

**E2SSB 6267** - H COMM AMD

By Committee on Agriculture & Natural Resources

ADOPTED AS AMENDED 03/04/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** Water is an essential element for economic  
4 prosperity and it generates new, family-wage jobs and state revenues.  
5 It is the intent of the legislature to provide both water right  
6 applicants and the department of ecology with the necessary tools to  
7 expedite the processing of water right applications depending on the  
8 needs of the project and agency workload.

9 NEW SECTION. **Sec. 2.** Sufficient resources to support the  
10 department of ecology's water resource program are essential for  
11 effective and sustainable water management that provides certainty to  
12 processed applications. The department of ecology shall review current  
13 water resource functions and report to the legislature and the governor  
14 by September 1, 2010, on improvements to make the program more self-  
15 sustaining and efficient.

16 **Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read  
17 as follows:

18 (1)(a) Any applicant for a new withdrawal or a change, transfer, or  
19 amendment of a water right pending before the department((~~τ~~)) may  
20 initiate a cost-reimbursement agreement with the department to provide  
21 expedited review of the application. A cost-reimbursement agreement  
22 may ((~~only~~)) be initiated under this section if the applicant agrees to  
23 pay for, or as part of a cooperative effort agrees to pay for, the cost  
24 of processing his or her application and all other applications from  
25 the same source of supply which must be acted upon before the  
26 applicant's request because they were filed prior to the date of when  
27 the applicant filed.

1       (b) The requirement to pay for the cost of other applications under  
2 (a) of this subsection does not apply to an application for a new  
3 appropriation that would not diminish the water available to earlier  
4 pending applicants for new appropriations from the same source of  
5 supply.

6       (c) The requirement to pay for the cost of processing other  
7 applications under (a) of this subsection does not apply to an  
8 application for a change, transfer, or other amendment that would not  
9 diminish the water available to earlier pending applicants for changes  
10 or transfers from the same source of supply.

11       (d) In determining whether an application would not diminish the  
12 water available to earlier pending applicants, the department shall  
13 consider any water impoundment or other water resource management  
14 mitigation technique proposed by the applicant under RCW 90.03.255 or  
15 90.44.055.

16       (e) The department may enter into cost-reimbursement agreements  
17 provided resources are available and shall use the process established  
18 under RCW 43.21A.690 for entering into cost-reimbursement agreements.  
19 The department's share of work related to a cost-reimbursement  
20 application, such as final certificate approval, must be prioritized  
21 within the framework of other water right processing needs and as  
22 determined by agency rule.

23       (f) Each individual applicant is responsible for his or her own  
24 appeal costs that may result from a water right decision made by the  
25 department. In the event that the department's approval of an  
26 application is appealed under chapter 43.21B RCW by a third party, the  
27 applicant for the water right in question must reimburse the department  
28 for the cost of defending the decision before the pollution control  
29 hearings board unless otherwise agreed to by the applicant and the  
30 department. If an applicant appeals either an approval or a denial by  
31 the department, the applicant is responsible only for its own appeal  
32 costs.

33       (2) In pursuing a cost-reimbursement project, the department must  
34 determine the source of water proposed to be diverted or withdrawn  
35 from, including the boundaries of the area that delimits the source.  
36 The department must determine if any other water right permit  
37 applications are pending from the same source. A water source may  
38 include surface water only, groundwater only, or surface and

1 groundwater together if the department finds they are hydraulically  
2 connected. The department shall consider technical information  
3 submitted by the applicant in making its determinations under this  
4 subsection. The department may recover from a cost-reimbursement  
5 applicant its own costs in making the same source determination under  
6 this subsection.

7 (3) Upon request of the applicant seeking cost-reimbursement  
8 processing, the department may elect to initiate a coordinated cost-  
9 reimbursement process. To initiate this process, the department must  
10 notify in writing all persons who have pending applications on file for  
11 a new appropriation, change, transfer, or amendment of a water right  
12 from that water source. A water source may include surface water only,  
13 groundwater only, or surface and groundwater together if the department  
14 determines that they are hydraulically connected. The notice must be  
15 posted on the department's web site and published in a newspaper of  
16 general circulation in the area where affected properties are located.  
17 The notice must also be made individually by way of mail to:

18 (a) Inform those applicants that cost-reimbursement processing of  
19 applications within the described water source is being initiated;

20 (b) Provide to individual applicants the criteria under which the  
21 applications will be examined and determined;

22 (c) Provide to individual applicants the estimated cost for having  
23 an application processed on a cost-reimbursement basis;

24 (d) Provide an estimate of how long the cost-reimbursement process  
25 will take before an application is approved or denied; and

26 (e) Provide at least sixty days for the applicants to respond in  
27 writing regarding the applicant's decision to participate in the cost-  
28 reimbursement process.

