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SECOND SUBSTITUTE SENATE BILL 5199

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State of Washington

63rd Legislature

2013 Regular Session

By Senate Ways & Means (originally sponsored by Senators Ericksen and Holmquist Newbry)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to de facto changes in water rights for irrigation  
2 purposes that involved conversion to more efficient irrigation  
3 technologies; adding a new section to chapter 90.03 RCW; and providing  
4 an expiration date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.03 RCW  
7 to read as follows:

8 (1) The department must initiate a process to enable water right  
9 holders to change the current status of water rights that are currently  
10 being put to a different or additional place of use or acreage than is  
11 indicated on the associated water right certificate, permit, or claim  
12 when that change was done prior to formal approval being granted by the  
13 department and only if the following conditions are met:

14 (a) The water right is located in a county that has at least six  
15 thousand acres in raspberry production as of the effective date of this  
16 section;

17 (b) The water right holder has implemented a change from overhead  
18 irrigation technology to microirrigation technology;

1 (c) The water right holder has beneficially used the water right  
2 for irrigation purposes using microirrigation technology since  
3 implementing the change;

4 (d) Before the effective date of this section, the water right  
5 holder filed a water right change application or new water right  
6 application for the different or additional place of use or acreage but  
7 has not yet received approval for that application from the department;  
8 and

9 (e) The water right holder submits the following to the department:

10 (i) Information indicating the date or dates on which the actual  
11 changes in water use occurred, water use before and after the changes,  
12 the points of diversion or withdrawal and any reductions in direct  
13 impact on instream resources, place of use and area actually irrigated  
14 both before and after the changes, and any improvements in water use  
15 efficiency;

16 (ii) Payment for the appropriate fee under RCW 90.03.470(3).

17 (2) For purposes of this section, "microirrigation technology"  
18 means a conservation irrigation method, such as drip or trickle  
19 irrigation, that delivers water to the base of the plant and allows  
20 additional production of crops without increasing the total amount of  
21 water consumptively used as compared to the prior overhead sprinkler  
22 system.

23 (3) The department may accept as evidence under this section crop  
24 receipts, seed receipts, harvest-related receipts, aerial and other  
25 photographs showing land in agricultural production or showing  
26 irrigation facilities, irrigation equipment receipts, metering records,  
27 or any other form of data acceptable to the department.

28 (4) If the department finds that the water right holder satisfies  
29 the requirements of this section, the department shall complete the  
30 analysis required by RCW 90.03.380(1) and issue appropriate superseding  
31 water right documents, except that the department shall use the time  
32 period prior to the implementation of the associated change to  
33 determine beneficial and consumptive use of the water right.

34 (5) To participate in the process authorized by this section, an  
35 applicant must, if requested by the department, utilize the cost-  
36 reimbursement process in this chapter.

1 (6) This section expires June 30, 2020.

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