
HOUSE BILL 2235

State of Washington

61st Legislature

2009 Regular Session

By Representative Blake

Read first time 02/17/09. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to improving water management; amending RCW
2 43.27A.130; reenacting and amending RCW 90.14.140; adding a new section
3 to chapter 90.54 RCW; creating a new section; and recodifying RCW
4 43.27A.130.

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

6 **Sec. 1.** RCW 90.14.140 and 2001 c 240 s 1, 2001 c 237 s 27, and
7 2001 c 69 s 5 are each reenacted and amended to read as follows:

8 (1) For the purposes of RCW 90.14.130 through 90.14.180,
9 "sufficient cause" shall be defined as the nonuse of all or a portion
10 of the water by the owner of a water right for a period of five or more
11 consecutive years where such nonuse occurs as a result of:

12 (a) Drought, or other unavailability of water;

13 (b) Active service in the armed forces of the United States during
14 military crisis;

15 (c) Nonvoluntary service in the armed forces of the United States;

16 (d) The operation of legal proceedings;

17 (e) Federal or state agency leases of or options to purchase lands
18 or water rights which preclude or reduce the use of the right by the
19 owner of the water right;

1 (f) Federal laws imposing land or water use restrictions either
2 directly or through the voluntary enrollment of a landowner in a
3 federal program implementing those laws, or acreage limitations, or
4 production quotas;

5 (g) Temporarily reduced water need for irrigation use where such
6 reduction is due to varying weather conditions, including but not
7 limited to precipitation and temperature, that warranted the reduction
8 in water use, so long as the water user's diversion and delivery
9 facilities are maintained in good operating condition consistent with
10 beneficial use of the full amount of the water right;

11 (h) Temporarily reduced diversions or withdrawals of irrigation
12 water directly resulting from the provisions of a contract or similar
13 agreement in which a supplier of electricity buys back electricity from
14 the water right holder and the electricity is needed for the diversion
15 or withdrawal or for the use of the water diverted or withdrawn for
16 irrigation purposes;

17 (i) Water conservation measures implemented under the Yakima river
18 basin water enhancement project, so long as the conserved water is
19 reallocated in accordance with the provisions of P.L. 103-434;

20 (j) Reliance by an irrigation water user on the transitory presence
21 of return flows in lieu of diversion or withdrawal of water from the
22 primary source of supply, if such return flows are measured or reliably
23 estimated using a scientific methodology generally accepted as reliable
24 within the scientific community; ((~~or~~))

25 (k) The reduced use of irrigation water resulting from crop
26 rotation. For purposes of this subsection, crop rotation means the
27 temporary change in the type of crops grown resulting from the exercise
28 of generally recognized sound farming practices. Unused water
29 resulting from crop rotation will not be relinquished if the remaining
30 portion of the water continues to be beneficially used; or

31 (1) Waiting for a final determination from the department on a
32 change application filed under RCW 90.03.250, 90.03.380, or 90.44.100.

33 (2) Notwithstanding any other provisions of RCW 90.14.130 through
34 90.14.180, there shall be no relinquishment of any water right:

35 (a) If such right is claimed for power development purposes under
36 chapter 90.16 RCW and annual license fees are paid in accordance with
37 chapter 90.16 RCW;

1 (b) If such right is used for a standby or reserve water supply to
2 be used in time of drought or other low flow period so long as
3 withdrawal or diversion facilities are maintained in good operating
4 condition for the use of such reserve or standby water supply;

5 (c) If such right is claimed for a determined future development to
6 take place either within fifteen years of July 1, 1967, or the most
7 recent beneficial use of the water right, whichever date is later;

8 (d) If such right is claimed for municipal water supply purposes
9 under chapter 90.03 RCW;

10 (e) If such waters are not subject to appropriation under the
11 applicable provisions of RCW 90.40.030;

12 (f) If such right or portion of the right is leased to another
13 person for use on land other than the land to which the right is
14 appurtenant as long as the lessee makes beneficial use of the right in
15 accordance with this chapter and a transfer or change of the right has
16 been approved by the department in accordance with RCW 90.03.380,
17 90.03.383, 90.03.390, or 90.44.100;

18 (g) If such a right or portion of the right is authorized for a
19 purpose that is satisfied by the use of agricultural industrial process
20 water as authorized under RCW 90.46.150; or

21 (h) If such right is a trust water right under chapter 90.38 or
22 90.42 RCW.

23 (3) In adding provisions to this section by chapter 237, Laws of
24 2001, the legislature does not intend to imply legislative approval or
25 disapproval of any existing administrative policy regarding, or any
26 existing administrative or judicial interpretation of, the provisions
27 of this section not expressly added or revised.

28 **Sec. 2.** RCW 43.27A.130 and 1988 c 127 s 26 are each amended to
29 read as follows:

30 (1) The department of ecology may make complete inventories of the
31 state's water resources and enter into such agreements with the
32 director of the United States geological survey as will ((insure))
33 ensure that investigations and surveys are carried on in an economical
34 manner.

35 (2) The department of ecology shall enhance the ambient groundwater
36 and surface water monitoring and assessment program in order to
37 accurately estimate the surface and groundwater used in a given basin,

1 characterize long-term trends in the state's groundwater and surface
2 water resource quantity, and evaluate surface stream flows and aquifer
3 levels. The program may be enhanced in phases and must include but is
4 not limited to:

5 (a) Standardizing methods, quality assurance, and data management
6 practices for measuring groundwater and surface water levels;

7 (b) Migrating existing data to a central database;

8 (c) Expanding and supporting current ambient monitoring activities
9 and quality; and

10 (d) Creating a central database and migrating existing department
11 of ecology and water resource inventory areas data to the central
12 database by June 2010.

13 NEW SECTION. Sec. 3. RCW 43.27A.130 is recodified as a section in
14 chapter 90.54 RCW.

15 NEW SECTION. Sec. 4. (1) By June 30, 2010, the department of
16 ecology shall prepare a data gap analysis that evaluates existing
17 groundwater information on water levels and water quality within each
18 water resource inventory area of the state. The analysis must include:

19 (a) A summary of historic and current monitoring of ambient
20 groundwater and surface water levels and water quality across the
21 state;

22 (b) An evaluation of the completeness and quality of the data and
23 conclusions produced from such monitoring;

24 (c) An identification of basins where water quantity levels are of
25 concern but no monitoring is being conducted;

26 (d) An evaluation and recommendations for quality controls and
27 other protocols associated with data collection and management;

28 (e) A compilation and summary of existing studies of groundwater
29 and surface water levels, water quality, and monitoring activities; and

30 (f) Recommendations on the components necessary to establish a
31 comprehensive, statewide ambient groundwater and surface water
32 monitoring and assessment program and the funding necessary to
33 implement the program.

34 (2) The department of ecology must submit the data gap analysis to

1 the relevant policy committee of the senate and house of
2 representatives.

--- END ---