29 (4) The applicant initiating the cost-reimbursement request must  
30 pay for the cost of the determination under subsections (2) and (3) of  
31 this section and other costs necessary for the initial phase of cost-  
32 reimbursement processing. The cost for each applicant for conducting  
33 processing under a coordinated cost-reimbursement agreement must be  
34 based primarily on the proportionate quantity of water requested by  
35 each applicant. The cost may be adjusted if it appears that an  
36 application will require a disproportionately greater amount of time  
37 and effort to process due to its complexity.

1       (5)(a) Only the department may approve or deny a water right  
2 application processed under this section, and such a final decision  
3 remains solely the responsibility and function of the department. The  
4 department retains full authority to amend, refuse, or approve any work  
5 product provided by any consultant under this section. The department  
6 may recover its costs related to: (i) The review of a contractor to  
7 ensure that no conflict of interest exists; (ii) the management of  
8 consultant contracts and cost-reimbursement agreements; and (iii) the  
9 review of work products provided by participating consultants.

10       (b) For any cost-reimbursement process initiated under subsection  
11 (1) of this section, the applicant may, after consulting with the  
12 department, select a prequalified consultant listed by the department  
13 under subsection (7) of this section or may be assigned such a  
14 prequalified consultant by the department.

15       (c) For any coordinated cost-reimbursement process initiated under  
16 subsection (2) of this section, the applicant may, after consulting  
17 with the department, select a prequalified consultant listed by the  
18 department under subsection (7) of this section or may be assigned a  
19 prequalified consultant by the department.

20       (d) In lieu of having one or more of the work products performed by  
21 a prequalified consultant listed under subsection (7) of this section,  
22 the department may, at its discretion, recognize specific work  
23 completed by an applicant or an applicant's consultant prior to the  
24 initiation of cost-reimbursement processing. The department may also,  
25 at its discretion, authorize the use of such a consultant to perform a  
26 specific scope of the work performed by prequalified consultants listed  
27 under subsection (7) of this section.

28       (e) At any point during the cost-reimbursement process, the  
29 department may request or accept technical information, data, and  
30 analysis from the applicant or the applicant's consultant to support  
31 the cost-reimbursement process or the department's decision on the  
32 application.

33       (6) The department is authorized to adopt rules or guidance  
34 providing minimum qualifications and standards for any consultant's  
35 submission of work products under this section, including standards for  
36 submission of technical information, scientific analysis, work product  
37 documentation, and report presentation that such a consultant must  
38 meet.

1       (7) The department must provide notice to potential consultants of  
2 the opportunity to be considered for inclusion on the list of cost-  
3 reimbursement consultants to whom work assignments will be made. The  
4 department must competitively select an appropriate number of  
5 consultants who are qualified by training and experience to investigate  
6 and make recommendations on the disposition of water right  
7 applications. The prequalified consultant list must be renewed at  
8 least every six years, though the department may add qualified cost-  
9 reimbursement consultants to the list at any time. The department must  
10 enter a master contract with each consultant selected and thereafter  
11 make work assignments based on availability and qualifications.

12       (8) The department may remove any consultant from the consultant  
13 list for poor performance, malfeasance, or excessive complaints from  
14 cost-reimbursement participants. The department may interview any  
15 cost-reimbursement consultant to determine whether the person is  
16 qualified for this work, and must spot-check the work of consultants to  
17 ensure that the public is being competently served.

18       (9) When a prequalified cost-reimbursement consultant from the  
19 department's list described in subsection (7) of this section is  
20 assigned or selected to investigate an application or set of  
21 applications, the consultant must document its findings and recommended  
22 disposition in the form of written draft technical reports and  
23 preliminary draft reports of examination. Within two weeks of the  
24 department receiving draft technical reports and preliminary draft  
25 reports of examination, the department shall provide the applicant such  
26 documents for review and comment prior to their completion by the  
27 consultant. The department shall consider such comments by the  
28 applicant prior to the department's issuance of a draft report of  
29 examination. The department may modify the preliminary draft reports  
30 of examination submitted by the consultant. The department's decision  
31 on a permit application is final unless it is appealed to the pollution  
32 control hearings board under chapter 43.21B RCW.

