
SENATE BILL 5908

State of Washington

57th Legislature

2001 Regular Session

By Senator Fraser

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

1 AN ACT Relating to whether changes in agricultural production are
2 changes in purpose of use; amending RCW 90.03.380; and declaring an
3 emergency.

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

5 **Sec. 1.** RCW 90.03.380 and 1997 c 442 s 801 are each amended to
6 read as follows:

7 (1) The right to the use of water which has been applied to a
8 beneficial use in the state shall be and remain appurtenant to the land
9 or place upon which the same is used: PROVIDED, HOWEVER, That the
10 right may be transferred to another or to others and become appurtenant
11 to any other land or place of use without loss of priority of right
12 theretofore established if such change can be made without detriment or
13 injury to existing rights. The point of diversion of water for
14 beneficial use or the purpose of use may be changed, if such change can
15 be made without detriment or injury to existing rights. A change in
16 the place of use, point of diversion, and/or purpose of use of a water
17 right to enable irrigation of additional acreage or the addition of new
18 uses may be permitted if such change results in no increase in the
19 annual consumptive quantity of water used under the water right. For

1 purposes of this section, "annual consumptive quantity" means the
2 estimated or actual annual amount of water diverted pursuant to the
3 water right, reduced by the estimated annual amount of return flows,
4 averaged over the most recent five-year period of continuous beneficial
5 use of the water right. Before any transfer of such right to use water
6 or change of the point of diversion of water or change of purpose of
7 use can be made, any person having an interest in the transfer or
8 change, shall file a written application therefor with the department,
9 and the application shall not be granted until notice of the
10 application is published as provided in RCW 90.03.280. If it shall
11 appear that such transfer or such change may be made without injury or
12 detriment to existing rights, the department shall issue to the
13 applicant a certificate in duplicate granting the right for such
14 transfer or for such change of point of diversion or of use. The
15 certificate so issued shall be filed and be made a record with the
16 department and the duplicate certificate issued to the applicant may be
17 filed with the county auditor in like manner and with the same effect
18 as provided in the original certificate or permit to divert water.

19 (2) If an application for change proposes to transfer water rights
20 from one irrigation district to another, the department shall, before
21 publication of notice, receive concurrence from each of the irrigation
22 districts that such transfer or change will not adversely affect the
23 ability to deliver water to other landowners or impair the financial
24 integrity of either of the districts.

25 (3) A change in place of use by an individual water user or users
26 of water provided by an irrigation district need only receive approval
27 for the change from the board of directors of the district if the use
28 of water continues within the irrigation district, and when water is
29 provided by an irrigation entity that is a member of a board of joint
30 control created under chapter 87.80 RCW, approval need only be received
31 from the board of joint control if the use of water continues within
32 the area of jurisdiction of the joint board and the change can be made
33 without detriment or injury to existing rights.

34 (4) Change in agricultural production shall not be considered
35 change in purpose of use under this section, so long as the change does
36 not increase the annual consumptive quantity of water use under the
37 water right. Agricultural production includes, but is not limited to,
38 irrigated crops and associated frost control, livestock, poultry and
39 eggs, farmed fish, and dairy or other products processed from

1 commodities. Change in agricultural production can be made following
2 consultation with the department of ecology to determine whether there
3 will or will not be an increase in the annual consumptive quantity of
4 water use under the water right. If there will be no such increase,
5 the department shall make a written record of the determination and
6 shall, upon receiving notice of the completion of the change in
7 agricultural production, issue an amended certificate to the water
8 right holder. If there will be such increase, the water right holder
9 shall submit an application and secure the department's approval under
10 this section.

11 (5) This section shall not apply to trust water rights acquired by
12 the state through the funding of water conservation projects under
13 chapter 90.38 RCW or RCW 90.42.010 through 90.42.070.

14 NEW SECTION. Sec. 2. This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately.

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