
**Agriculture & Natural Resources
Committee**

HB 1117

Brief Description: Regarding the relinquishment of water rights.

Sponsors: Representatives Taylor, Warnick, Chandler, Kretz and McCune.

Brief Summary of Bill

- Removes all statutory references to relinquishment of water rights.

Hearing Date: 1/20/12

Staff: Jason Callahan (786-7117).

Background:

In general, if a person abandons his or her water right or voluntarily fails to use the right for five successive years, the person relinquishes the right or the portion of the right abandoned or not used. The relinquished right reverts to the state [RCW 90.14.160 - 90.14.180]. However, exemptions from this requirement are provided in two forms: (1) outright exemptions from the statutory relinquishment provisions; and (2) a list of "sufficient causes" for the voluntary non-use. These "sufficient causes" provide exemptions from relinquishment [RCW 90.14.140].

Abandonment of a water right is the *intentional* relinquishment of the right. In its *Okanogan v. Town of Twisp* decision, the state's Supreme Court adopted the general rule that, under the common law theory of abandonment of water rights, long periods of nonuse raise a rebuttable presumption of intent to abandon a water right [133 Wn. 2d 769, 783 (1997)].

The Department of Ecology (Department) may determine when a water right has reverted to the state for nonuse. A person may appeal the Department's findings to the Pollution Control Hearings Board [RCW 90.14.130].

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill:

All references to relinquishment are removed from the Revised Code of Washington (RCW). The Legislature intends to abolish relinquishment by removing all references to relinquishment in the RCW. In abolishing relinquishment, the Legislature intends to rely solely on the common law doctrine of abandonment.

Appropriation: None.

Fiscal Note: Requested January 11, 2012.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.