33       (10) If an applicant elects not to participate in a cost-  
34 reimbursement process, the application remains on file with the  
35 department, retains its priority date, and may be processed in the  
36 future under regular processing, expedited processing, coordinated  
37 cost-reimbursement processing, cost-reimbursement processing, or

1 through conservancy board processing as authorized under chapter 90.80  
2 RCW.

3 NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW  
4 to read as follows:

5 The water rights processing account is created in the state  
6 treasury. All receipts from the fees collected under sections 5, 7,  
7 and 12 of this act must be deposited into the account. Money in the  
8 account may be spent only after appropriation. Expenditures from the  
9 account may only be used to support the processing of water right  
10 applications for a new appropriation, change, transfer, or amendment of  
11 a water right as provided in this chapter and chapters 90.42 and 90.44  
12 RCW or for the examination, certification, and renewal of certification  
13 of water right examiners as provided in section 7 of this act.

14 NEW SECTION. Sec. 5. A new section is added to chapter 90.03 RCW  
15 to read as follows:

16 (1) The department may expedite processing of applications within  
17 the same source of water on its own volition when there is interest  
18 from a sufficient number of applicants or upon receipt of written  
19 requests from at least ten percent of the applicants within the same  
20 source of water.

21 (2) If the conditions of subsection (1) of this section have been  
22 met and the department determines that the public interest is best  
23 served by expediting applications within a water source, the department  
24 must notify in writing all persons who have pending applications on  
25 file for a new appropriation, change, transfer, or amendment of a water  
26 right from that water source. A water source may include surface water  
27 only, groundwater only, or surface and groundwater together if the  
28 department determines that they are hydraulically connected. The  
29 notice must be posted on the department's web site and published in a  
30 newspaper of general circulation in the area where affected properties  
31 are located. The notice must also be made individually by way of mail  
32 to:

33 (a) Inform those applicants that expedited processing of  
34 applications within the described water source is being initiated;

35 (b) Provide to individual applicants the criteria under which the  
36 applications will be examined and determined;

1 (c) Provide to individual applicants the estimated cost for having  
2 an application processed on an expedited basis;

3 (d) Provide an estimate of how long the expedited process will take  
4 before an application is approved or denied; and

5 (e) Provide at least sixty days for the applicants to respond in  
6 writing regarding the applicant's decision to participate in the  
7 expedited processing of their applications.

8 (3) In addition to the application fees provided in RCW 90.03.470,  
9 the department must recover the full cost of processing all the  
10 applications from applicants who elect to participate within the water  
11 source through expedited processing fees. The department must  
12 calculate an expedited processing fee based primarily on the  
13 proportionate quantity of water requested by each applicant and may  
14 adjust the fee if it appears that the application will require a  
15 disproportionately greater amount of time and effort to process due to  
16 its complexity. Any application fees that were paid by the applicant  
17 under RCW 90.03.470 must be credited against the applicant's share of  
18 the cost of processing applications under the provisions of this  
19 section.

20 (4) The expedited processing fee must be collected by the  
21 department prior to the expedited processing of an application.  
22 Revenue collected from these fees must be deposited into the water  
23 rights processing account created in section 4 of this act. An  
24 applicant who has stated in writing that he or she wants his or her  
25 application processed using the expedited procedures in this section  
26 must transmit the processing fee within sixty days of the written  
27 request. Failure to do so will result in the applicant not being  
28 included in expedited processing for that water source.

29 (5) If an applicant elects not to participate in expedited  
30 processing, the application remains on file with the department, the  
31 applicant retains his or her priority date, and the application may be  
32 processed through regular processing, expedited processing, coordinated  
33 cost-reimbursement processing, cost-reimbursement processing, or  
34 through conservancy board processing as authorized under chapter 90.80  
35 RCW. Such an application may not be processed through expedited  
36 processing within twelve months after the department's issuance of  
37 decisions on participating applications at the conclusion of expedited  
38 processing unless the applicant agrees to pay the full proportionate

