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**SENATE BILL 5804**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senators Morton, Deccio, Roach, Swecker, Rasmussen, Oke, T. Sheldon, Johnson, Gardner, Sellar, Sheahan, Honeyford, Hale, Snyder, Zarelli, Hochstatter, Stevens and West

Read first time 02/10/1999. Referred to Committee on Environmental Quality & Water Resources.

1 AN ACT Relating to a change in the purpose of use of a water right;  
2 and amending RCW 90.03.380.

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

4 **Sec. 1.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to  
5 read as follows:

6 (1) The right to the use of water which has been applied to a  
7 beneficial use in the state shall be and remain appurtenant to the land  
8 or place upon which the same is used: PROVIDED, HOWEVER, That the  
9 right may be transferred to another or to others and become appurtenant  
10 to any other land or place of use without loss of priority of right  
11 theretofore established if such change can be made without detriment or  
12 injury to existing rights. The point of diversion of water for  
13 beneficial use or the purpose of use may be changed, if such change can  
14 be made without detriment or injury to existing rights. A change in  
15 the place of use, point of diversion, and/or purpose of use of a water  
16 right to enable irrigation of additional acreage or the addition of new  
17 uses may be permitted if such change results in no increase in the  
18 annual consumptive quantity of water used under the water right. For  
19 purposes of this section, "annual consumptive quantity" means the

1 estimated or actual annual amount of water diverted pursuant to the  
2 water right, reduced by the estimated annual amount of return flows,  
3 averaged over the most recent five-year period of continuous beneficial  
4 use of the water right. Before any transfer of such right to use water  
5 or change of the point of diversion of water or change of purpose of  
6 use can be made, any person having an interest in the transfer or  
7 change, shall file a written application therefor with the department,  
8 and the application shall not be granted until notice of the  
9 application is published as provided in RCW 90.03.280. A change from  
10 one agricultural use to another agricultural use does not constitute a  
11 change in the purpose of use. If it shall appear that such transfer or  
12 such change may be made without injury or detriment to existing rights,  
13 the department shall issue to the applicant a certificate in duplicate  
14 granting the right for such transfer or for such change of point of  
15 diversion or of use. The certificate so issued shall be filed and be  
16 made a record with the department and the duplicate certificate issued  
17 to the applicant may be filed with the county auditor in like manner  
18 and with the same effect as provided in the original certificate or  
19 permit to divert water.

20 (2) If an application for change proposes to transfer water rights  
21 from one irrigation district to another, the department shall, before  
22 publication of notice, receive concurrence from each of the irrigation  
23 districts that such transfer or change will not adversely affect the  
24 ability to deliver water to other landowners or impair the financial  
25 integrity of either of the districts.

26 (3) A change in place of use by an individual water user or users  
27 of water provided by an irrigation district need only receive approval  
28 for the change from the board of directors of the district if the use  
29 of water continues within the irrigation district, and when water is  
30 provided by an irrigation entity that is a member of a board of joint  
31 control created under chapter 87.80 RCW, approval need only be received  
32 from the board of joint control if the use of water continues within  
33 the area of jurisdiction of the joint board and the change can be made  
34 without detriment or injury to existing rights.

35 (4) This section shall not apply to trust water rights acquired by  
36 the state through the funding of water conservation projects under  
37 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

38 (5) "Agricultural use" as used in subsection (1) of this section  
39 means the use of water for commercial production of an agricultural

1 commodity including horticultural, viticultural, floricultural,  
2 vegetable, animal forage crop, milk, or other livestock products. The  
3 term also includes those normal uses of water on a farm necessary to  
4 produce such agricultural commodities.

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