall be final only after all such  
13 proceedings are completed.

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