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SENATE BILL 5901

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State of Washington

57th Legislature

2001 Regular Session

By Senators B. Sheldon, Hale, Oke, Morton, Honeyford, Eide and T. Sheldon

Read first time 02/07/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to eliminating certain restrictions on water  
2 system interties; and amending RCW 90.03.383.

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

4 **Sec. 1.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to read  
5 as follows:

6 (1) The legislature recognizes the value of interties for  
7 improving the reliability of public water systems, enhancing their  
8 management, and more efficiently utilizing the increasingly  
9 limited resource. Given the continued growth in the most populous  
10 areas of the state, the increased complexity of public water  
11 supply management, and the trend toward regional planning and  
12 regional solutions to resource issues, interconnections of public  
13 water systems through interties provide a valuable tool to ensure  
14 reliable public water supplies for the citizens of the state.  
15 Public water systems have been encouraged in the past to utilize  
16 interties to achieve public health and resource management  
17 objectives. The legislature finds that it is in the public interest  
18 to recognize interties existing and in use as of January 1, 1991,

1 and to have associated water rights modified by the department of  
2 ecology to reflect current use of water through those interties,  
3 pursuant to subsection (3) of this section. The legislature further  
4 finds it in the public interest to develop a coordinated process  
5 to review proposals for interties commencing use after January 1,  
6 1991.

7 (2) For the purposes of this section, the following definitions  
8 shall apply:

9 (a) "Interties" are interconnections between public water  
10 systems permitting exchange or delivery of water between those  
11 systems for other than emergency supply purposes, where such  
12 exchange or delivery is within established instantaneous and  
13 annual withdrawal rates specified in the systems' existing water  
14 right permits or certificates, or contained in claims filed  
15 pursuant to chapter 90.14 RCW, and which results in better  
16 management of public water supply consistent with existing rights  
17 and obligations. Interties include interconnections between public  
18 water systems permitting exchange or delivery of water to serve as  
19 primary or secondary sources of supply(~~(, but do not include~~  
20 ~~development of new sources of supply to meet future demand)~~).

21 (b) "Service area" is the area designated in a water system  
22 plan or a coordinated water system plan pursuant to chapter 43.20  
23 or 70.116 RCW respectively. When a public water system does not  
24 have a designated service area subject to the approval process of  
25 those chapters, the service area shall be the designated place of  
26 use contained in the water right permit or certificate, or  
27 contained in the claim filed pursuant to chapter 90.14 RCW.

28 (3) Public water systems with interties existing and in use as  
29 of January 1, 1991, or that have received written approval from  
30 the department of health prior to that date, shall file written  
31 notice of those interties with the department of health and the  
32 department of ecology. The notice may be incorporated into the  
33 public water system's five-year update of its water system plan,  
34 but shall be filed no later than June 30, 1996. The notice shall  
35 identify the location of the intertie; the dates of its first use;  
36 the purpose, capacity, and current use; the intertie agreement of  
37 the parties and the service areas assigned; and other information  
38 reasonably necessary to modify the water right permit.

1 Notwithstanding the provisions of RCW 90.03.380 and 90.44.100, for  
2 public water systems with interties existing and in use as of  
3 January 1, 1991, the department of ecology, upon receipt of notice  
4 meeting the requirements of this subsection, shall, as soon as  
5 practicable, modify the place of use descriptions in the water  
6 right permits, certificates, or claims to reflect the actual use  
7 through such interties, provided that the place of use is within  
8 service area designations established in a water system plan  
9 approved pursuant to chapter 43.20 RCW, or a coordinated water  
10 system plan approved pursuant to chapter 70.116 RCW, and further  
11 provided that the water used is within the instantaneous and  
12 annual withdrawal rates specified in the water right permit and  
13 that no outstanding complaints of impairment to existing water  
14 rights have been filed with the department of ecology prior to  
15 September 1, 1991. Where such complaints of impairment have been  
16 received, the department of ecology shall make all reasonable  
17 efforts to resolve them in a timely manner through agreement of  
18 the parties or through available administrative remedies.