1 share that would otherwise have been paid during such processing. Any  
2 proceeds collected from an applicant under this delayed entry into  
3 expedited processing shall be used to reimburse the other applicants  
4 who participated in the previous expedited processing of applications,  
5 provided sufficient proceeds remain to fully cover the department's  
6 cost of processing the delayed entry application and the department's  
7 estimated administrative costs to reimburse the previously expedited  
8 applicants.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.03 RCW  
10 to read as follows:

11 The department must post notice on its web site and provide  
12 electronic notice and opportunity for comment to affected federally  
13 recognized tribal governments concurrently when providing notice to  
14 applicants under RCW 90.03.265 and sections 5 and 12 of this act.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.03 RCW  
16 to read as follows:

17 (1) The department shall establish and maintain a list of certified  
18 water right examiners. Certified water right examiners on the list are  
19 eligible to perform final proof examinations of permitted water uses  
20 leading to the issuance of a water right certificate under RCW  
21 90.03.330. The list must be updated annually and must be made  
22 available to the public through written and electronic media.

23 (2) In order to qualify, an individual must be registered in  
24 Washington as a professional engineer, professional land surveyor, or  
25 registered hydrogeologist, or an individual must demonstrate at least  
26 five years of applicable experience to the department, or be a board  
27 member of a water conservancy board. Qualified individuals must also  
28 pass a written examination prior to being certified by the department.  
29 Such an examination must be administered by either the department or an  
30 entity formally approved by the department. Each certified water right  
31 examiner must demonstrate knowledge and competency regarding:

32 (a) Water law in the state of Washington;

33 (b) Measurement of the flow of water through open channels and  
34 enclosed pipes;

35 (c) Water use and water level reporting;

36 (d) Estimation of the capacity of reservoirs and ponds;



- 1 (e) Irrigation crop water requirements;
- 2 (f) Aerial photo interpretation;
- 3 (g) Legal descriptions of land parcels;
- 4 (h) Location of land and water infrastructure through the use of
- 5 maps and global positioning;
- 6 (i) Proper construction and sealing of well bores; and
- 7 (j) Other topics related to the preparation and certification of
- 8 water rights in Washington state.

9 (3) Except as provided in subsection (9) of this section, upon  
10 completion of a water appropriation and putting water to beneficial  
11 use, in order to receive a final water right certificate, the permit  
12 holder must secure the services of a certified water right examiner who  
13 has been tested and certified by the department. The examiner shall  
14 carry out a final examination of the project to verify its completion  
15 and to determine and document for the permit holder and the department  
16 the amount of water that has been appropriated for beneficial use, the  
17 location of diversion or withdrawal and conveyance facilities, and the  
18 actual place of use. The examiner shall take measurements or make  
19 estimates of the maximum diversion or withdrawal, the capacity of water  
20 storage facilities, the acreage irrigated, the type and number of  
21 residences served, the type and number of stock watered, and other  
22 information relevant to making a final determination of the amount of  
23 water beneficially used. The examiner shall make photographs of the  
24 facilities to document the use or uses of water and the photographs  
25 must be submitted with the examiner's report to the department. The  
26 department shall specify the format and required content of the reports  
27 and may provide a form for that purpose.

28 (4) The department may suspend or revoke a certification based on  
29 poor performance, malfeasance, failure to acquire continuing education  
30 credits, or excessive complaints from the examiner's customers. The  
31 department may require the retesting of an examiner. The department  
32 may interview any examiner to determine whether the person is qualified  
33 for this work. The department shall spot-check the work of examiners  
34 to ensure that the public is being competently served. Any person  
35 aggrieved by an order of the department including the granting, denial,  
36 revocation, or suspension of a certificate issued by the department  
37 under this chapter may appeal pursuant to chapter 43.21B RCW.

1 (5) The decision regarding whether to issue a final water right  
2 certificate is solely the responsibility and function of the  
3 department.

4 (6) The department shall make its final decision under RCW  
5 90.03.330 within sixty days of the date of receipt of the proof of  
6 examination from the certified water right examiner, unless otherwise  
7 requested by the applicant.

8 (7) Each certified water right examiner must complete eight hours  
9 annually of qualifying continuing education in the water resources  
10 field. The department shall determine and specify the qualifying  
11 continuing education and shall inform examiners of the opportunities.  
12 The department shall track whether examiners are current in their  
13 continuing education and may suspend the certification of an examiner  
14 who has not complied with the continuing education requirement.

15 (8) Each certified water right examiner must be bonded for at least  
16 fifty thousand dollars.

