

***Agriculture & Ecology Committee***

***SSB 5910***

***Brief Description:*** *Regarding temporary nonuse of a water right.*

***Sponsors:*** *By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Fraser and Honeyford).*

***Brief Summary of Substitute Bill***

- *Exempts certain non-use of water from relinquishment.*
- *Allows certain conditions for water rights donated to the state-wide trust water right program.*

***Hearing Date:*** *3/29/01*

***Staff:*** *Kenneth Hirst (786-7105).*

***Background:***

***Trust Water Rights.*** *A water right may be donated to or acquired by the state for management as a trust water right. The laws governing the state's trust water right program are divided into two parts: one for the Yakima River Basin; and the other for the rest of the state. The latter is often referred to as the state-wide trust water rights program. The DOE may acquire water rights for the trust water right programs by purchase, gift, or other appropriate means other than condemnation. Water rights may be acquired for either system on a temporary or permanent basis. Among the uses expressly authorized for such trust water rights are instream uses.*

***Relinquishment.*** *In general, if a person abandons his or her water right or voluntarily fails to use the right for five successive years, the person relinquishes the right or the portion of the right abandoned or not used. However, exemptions from this requirement are provided; for example, these relinquishment requirements do not apply to trust water rights.*

**Summary of Bill:**

*A water right is exempted from relinquishment for non-use if the non-use is a result of:*

- *crop rotation;*
- *temporarily reduced water need for irrigation use caused by varying weather conditions if the water user's diversion and delivery facilities are maintained in good operating condition consistent with beneficial use of the full amount of the water right. The burden is on the water user to prove that the weather conditions are significantly different from average conditions such that they resulted in the reduction of water use;*
- *water conservation measures implemented under the Yakima River Basin Water Enhancement Project if the conserved water is reallocated in accordance with the requirements for the project; or*
- *reliance by an irrigation water user on the transitory presence of return flows in lieu of diversion or withdrawal of water from the primary source of supply, if the return flows are measured or reliably estimated using a scientific methodology accepted by the DOE. (Section 1.)*

*Trust water rights for the state-wide trust water right program may be conditioned by the grantor to include all or portions of existing water rights as trust water rights on a temporary basis as a result of temporarily reduced water need if the water user's diversion and delivery facilities are maintained in good operating condition consistent with beneficial use of the full amount of the water right. The reduction must be caused by varying weather conditions or the presence of water from a source not within the control of the water user. (Section 2.)*

**Appropriation:** *None.*

**Fiscal Note:** *Not Requested.*

**Effective Date:** *The bill contains an emergency clause and takes effect immediately.*