19 (4) Notwithstanding the provisions of RCW 90.03.380 and  
20 90.44.100, exchange or delivery of water through interties  
21 commencing use after January 1, 1991, shall be permitted when the  
22 intertie improves overall system reliability, enhances the  
23 manageability of the systems, provides opportunities for  
24 conjunctive use, or delays or avoids the need to develop new water  
25 sources, and otherwise meets the requirements of this section,  
26 provided that each public water system's water use shall not  
27 exceed the instantaneous or annual withdrawal rate specified in  
28 its water right authorization, shall not adversely affect existing  
29 water rights, and shall not be inconsistent with state-approved  
30 plans such as water system plans or other plans which include  
31 specific proposals for construction of interties. Interties  
32 commencing use after January 1, 1991, shall not be inconsistent  
33 with regional water resource plans developed pursuant to chapter  
34 90.54 RCW.

35 (5) For public water systems subject to the approval process of  
36 chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties  
37 commencing use after January 1, 1991, shall be incorporated into  
38 water system plans pursuant to chapter 43.20 RCW or coordinated

1 water system plans pursuant to chapter 70.116 RCW and submitted to  
2 the department of health and the department of ecology for review  
3 and approval as provided for in subsections (5) through (9) of  
4 this section. The plan shall state how the proposed intertie will  
5 improve overall system reliability, enhance the manageability of  
6 the systems, provide opportunities for conjunctive use, or delay  
7 or avoid the need to develop new water sources.

8 (6) The department of health shall be responsible for review  
9 and approval of proposals for new interties. In its review the  
10 department of health shall determine whether the intertie  
11 satisfies the criteria of subsection (4) of this section, with the  
12 exception of water rights considerations, which are the  
13 responsibility of the department of ecology, and shall determine  
14 whether the intertie is necessary to address emergent public  
15 health or safety concerns associated with public water supply.

16 (7) If the intertie is determined by the department of health  
17 to be necessary to address emergent public health or safety  
18 concerns associated with public water supply, the public water  
19 system shall amend its water system plan as required and shall  
20 file an application with the department of ecology to change its  
21 existing water right to reflect the proposed use of the water as  
22 described in the approved water system plan. The department of  
23 ecology shall process the application for change pursuant to RCW  
24 90.03.380 or 90.44.100 as appropriate, except that,  
25 notwithstanding the requirements of those sections regarding  
26 notice and protest periods, applicants shall be required to  
27 publish notice one time, and the comment period shall be fifteen  
28 days from the date of publication of the notice. Within sixty days  
29 of receiving the application, the department of ecology shall  
30 issue findings and advise the department of health if existing  
31 water rights are determined to be adversely affected. If no  
32 determination is provided by the department of ecology within the  
33 sixty-day period, the department of health shall proceed as if  
34 existing rights are not adversely affected by the proposed  
35 intertie. The department of ecology may obtain an extension of the  
36 sixty-day period by submitting written notice to the department of  
37 health and to the applicant indicating a definite date by which

1 its determination will be made. No additional extensions shall be  
2 granted, and in no event shall the total review period for the  
3 department of ecology exceed one hundred eighty days.

4 (8) If the department of health determines the proposed  
5 intertie appears to meet the requirements of subsection (4) of  
6 this section but is not necessary to address emergent public  
7 health or safety concerns associated with public water supply, the  
8 department of health shall instruct the applicant to submit to the  
9 department of ecology an application for change to the underlying  
10 water right or claim as necessary to reflect the new place of  
11 use. The department of ecology shall consider the applications  
12 pursuant to the provisions of RCW 90.03.380 and 90.44.100 as  
13 appropriate. If in its review of proposed interties and associated  
14 water rights the department of ecology determines that additional  
15 information is required to act on the application, the department  
16 may request applicants to provide information necessary for its  
17 decision, consistent with agency rules and written  
18 guidelines. Parties disagreeing with the decision of the department  
19 of ecology on the application for change in place of use may  
20 appeal the decision to the pollution control hearings board.

21 (9) The department of health may approve plans containing  
22 intertie proposals prior to the department of ecology's decision  
23 on the water right application for change in place of use.  
24 However, notwithstanding such approval, construction work on the  
25 intertie shall not begin until the department of ecology issues  
26 the appropriate water right document to the applicant consistent  
27 with the approved plan.

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