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HOUSE BILL 1589

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Blake, Hinkle, Stanford, Warnick, Takko, Chandler, Reykdal, Short, Upthegrove, Taylor, Wilcox, and McCune

Read first time 01/26/11. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to trust water rights; and amending RCW 90.42.120.

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

3 **Sec. 1.** RCW 90.42.120 and 2003 c 144 s 4 are each amended to read  
4 as follows:

5 (1) The department shall transfer a water right or portion thereof  
6 being administered for water banking purposes from the trust water  
7 (~~(rights)~~) rights program to a third party upon occurrence of all of  
8 the following:

9 (a) The department receives a request for transfer of a water right  
10 or portion thereof currently administered by the department for water  
11 banking purposes;

12 (b) The request is consistent with any previous review under RCW  
13 90.03.380 of the water right and future temporary or permanent  
14 beneficial uses;

15 (c) The request is consistent with any condition, limitation, or  
16 agreement affecting the water right, including but not limited to any  
17 trust water right transfer agreement executed at the time the water  
18 right was transferred to the trust water rights program; and

1 (d) The request is accompanied by and is consistent with an  
2 assignment of interest or portion thereof from a person or entity  
3 retaining an interest in the trust water right or portion thereof to  
4 the party requesting transfer of the water right or portion thereof.

5 (2) The priority date of the water right or portion thereof  
6 transferred by the department from the trust water (~~(rights)~~) rights  
7 program for water banking purposes shall be the priority date of the  
8 underlying water right.

9 (3) The department shall issue documentation for that water right  
10 or portion thereof to the new water right holder based on the  
11 requirements applicable to the transfer of other water rights from the  
12 trust water rights program. Such documentation shall include a  
13 description of the property to which the water right will be  
14 appurtenant after the water right or portion thereof is transferred  
15 from the trust water (~~(rights)~~) rights program to a third party.

16 (4) The department shall review an application for transfer or  
17 other utilization of a water right from the trust water rights program  
18 under this section. In the Yakima basin, the director shall approve,  
19 condition, or deny the application within forty-five days of receipt.  
20 The forty-five day time period may be extended for an additional thirty  
21 days by the department at the request of the applicant. If the  
22 department fails to act within the prescribed time period, the  
23 application is deemed approved.

24 (5) The department's decision on the transfer of a water right or  
25 portion thereof from the trust water (~~(rights)~~) rights program for  
26 water banking purposes may be appealed to the pollution control  
27 hearings board under RCW 43.21B.230, or to a superior court conducting  
28 a general adjudication under RCW 90.03.210.

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