

2 SSB 5100 - S AMD 091
3 By Senator Honeyford

4 WITHDRAWN 03/13/01

5 On page 4, after line 30, insert the following:

6 "NEW SECTION. **Sec. 4.** It is the intent of the legislature,
7 through the provisions of this act, to clarify existing law. Namely,
8 the legislature intends to clarify the existing law and the authority
9 of the department of ecology and water conservancy boards.

10 **Sec. 5.** RCW 90.80.010 and 1997 c 441 s 2 are each amended to read
11 as follows:

12 The following definitions apply throughout this chapter, unless the
13 context clearly requires otherwise.

14 (1) "Board" means a water conservancy board created under this
15 chapter.

16 (2) "Commissioner" means a member of a water conservancy board.

17 (3) "Department" means the department of ecology.

18 (4) "Director" means the director of the department of ecology.

19 (5) "Transfer" means a transfer, change, or amendment to a water
20 right referred to in RCW 90.03.380, 90.03.390, or 90.44.100.

21 **Sec. 6.** RCW 90.80.070 and 1997 c 441 s 9 are each amended to read
22 as follows:

23 (1) Applications to the board for transfers shall be made on a form
24 provided by the department, and shall contain such additional
25 information as may be required by the board in order to review and act
26 upon the application. At a minimum, the application shall include
27 information sufficient to establish to the board's satisfaction of the
28 transferor's right to the quantity of water being transferred, and a
29 description of any applicable limitations on the right to use water,
30 including the point of diversion or withdrawal, place of use, source of
31 supply, purpose of use, quantity of use permitted, time of use, period
32 of use, and the place of storage.

33 (2) The transferor and the transferee of any proposed water
34 transfer may apply to a board for approval of the transfer if the water

1 proposed to be transferred is currently diverted, withdrawn, or used
2 within the geographic boundaries of the county, or would be diverted,
3 withdrawn, or used within the geographic boundaries of the county if
4 the transfer is approved. In the case of a proposed water transfer in
5 which the water is currently diverted or withdrawn or would be diverted
6 or withdrawn outside the geographic boundaries of the county, the board
7 shall hold a public hearing in the county of the diversion or
8 withdrawal or proposed diversion or withdrawal. The board shall
9 provide for prominent publication of notice of such hearing in a
10 newspaper of general circulation published in the county in which the
11 hearing is to be held for the purpose of affording an opportunity for
12 interested persons to comment upon the application.

13 (3) After an application for a transfer is filed with the board,
14 the board shall publish notice of the application in accordance with
15 the publication requirements and send notice to state agencies as
16 provided in RCW 90.03.280. Any person may submit comments to the board
17 regarding the application. Any water right holder claiming detriment
18 or injury to an existing water right may intervene in the application
19 before the board pursuant to subsection (4) of this section. If a
20 majority of the board determines that the application is complete, in
21 accordance with the law and the transfer can be made without injury or
22 detriment to existing water rights in accordance with RCW 90.03.380,
23 90.03.390, or 90.44.100, the board shall issue the applicant a
24 certificate conditionally approving the transfer, subject to review by
25 the director.

26 (4) If a water right holder claims a proposed transfer will cause
27 an impairment to that right, the water right holder is entitled to a
28 hearing before the board. The board shall receive such evidence as it
29 deems material and necessary to determine the validity of the claim of
30 impairment. If the party claiming the impairment establishes by a
31 preponderance of the evidence that his or her water right will be
32 impaired by the proposed transfer, the board may not approve the
33 transfer unless the applicant and the impaired party agree upon
34 compensation for the impairment.

35 **Sec. 7.** RCW 90.80.120 and 1997 c 441 s 16 are each amended to read
36 as follows:

37 (1) A commissioner of a water conservancy board who has an
38 ownership interest in a water right subject to an application for

1 approval of a transfer ((~~or change~~)) by the board, shall not
2 participate in the board's review or decision upon the application.

3 (2) A commissioner of a water conservancy board who also serves as
4 an employee or upon the governing body of a municipally owned water
5 system, shall not participate in the board's review or decision upon an
6 application for the transfer ((~~or change~~)) of a water right in which
7 that water system has or is proposed to have an ownership interest.

8 **Sec. 8.** RCW 90.80.140 and 1997 c 441 s 18 are each amended to read
9 as follows:

10 Nothing in this chapter affects transfers that may be otherwise
11 approved under chapter 90.03 or 90.44 RCW."

12 Renumber the remaining section consecutively and correct internal
13 references accordingly.

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17 On page 1, line 9 of the title, after "90.03.380" insert ",
18 90.80.010, 90.80.070, 90.80.120, and 90.80.140"

19 On page 1, line 10 of the title, after "creating" strike "a new
20 section" and insert "new sections"

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