

2 **SB 5333** - H COMM AMD **ADOPTED 4/12/01**
3 By Committee on Agriculture & Ecology

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5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 90.03.290 and 1994 c 264 s 84 are each amended to
8 read as follows:

9 (1) When an application complying with the provisions of this
10 chapter and with the rules (~~and regulations~~) of the department has
11 been filed, the same shall be placed on record with the department, and
12 it shall be its duty to investigate the application, and determine what
13 water, if any, is available for appropriation, and find and determine
14 to what beneficial use or uses it can be applied. If it is proposed to
15 appropriate water for irrigation purposes, the department shall
16 investigate, determine and find what lands are capable of irrigation by
17 means of water found available for appropriation. If it is proposed to
18 appropriate water for the purpose of power development, the department
19 shall investigate, determine and find whether the proposed development
20 is likely to prove detrimental to the public interest, having in mind
21 the highest feasible use of the waters belonging to the public.

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

1 period of five years from the date of the issuance of the preliminary
2 permit.

3 (b) For any application for which a preliminary permit was issued
4 and for which the availability of water was directly affected by a
5 moratorium on further diversions from the Columbia river during the
6 years from 1990 to 1998, the preliminary permit is extended through
7 June 30, 2002. If such an application and preliminary permit were
8 canceled during the moratorium, the application and preliminary permit
9 shall be reinstated until June 30, 2002, if the application and permit:
10 (i) Are for providing regional water supplies in more than one urban
11 growth area designated under chapter 36.70A RCW and in one or more
12 areas near such urban growth areas, or the application and permit are
13 modified for providing such supplies, and (ii) provide or are modified
14 to provide such regional supplies through the use of existing intake or
15 diversion structures. The authority to modify such a canceled
16 application and permit to accomplish the objectives of (b)(i) and (ii)
17 of this subsection is hereby granted.

18 (3) The department shall make and file as part of the record in the
19 matter, written findings of fact concerning all things investigated,
20 and if it shall find that there is water available for appropriation
21 for a beneficial use, and the appropriation thereof as proposed in the
22 application will not impair existing rights or be detrimental to the
23 public welfare, it shall issue a permit stating the amount of water to
24 which the applicant shall be entitled and the beneficial use or uses to
25 which it may be applied: PROVIDED, That where the water applied for is
26 to be used for irrigation purposes, it shall become appurtenant only to
27 such land as may be reclaimed thereby to the full extent of the soil
28 for agricultural purposes. But where there is no unappropriated water
29 in the proposed source of supply, or where the proposed use conflicts
30 with existing rights, or threatens to prove detrimental to the public
31 interest, having due regard to the highest feasible development of the
32 use of the waters belonging to the public, it shall be duty of the
33 department to reject such application and to refuse to issue the permit
34 asked for.

35 (4) If the permit is refused because of conflict with existing
36 rights and such applicant shall acquire same by purchase or
37 condemnation under RCW 90.03.040, the department may thereupon grant
38 such permit. Any application may be approved for a less amount of
39 water than that applied for, if there exists substantial reason

1 therefor, and in any event shall not be approved for more water than
2 can be applied to beneficial use for the purposes named in the
3 application. In determining whether or not a permit shall issue upon
4 any application, it shall be the duty of the department to investigate
5 all facts relevant and material to the application. After the
6 department approves said application in whole or in part and before any
7 permit shall be issued thereon to the applicant, such applicant shall
8 pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the
9 event a permit is issued by the department upon any application, it
10 shall be its duty to notify the director of fish and wildlife of such
11 issuance."

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