17 (9) The department may waive the requirement to secure the services  
18 of a certified water right examiner in situations in which the  
19 department deems it unnecessary for purposes of issuing a certificate  
20 of water right.

21 (10) The department shall establish and collect fees for the  
22 examination, certification, and renewal of certification of water right  
23 examiners. Revenue collected from these fees must be deposited into  
24 the water rights processing account created in section 4 of this act.  
25 Pursuant to RCW 43.135.055, the department is authorized to set fees  
26 for examination, certification, and renewal of certification for water  
27 right examiners.

28 (11) The department may adopt rules appropriate to carry out the  
29 purposes of this section.

30 **Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read  
31 as follows:

32 (1)(a) Any person or entity, or successor to such person or entity,  
33 having a statement of claim on file with the water rights claims  
34 registry (~~on April 20, 1987,~~) may submit to the department of ecology  
35 for filing(~~ing~~) an amendment to such a statement of claim if the  
36 submitted amendment is based on:

1        ~~((1))~~ (i) An error in estimation of the quantity of the  
2 applicant's water claim prescribed in RCW 90.14.051 if the applicant  
3 provides reasons for the failure to claim such right in the original  
4 claim;

5        ~~((2))~~ (ii) A change in circumstances not foreseeable at the time  
6 the original claim was filed, if such change in circumstances relates  
7 only to the manner of transportation or diversion of the water and not  
8 to the use or quantity of such water; or

9        ~~((3))~~ (iii) The amendment is ministerial in nature.

10        (b) The department shall accept any such submission and file the  
11 same in the registry unless the department by written determination  
12 concludes that the requirements of (a)(i), (ii), or (iii) of this  
13 subsection ~~((1), (2), or (3) of this section))~~ have not been  
14 satisfied.

15        (2) In addition to subsection (1) of this section, a surface water  
16 right claim may be changed or transferred in the same manner as a  
17 permit or certificate under RCW 90.03.380, and a water right claim for  
18 groundwater may be changed or transferred as provided under RCW  
19 90.03.380 and 90.44.100.

20        (3) Any person aggrieved by a determination of the department may  
21 obtain a review thereof by filing a petition for review with the  
22 pollution control hearings board within thirty days of the date of the  
23 determination by the department. The provisions of RCW 90.14.081 shall  
24 apply to any amendment filed or approved under this section.

25        **Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read  
26 as follows:

27        (1) After an application to, and upon the issuance by the  
28 department of an amendment to the appropriate permit or certificate of  
29 groundwater right, the holder of a valid right to withdraw public  
30 groundwaters may, without losing the holder's priority of right,  
31 construct wells or other means of withdrawal at a new location in  
32 substitution for or in addition to those at the original location, or  
33 the holder may change the manner or the place of use of the water.

34        (2) An amendment to construct replacement or a new additional well  
35 or wells at a location outside of the location of the original well or  
36 wells or to change the manner or place of use of the water shall be  
37 issued only after publication of notice of the application and findings

1 as prescribed in the case of an original application. Such amendment  
2 shall be issued by the department only on the conditions that: (a) The  
3 additional or replacement well or wells shall tap the same body of  
4 public groundwater as the original well or wells; (b) where a  
5 replacement well or wells is approved, the use of the original well or  
6 wells shall be discontinued and the original well or wells shall be  
7 properly decommissioned as required under chapter 18.104 RCW; (c) where  
8 an additional well or wells is constructed, the original well or wells  
9 may continue to be used, but the combined total withdrawal from the  
10 original and additional well or wells shall not enlarge the right  
11 conveyed by the original permit or certificate; and (d) other existing  
12 rights shall not be impaired. The department may specify an approved  
13 manner of construction and shall require a showing of compliance with  
14 the terms of the amendment, as provided in RCW 90.44.080 in the case of  
15 an original permit.

