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HOUSE BILL 1146

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Nealey, Blake, Chandler, Lytton, Warnick, Schmick, Walsh, Ryu, and Haler

Read first time 01/17/13. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to certified water right examiner bonding  
2 requirements; and amending RCW 90.03.665.

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

4 **Sec. 1.** RCW 90.03.665 and 2010 c 285 s 7 are each amended to read  
5 as follows:

6 (1) The department shall establish and maintain a list of certified  
7 water right examiners. Certified water right examiners on the list are  
8 eligible to perform final proof examinations of permitted water uses  
9 leading to the issuance of a water right certificate under RCW  
10 90.03.330. The list must be updated annually and must be made  
11 available to the public through written and electronic media.

12 (2) In order to qualify, an individual must be registered in  
13 Washington as a professional engineer, professional land surveyor, or  
14 registered hydrogeologist, or an individual must demonstrate at least  
15 five years of applicable experience to the department, or be a board  
16 member of a water conservancy board. Qualified individuals must also  
17 pass a written examination prior to being certified by the department.  
18 Such an examination must be administered by either the department or an

1 entity formally approved by the department. Each certified water right  
2 examiner must demonstrate knowledge and competency regarding:

- 3 (a) Water law in the state of Washington;
- 4 (b) Measurement of the flow of water through open channels and  
5 enclosed pipes;
- 6 (c) Water use and water level reporting;
- 7 (d) Estimation of the capacity of reservoirs and ponds;
- 8 (e) Irrigation crop water requirements;
- 9 (f) Aerial photo interpretation;
- 10 (g) Legal descriptions of land parcels;
- 11 (h) Location of land and water infrastructure through the use of  
12 maps and global positioning;
- 13 (i) Proper construction and sealing of well bores; and
- 14 (j) Other topics related to the preparation and certification of  
15 water rights in Washington state.

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

35 (4) The department may suspend or revoke a certification based on  
36 poor performance, malfeasance, failure to acquire continuing education  
37 credits, or excessive complaints from the examiner's customers. The  
38 department may require the retesting of an examiner. The department

1 may interview any examiner to determine whether the person is qualified  
2 for this work. The department shall spot-check the work of examiners  
3 to ensure that the public is being competently served. Any person  
4 aggrieved by an order of the department including the granting, denial,  
5 revocation, or suspension of a certificate issued by the department  
6 under this chapter may appeal pursuant to chapter 43.21B RCW.

7 (5) The decision regarding whether to issue a final water right  
8 certificate is solely the responsibility and function of the  
9 department.

10 (6) The department shall make its final decision under RCW  
11 90.03.330 within sixty days of the date of receipt of the proof of  
12 examination from the certified water right examiner, unless otherwise  
13 requested by the applicant or returned for correction by the  
14 department. The department may return an initial proof of examination  
15 for correction within thirty days of the department's receipt of such  
16 initial proof from a certified water right examiner. Such proof must  
17 be returned to both the certified water right examiner and the  
18 applicant. Within thirty days of the department's receipt of such  
19 returned proof from the certified water right examiner, the department  
20 shall make its final decision under RCW 90.03.330, unless otherwise  
21 requested by the applicant.

22 (7) Each certified water right examiner must complete eight hours  
23 annually of qualifying continuing education in the water resources  
24 field. The department shall determine and specify the qualifying  
25 continuing education and shall inform examiners of the opportunities.  
26 The department shall track whether examiners are current in their  
27 continuing education and may suspend the certification of an examiner  
28 who has not complied with the continuing education requirement.

29 (8) Each certified water right examiner must (~~be bonded for at~~  
30 ~~least fifty thousand dollars~~) furnish evidence of insurance or  
31 financial responsibility in a form acceptable to the department.

32 (9) The department may waive the requirement to secure the services  
33 of a certified water right examiner in situations in which the  
34 department has already conducted a final proof of examination or finds  
35 it unnecessary for purposes of issuing a certificate of water right.

36 (10) The department shall establish and collect fees for the  
37 examination, certification, and renewal of certification of water right  
38 examiners. Revenue collected from these fees must be deposited into

1 the water rights processing account created in RCW 90.03.650. Pursuant  
2 to RCW 43.135.055, the department is authorized to set fees for  
3 examination, certification, and renewal of certification for water  
4 right examiners.

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

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