
SENATE BILL 5100

State of Washington

57th Legislature

2001 Regular Session

By Senators Fraser, Swecker, Regala, Eide, Rasmussen, Gardner, Haugen, Franklin, McAuliffe, Jacobsen and Fairley

Read first time 01/10/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to expediting the processing of pending
2 applications relating to existing water rights by clarifying when
3 pending applications for new water rights are not existing rights,
4 allowing pending applications relating to existing water rights to be
5 processed independently of pending applications for new water rights,
6 and allowing applications to be processed ahead of previously filed
7 applications that have insufficient information; amending RCW
8 90.03.380; creating a new section; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that the size of the
11 current backlog of applications relating to existing water rights
12 should be reduced. The legislature intends to allow pending
13 applications relating to existing water rights to be processed
14 independently of pending applications for new water rights and without
15 regard to possible impairment of pending applications for new water
16 rights.

17 **Sec. 2.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to
18 read as follows:

1 (1) The right to the use of water which has been applied to a
2 beneficial use in the state shall be and remain appurtenant to the land
3 or place upon which the same is used: PROVIDED, HOWEVER, That the
4 right may be transferred to another or to others and become appurtenant
5 to any other land or place of use without loss of priority of right
6 theretofore established if such change can be made without detriment or
7 injury to existing rights. The point of diversion of water for
8 beneficial use or the purpose of use may be changed, if such change can
9 be made without detriment or injury to existing rights. A change in
10 the place of use, point of diversion, and/or purpose of use of a water
11 right to enable irrigation of additional acreage or the addition of new
12 uses may be permitted if such change results in no increase in the
13 annual consumptive quantity of water used under the water right. For
14 purposes of this section, "annual consumptive quantity" means the
15 estimated or actual annual amount of water diverted pursuant to the
16 water right, reduced by the estimated annual amount of return flows,
17 averaged over the most recent five-year period of continuous beneficial
18 use of the water right. Before any transfer of such right to use water
19 or change of the point of diversion of water or change of purpose of
20 use can be made, any person having an interest in the transfer or
21 change, shall file a written application therefor with the department,
22 and the application shall not be granted until notice of the
23 application is published as provided in RCW 90.03.280. If it shall
24 appear that such transfer or such change may be made without injury or
25 detriment to existing rights, the department shall issue to the
26 applicant a certificate in duplicate granting the right for such
27 transfer or for such change of point of diversion or of use. The
28 certificate so issued shall be filed and be made a record with the
29 department and the duplicate certificate issued to the applicant may be
30 filed with the county auditor in like manner and with the same effect
31 as provided in the original certificate or permit to divert water.

32 (2) If an application for change proposes to transfer water rights
33 from one irrigation district to another, the department shall, before
34 publication of notice, receive concurrence from each of the irrigation
35 districts that such transfer or change will not adversely affect the
36 ability to deliver water to other landowners or impair the financial
37 integrity of either of the districts.

38 (3) A change in place of use by an individual water user or users
39 of water provided by an irrigation district need only receive approval

1 for the change from the board of directors of the district if the use
2 of water continues within the irrigation district, and when water is
3 provided by an irrigation entity that is a member of a board of joint
4 control created under chapter 87.80 RCW, approval need only be received
5 from the board of joint control if the use of water continues within
6 the area of jurisdiction of the joint board and the change can be made
7 without detriment or injury to existing rights.

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

11 (5) Pending applications for new water rights are not entitled to
12 protection from impairment, injury, or detriment when an application
13 for a change, transfer, or amendment of an existing surface or ground
14 water right is considered.

15 (6) Applications relating to existing surface or ground water
16 rights may be processed and decisions on them rendered independently of
17 processing and rendering decisions on pending applications for new
18 water rights within the same source of supply without regard to the
19 date of filing of the pending applications for new water rights.

20 (7) Notwithstanding any other processing procedure for applications
21 relating to existing water rights, an application may be processed
22 ahead of a previously filed application, when sufficient information
23 for a decision on the previously filed application is not available and
24 the applicant for the previously filed application is sent written
25 notice that explains what information is not available and why and
26 informs the applicant that processing of the next application in order
27 of filing will begin. No such previously filed application shall lose
28 its priority date.

29 NEW SECTION. Sec. 3. This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 immediately.

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