16 (3) The construction of a replacement or new additional well or  
17 wells at the location of the original well or wells shall be allowed  
18 without application to the department for an amendment. However, the  
19 following apply to such a replacement or new additional well: (a) The  
20 well shall tap the same body of public groundwater as the original well  
21 or wells; (b) if a replacement well is constructed, the use of the  
22 original well or wells shall be discontinued and the original well or  
23 wells shall be properly decommissioned as required under chapter 18.104  
24 RCW; (c) if a new additional well is constructed, the original well or  
25 wells may continue to be used, but the combined total withdrawal from  
26 the original and additional well or wells shall not enlarge the right  
27 conveyed by the original water use permit or certificate; (d) the  
28 construction and use of the well shall not interfere with or impair  
29 water rights with an earlier date of priority than the water right or  
30 rights for the original well or wells; (e) the replacement or  
31 additional well shall be located no closer than the original well to a  
32 well it might interfere with; (f) the department may specify an  
33 approved manner of construction of the well; and (g) the department  
34 shall require a showing of compliance with the conditions of this  
35 subsection (3).

36 (4) As used in this section, the "location of the original well or  
37 wells" of a water right permit or certificate is the area described as  
38 the point of withdrawal in the original public notice published for the

1 application for the water right for the well. The location of the  
2 original well or wells of a water right claim filed under chapter 90.14  
3 RCW is the area located within a one-quarter mile radius of the current  
4 well or wells.

5 (5) The development and use of a small irrigation impoundment, as  
6 defined in RCW 90.03.370(8), does not constitute a change or amendment  
7 for the purposes of this section. The exemption expressly provided by  
8 this subsection shall not be construed as requiring an amendment of any  
9 existing water right to enable the holder of the right to store water  
10 governed by the right.

11 (6) This section does not apply to a water right involved in an  
12 approved local water plan created under RCW 90.92.090 or a banked water  
13 right under RCW 90.92.070.

14 **Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read  
15 as follows:

16 (1) After an application to, and upon the issuance by the  
17 department of an amendment to the appropriate permit or certificate of  
18 groundwater right, the holder of a valid right to withdraw public  
19 groundwaters may, without losing the holder's priority of right,  
20 construct wells or other means of withdrawal at a new location in  
21 substitution for or in addition to those at the original location, or  
22 the holder may change the manner or the place of use of the water.

23 (2) An amendment to construct replacement or a new additional well  
24 or wells at a location outside of the location of the original well or  
25 wells or to change the manner or place of use of the water shall be  
26 issued only after publication of notice of the application and findings  
27 as prescribed in the case of an original application. Such amendment  
28 shall be issued by the department only on the conditions that: (a) The  
29 additional or replacement well or wells shall tap the same body of  
30 public groundwater as the original well or wells; (b) where a  
31 replacement well or wells is approved, the use of the original well or  
32 wells shall be discontinued and the original well or wells shall be  
33 properly decommissioned as required under chapter 18.104 RCW; (c) where  
34 an additional well or wells is constructed, the original well or wells  
35 may continue to be used, but the combined total withdrawal from the  
36 original and additional well or wells shall not enlarge the right  
37 conveyed by the original permit or certificate; and (d) other existing

1 rights shall not be impaired. The department may specify an approved  
2 manner of construction and shall require a showing of compliance with  
3 the terms of the amendment, as provided in RCW 90.44.080 in the case of  
4 an original permit.

5 (3) The construction of a replacement or new additional well or  
6 wells at the location of the original well or wells shall be allowed  
7 without application to the department for an amendment. However, the  
8 following apply to such a replacement or new additional well: (a) The  
9 well shall tap the same body of public groundwater as the original well  
10 or wells; (b) if a replacement well is constructed, the use of the  
11 original well or wells shall be discontinued and the original well or  
12 wells shall be properly decommissioned as required under chapter 18.104  
13 RCW; (c) if a new additional well is constructed, the original well or  
14 wells may continue to be used, but the combined total withdrawal from  
15 the original and additional well or wells shall not enlarge the right  
16 conveyed by the original water use permit or certificate; (d) the  
17 construction and use of the well shall not interfere with or impair  
18 water rights with an earlier date of priority than the water right or  
19 rights for the original well or wells; (e) the replacement or  
20 additional well shall be located no closer than the original well to a  
21 well it might interfere with; (f) the department may specify an  
22 approved manner of construction of the well; and (g) the department  
23 shall require a showing of compliance with the conditions of this  
24 subsection (3).

25 (4) As used in this section, the "location of the original well or  
26 wells" of a water right permit or certificate is the area described as  
27 the point of withdrawal in the original public notice published for the  
28 application for the water right for the well. The location of the  
29 original well or wells of a water right claim filed under chapter 90.14  
30 RCW is the area located within a one-quarter mile radius of the current  
31 well or wells.

