
**Agriculture & Natural Resources
Committee**

HB 1523

Brief Description: Regarding the relinquishment of water rights.

Sponsors: Representatives Taylor, Shea, G. Hunt, Buys, Scott, Condotta and Young.

Brief Summary of Bill

- Removes all statutory references to relinquishment of water rights.

Hearing Date: 2/3/15

Staff: Jason Callahan (786-7117).

Background:

Water Rights Relinquishment.

A landowner who has the right to use water will lose that right if he or she does not put the water to a beneficial use over a period of five consecutive years. This is commonly known as both "relinquishment" and the "use it or lose it" principle. The water right holder can lose, or relinquish, their entire right to use any water or a portion of their original water right depending on how much water was not put to beneficial use over the five years in question.

There are, however, instances when a water right holder cannot use the water for five years and still retain his or her rights to the water. This occurs when the water right holder can show a sufficient cause for not using the water. The qualifying sufficient causes have been identified in statute and include causes such as drought, military service, legal proceedings, participation in the Trust Water Rights Program, and crop rotation practices. Water right holders that can show a sufficient cause do not relinquish their right to the water even if they go more than five years without putting the water to a beneficial use.

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.

Water Rights Abandonment.

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].

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: Not requested.

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