

# HOUSE BILL REPORT

## HB 1267

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### As Reported by House Committee On: Agriculture & Natural Resources

**Title:** An act relating to de facto changes in water rights for irrigation purposes that involved conversion to more efficient irrigation technologies.

**Brief Description:** Concerning de facto changes in water rights for irrigation purposes that involved conversion to more efficient irrigation technologies.

**Sponsors:** Representative Buys.

#### **Brief History:**

##### **Committee Activity:**

Agriculture & Natural Resources: 2/3/15, 2/11/15 [DP].

#### **Brief Summary of Bill**

- Creates a new, temporary process for certain water users who have transitioned to a more efficient irrigation technology to change their place of water use with the Department of Ecology.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 10 members: Representatives Blake, Chair; Lytton, Vice Chair; Buys, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Hurst, Kretz, Orcutt, Pettigrew and Schmick.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Dunshee, Stanford and Van De Wege.

**Staff:** Jason Callahan (786-7117).

#### **Background:**

Water right certificates include, in addition to the quantity of water that may be withdrawn, specification as to where the water can be used, where the water is sourced from, and the purpose for which the water will be used. A water right holder can apply to the Department

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of Ecology (Department) for a change in the place of use, point of diversion, or purpose of use of a water right. A change in any of these qualities is only allowed if the change is not detrimental to another water right held by a different water user.

A change in a water right that is processed to allow for the irrigation of additional acreage is only permitted if the change does not increase the water user's annual consumptive quantity of water. This factor, the annual consumptive quantity of water, is measured as the amount of water diverted under a water right and reduced by the estimated return flows that result from the water use. These numbers are averaged based on the highest two years of water usage in the five years preceding the applicable calculation.

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**Summary of Bill:**

The Department is directed to initiate a process that enables water right holders located in a county with at least 6,000 acres in raspberry production to change the place of use on their water right certificate, permit, or claim without following the standard application and review process for such changes. To qualify for the process, the water right holder must be currently putting the associated water to a beneficial use in a manner that is inconsistent with the place of use or number of acres identified on the water right certificate, permit, or claim. The change in the use of the water must have been a change from overhead irrigation to a micro-irrigation technology that occurred prior to January 1, 2010.

The phrase "micro-irrigation technology" is defined to mean a conservation irrigation method that delivers water to the base of the plant and that allows for an increase in crop production without a corresponding increase in the total amount of water that is used consumptively.

A water right holder wishing to use the new process must have filed a water right change application, or a new water right application to cover the additional irrigated acreage, with the Department prior to the effective date of the act and must provide to the Department information relating to changes in use. The applicant must also pay applicable fees and, if requested by the Department, participate in a cost reimbursement process.

The Department must issue superseding water right documents if it finds that all of the requirements of the applicant, and for a change of use, have been satisfied. The superseding documents must indicate a beneficial use of water based on the time period prior to the change to micro-irrigation practices. In making these determinations, the Department may rely on evidence such as crop receipts, seed receipts, historical photographs, and metering records.

The authority to conduct the specialized change application process expires on June 30, 2020.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) Many raspberry growers switched to the more efficient overhead irrigation technology in the 1980s. The new systems conserved water, but the specter of relinquishing that conserved water appeared when the underlying state law changes before the Department could process the necessary paperwork. The bill's very narrow scope makes it applicable to approximately 19 water right holders who irrigate approximately 440 acres of land. All of the affected water right holders are located in Whatcom County. This proposal strikes the right balance and encourages water conservation.

(Opposed) None.

**Persons Testifying:** Representative Buys, prime sponsor; Bill Clarke, Whatcom Agriculture District Coalition; and Dave Christensen, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.