
SUBSTITUTE HOUSE BILL 2038

State of Washington

57th Legislature

2001 Regular Session

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

Read first time 02/26/2001. Referred to Committee on .

1 AN ACT Relating to clarifying "voluntarily fails" for water rights
2 relinquishment purposes; adding a new section to chapter 90.14 RCW; and
3 declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.14 RCW
6 to read as follows:

7 For the purposes of RCW 90.14.140 through 90.14.180, unless the
8 context clearly requires otherwise, "voluntarily fails" means the
9 nonuse of all or a portion of the water by the owner of the water
10 right, where the nonuse occurs as a result of factors within the
11 control of the water user. A failure to use all or a portion of a
12 water right for irrigation use is involuntary when the water needed for
13 irrigation use under the right is reduced as a result of:

14 (1) Varying weather conditions including but not limited to
15 precipitation and temperature, so long as the water user's diversion
16 and delivery facilities are maintained in good operating condition
17 consistent with the beneficial use of the full amount of the water
18 right. The burden is on the water user to prove that the weather

1 conditions are significantly different from average conditions such
2 that they resulted in the reduction of water use;

3 (2) The temporary presence of return flows used in lieu of water
4 from the primary source of water supply under the right if the return
5 flows are measured or reliably estimated using a scientific methodology
6 accepted as reliable by the director of the department of ecology; or

7 (3) Crop rotation.

8 NEW SECTION. **Sec. 2.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and takes effect
15 immediately.

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