
SENATE BILL 6125

State of Washington

58th Legislature

2004 Regular Session

By Senator Morton

Read first time 01/12/2004. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to water conservancy board voting requirements; and
2 amending RCW 90.80.070.

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

4 **Sec. 1.** RCW 90.80.070 and 2001 c 237 s 11 are each amended to read
5 as follows:

6 (1) A person proposing a transfer of a water right may elect to
7 file an application with a water conservancy board, if a board has been
8 established for the geographic area where the water is or would be
9 diverted, withdrawn, or used. If the person has already filed an
10 application with the department, the person may request that the
11 department convey the application to the conservancy board with
12 jurisdiction and the department must promptly forward the application.
13 A board is not required to process an application filed with the board.
14 If a board decides that it will not process an application, it must
15 return the application to the applicant and must inform the applicant
16 that the application may be filed with the department. An application
17 to the board for a transfer shall be made on a form provided by the
18 department. A board may require an applicant to submit within a
19 reasonable time additional information as may be required by the board

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

8 (2) The applicant for any proposed water right transfer may apply
9 to a board for a record of decision on a transfer if the water proposed
10 to be transferred is currently diverted, withdrawn, or used within the
11 geographic area in which the board has jurisdiction, or would be
12 diverted, withdrawn, or used within the geographic area in which the
13 board has jurisdiction if the transfer is approved. In the case of a
14 proposed water right transfer in which the water is currently diverted
15 or withdrawn or would be diverted or withdrawn outside the geographic
16 boundaries of the county or the water resource inventory area where the
17 use is proposed to be made, the board shall hold a public hearing in
18 the county of the diversion or withdrawal or proposed diversion or
19 withdrawal. The board shall provide for prominent publication of
20 notice of the hearing in a newspaper of general circulation published
21 in the county in which the hearing is to be held for the purpose of
22 affording an opportunity for interested persons to comment upon the
23 application. If an application is for a transfer of water out of the
24 water resource inventory area that is the source of the water, the
25 board shall consult with the department regarding the application.

26 (3) After an application for a transfer is filed with the board,
27 the board shall publish notice of the application and send notice to
28 state agencies in accordance with the requirements of RCW 90.03.280.
29 In addition, the board shall send notice of the application to any
30 Indian tribe with reservation lands that would be, but for RCW
31 90.80.055(2), within the area in which the board has jurisdiction. The
32 board shall also provide notice of the application to any Indian tribe
33 that has requested that it be notified of applications. Any person may
34 submit comments and other information to the board regarding the
35 application. The comments and information may be submitted in writing
36 or verbally at any public meeting of the board to discuss or decide on
37 the application. The comments must be considered by the board in
38 making its record of decision.

1 (4) If a majority of the board present for a vote determines that
2 the application is complete, and that the transfer is in accordance
3 with RCW 90.03.380, 90.03.390, or 90.44.100, the board must issue a
4 record of decision approving the transfer, subject to review by the
5 director. In making its record of decision, the board must consider
6 among other things whether the proposed transfer can be made without
7 detriment or injury to existing water rights, including rights
8 established for instream flows. The board must include in its record
9 of decision any conditions that are deemed necessary for the transfer
10 to qualify for approval under the applicable laws of the state. The
11 basis for the record of decision of the board must be documented in a
12 report of examination. The board's proposed approval must clearly
13 state that the applicant is not permitted to proceed to effect the
14 proposed transfer until a final decision is made by the director. In
15 making its record of decision, the board must consider among other
16 things whether the proposed transfer can be made without detriment or
17 injury to existing water rights, including rights established for
18 instream flows.

19 (5) If a majority of the board present for a vote determines that
20 the application cannot be approved under the applicable laws of the
21 state of Washington, the board must make a record of decision denying
22 the application together with its report of examination documenting its
23 record of decision. The board's record of decision is subject to
24 review by the director under RCW 90.80.080.

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