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SENATE BILL 5041

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State of Washington

57th Legislature

2001 Regular Session

By Senators Honeyford, Hale, Hochstatter, Swecker and Deccio

Read first time 01/08/2001. Referred to Committee on Environment,  
Energy & Water.

1 AN ACT Relating to water conservancy board authority; and amending  
2 RCW 90.80.010, 90.80.070, 90.80.120, and 90.80.140.

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

4 **Sec. 1.** RCW 90.80.010 and 1997 c 441 s 2 are each amended to read  
5 as follows:

6 The following definitions apply throughout this chapter, unless the  
7 context clearly requires otherwise.

8 (1) "Board" means a water conservancy board created under this  
9 chapter.

10 (2) "Commissioner" means a member of a water conservancy board.

11 (3) "Department" means the department of ecology.

12 (4) "Director" means the director of the department of ecology.

13 (5) "Transfer" means a transfer, change, or amendment to a water  
14 right referred to in RCW 90.03.380, 90.03.390, or 90.44.100.

15 **Sec. 2.** RCW 90.80.070 and 1997 c 441 s 9 are each amended to read  
16 as follows:

17 (1) Applications to the board for transfers shall be made on a form  
18 provided by the department, and shall contain such additional

1 information as may be required by the board in order to review and act  
2 upon the application. At a minimum, the application shall include  
3 information sufficient to establish to the board's satisfaction of the  
4 transferor's right to the quantity of water being transferred, and a  
5 description of any applicable limitations on the right to use water,  
6 including the point of diversion or withdrawal, place of use, source of  
7 supply, purpose of use, quantity of use permitted, time of use, period  
8 of use, and the place of storage.

9 (2) The transferor and the transferee of any proposed water  
10 transfer may apply to a board for approval of the transfer if the water  
11 proposed to be transferred is currently diverted, withdrawn, or used  
12 within the geographic boundaries of the county, or would be diverted,  
13 withdrawn, or used within the geographic boundaries of the county if  
14 the transfer is approved. In the case of a proposed water transfer in  
15 which the water is currently diverted or would be diverted outside the  
16 geographic boundaries of the county, the board shall hold a public  
17 hearing in the county of the diversion or proposed diversion. The  
18 board shall provide for prominent publication of notice of such hearing  
19 in a newspaper of general circulation published in the county in which  
20 the hearing is to be held for the purpose of affording an opportunity  
21 for interested persons to comment upon the application.

22 (3) After an application for a transfer is filed with the board,  
23 the board shall publish notice of the application in accordance with  
24 the publication requirements and send notice to state agencies as  
25 provided in RCW 90.03.280. Any person may submit comments to the board  
26 regarding the application. Any water right holder claiming detriment  
27 or injury to an existing water right may intervene in the application  
28 before the board pursuant to subsection (4) of this section. If a  
29 majority of the board determines that the application is complete, in  
30 accordance with the law and the transfer can be made without injury or  
31 detriment to existing water rights in accordance with RCW 90.03.380,  
32 90.03.390, or 90.44.100, the board shall issue the applicant a  
33 certificate conditionally approving the transfer, subject to review by  
34 the director.

35 (4) If a water right holder claims a proposed transfer will cause  
36 an impairment to that right, the water right holder is entitled to a  
37 hearing before the board. The board shall receive such evidence as it  
38 deems material and necessary to determine the validity of the claim of  
39 impairment. If the party claiming the impairment establishes by a

1 preponderance of the evidence that his or her water right will be  
2 impaired by the proposed transfer, the board may not approve the  
3 transfer unless the applicant and the impaired party agree upon  
4 compensation for the impairment.

5       **Sec. 3.** RCW 90.80.120 and 1997 c 441 s 16 are each amended to read  
6 as follows:

7       (1) A commissioner of a water conservancy board who has an  
8 ownership interest in a water right subject to an application for  
9 approval of a transfer (~~or change~~) by the board, shall not  
10 participate in the board's review or decision upon the application.

11       (2) A commissioner of a water conservancy board who also serves as  
12 an employee or upon the governing body of a municipally owned water  
13 system, shall not participate in the board's review or decision upon an  
14 application for the transfer (~~or change~~) of a water right in which  
15 that water system has or is proposed to have an ownership interest.

16       **Sec. 4.** RCW 90.80.140 and 1997 c 441 s 18 are each amended to read  
17 as follows:

18       Nothing in this chapter affects transfers that may be otherwise  
19 approved under chapter 90.03 or 90.44 RCW.

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