
**Agriculture & Natural Resources
Committee**

SB 5010

Brief Description: Promoting water conservation by protecting certain water rights from relinquishment.

Sponsors: Senator Warnick.

Brief Summary of Bill

- Provides that a water right used for irrigation or agricultural purposes is not relinquished if it is not exercised to the full extent of the right as a result of the implementation of water conservation or water use efficiency measures.

Hearing Date: 3/28/17

Staff: Robert Hatfield (786-7117).

Background:

Water Rights.

Washington operates under a water right permit system. With certain exceptions, new rights to use surface or ground water must be established according to the permit system. Exemptions include any withdrawal of public groundwater for stock watering purposes, for watering a lawn, or for a noncommercial garden less than one half an acre. Single or group domestic uses or industrial purposes not exceeding 5,000 gallons per day are also exempt.

The Department of Ecology (Ecology) must consider a four-part test when deciding whether to issue a new water right, specifically whether: (1) water is available, (2) a beneficial use of water would be made, (3) granting the right would impair existing rights, and (4) the proposed use would detrimentally affect the public welfare. If an application passes this test, Ecology issues a permit which establishes a time table for constructing the infrastructure to access the water and

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for putting water to beneficial use. When the conditions of the permit are satisfied, Ecology issues a water right certificate.

Beneficial Use.

A beneficial use of water includes, but is not limited to, use for domestic water, irrigation, fish, shellfish, game and other aquatic life, municipal, recreation, industrial water, generation of electric power, and navigation.

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 water even if they go more than five years without putting the water to a beneficial use.

Water Banks.

Generally, the process to establish a water bank begins with a consultation between Ecology's Water Resources Program and a would-be banker. If Ecology agrees that the banker's proposal is within the public's interest, a water banking agreement may be negotiated. This agreement describes how Ecology will take ownership of a water right and hold it in the Trust Water Rights Program in exchange for processing applications for mitigated new uses.

Ecology is authorized to use water banking to mitigate for new water uses, hold water for beneficial uses consistent with terms established by the transferor, meet future water supply needs, and provide a source of water to third parties, on a temporary or permanent basis, for any allowed beneficial use.

Summary of Bill:

A water right that is used for irrigation or agricultural purposes is not relinquished if it is not exercised to the full extent of the right as a result of the implementation of water conservation or water use efficiency measures.

Appropriation: None.

Fiscal Note: Not requested.

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