32 (5) The development and use of a small irrigation impoundment, as  
33 defined in RCW 90.03.370(8), does not constitute a change or amendment  
34 for the purposes of this section. The exemption expressly provided by  
35 this subsection shall not be construed as requiring an amendment of any  
36 existing water right to enable the holder of the right to store water  
37 governed by the right.

1        NEW SECTION.    **Sec. 11.**    A new section is added to chapter 90.44 RCW  
2 to read as follows:

3        Applications to appropriate groundwater under a cost-reimbursement  
4 agreement must be processed in accordance with RCW 90.03.265 when an  
5 applicant requests the assignment of a cost-reimbursement consultant as  
6 provided in RCW 43.21A.690.

7        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 90.44 RCW  
8 to read as follows:

9        (1) The department may expedite processing of applications within  
10 the same source of water on its own volition when there is interest  
11 from a sufficient number of applicants or upon receipt of written  
12 requests from at least ten percent of the applicants within the same  
13 source of water.

14        (2) If the conditions of subsection (1) of this section have been  
15 met and the department determines that the public interest is best  
16 served by expediting applications within a water source, the department  
17 must notify in writing all persons who have pending applications on  
18 file for a new appropriation, change, transfer, or amendment of a water  
19 right from that water source. A water source may include surface water  
20 only, groundwater only, or surface and groundwater together if the  
21 department determines that they are hydraulically connected. The  
22 notice must be posted on the department's web site and published in a  
23 newspaper of general circulation in the area where affected properties  
24 are located. The notice must also be made individually by way of mail  
25 to:

26        (a) Inform those applicants that expedited processing of  
27 applications within the described water source is being initiated;

28        (b) Provide to individual applicants the criteria under which the  
29 applications will be examined and determined;

30        (c) Provide to individual applicants the estimated cost for having  
31 an application processed on an expedited basis;

32        (d) Provide an estimate of how long the expedited process will take  
33 before an application is approved or denied; and

34        (e) Provide at least sixty days for the applicants to respond in  
35 writing regarding the applicant's decision to participate in expedited  
36 processing of their applications.

1 (3) In addition to the application fees provided in RCW 90.03.470,  
2 the department must recover the full cost of processing all the  
3 applications from applicants who elect to participate within the water  
4 source through expedited processing fees. The department must  
5 calculate an expedited processing fee based primarily on the  
6 proportionate quantity of water requested by each applicant and may  
7 adjust the fee if it appears that an application will require a  
8 disproportionately greater amount of time and effort to process due to  
9 its complexity. Any application fees that were paid by the applicant  
10 under RCW 90.03.470 must be credited against the applicant's share of  
11 the cost of processing applications under the provisions of this  
12 section.

13 (4) The expedited processing fee must be collected by the  
14 department prior to the expedited processing of an application.  
15 Revenue collected from these fees must be deposited into the water  
16 rights processing account created in section 4 of this act. An  
17 applicant who has stated in writing that he or she wants his or her  
18 application processed using the expedited procedures in this section  
19 must transmit the processing fee within sixty days of the written  
20 request. Failure to do so will result in the applicant not being  
21 included in expedited processing for that water source.

22 (5) If an applicant elects not to participate in expedited  
23 processing, the application remains on file with the department, the  
24 applicant retains his or her priority date, and the application may be  
25 processed through regular processing, expedited processing, coordinated  
26 cost-reimbursement processing, cost-reimbursement processing, or  
27 through conservancy board processing as authorized under chapter 90.80  
28 RCW. Such an application may not be processed through expedited  
29 processing within twelve months after the department's issuance of  
30 decisions on participating applications at the conclusion of expedited  
31 processing unless the applicant agrees to pay the full proportionate  
32 share that would otherwise have been paid during such processing. Any  
33 proceeds collected from an applicant under this delayed entry into  
34 expedited processing shall be used to reimburse the other applicants  
35 who participated in the previous expedited processing of applications,  
36 provided sufficient proceeds remain to fully cover the department's  
37 cost of processing the delayed entry application and the department's



1 estimated administrative costs to reimburse the previously expedited  
2 applicants.

3 NEW SECTION. **Sec. 13.** Section 9 of this act expires June 30,  
4 2019.

5 NEW SECTION. **Sec. 14.** Section 10 of this act takes effect June  
6 30, 2019.

7 NEW SECTION. **Sec. 15.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected."

11 Correct the title.

--- END ---