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HOUSE BILL 2994

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Parlette, G. Chandler, B. Chandler and Linville

Read first time 01/25/2000. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to trust water rights; and amending RCW 90.38.020  
2 and 90.42.080.

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

4 **Sec. 1.** RCW 90.38.020 and 1989 c 429 s 3 are each amended to read  
5 as follows:

6 (1) The department may acquire water rights, including but not  
7 limited to storage rights, by purchase, gift, or other appropriate  
8 means other than by condemnation, from any person or entity or  
9 combination of persons or entities. Once acquired, such rights are  
10 trust water rights. If an aquatic species is listed as threatened or  
11 endangered under the federal endangered species act (16 U.S.C. Sec.  
12 1531 et seq.) for a body of water, certain instream flows are needed  
13 for the species, and the holder of a right to water from the body of  
14 water chooses to donate all or a portion of the person's water right to  
15 the trust water system to assist in providing those instream flows on  
16 a temporary or permanent basis as described in subsection (3) of this  
17 section, the department shall accept the donation on such terms as the  
18 person may prescribe. Once accepted, such rights are trust water  
19 rights within the conditions prescribed by the donor.

1 (2) The department may make such other arrangements, including  
2 entry into contracts with other persons or entities as appropriate to  
3 ensure that trust water rights acquired in accordance with this chapter  
4 can be exercised to the fullest possible extent.

5 (3) The trust water rights may be acquired on a temporary or  
6 permanent basis. A trust water right acquired on a temporary basis may  
7 or may not be acquired for a specified number of years or other period  
8 of time. An example of one which might not be acquired for a specified  
9 number of years is as follows: If a water right is acquired on a  
10 temporary basis to assist in providing certain instream flows for a  
11 species of fish that is listed as threatened or endangered under the  
12 federal endangered species act (16 U.S.C. Sec. 1531 et seq.), the water  
13 right could be acquired for the period of time that the species is so  
14 listed and could also be acquired for only those portions of that  
15 period of time that the water right is needed to assist in providing  
16 those instream flows. The example provided by this subsection shall  
17 not be construed as limiting in any manner the remaining provisions of  
18 this subsection.

19 **Sec. 2.** RCW 90.42.080 and 1993 c 98 s 4 are each amended to read  
20 as follows:

21 (1)(a) The state may acquire all or portions of existing water  
22 rights, by purchase, gift, or other appropriate means other than by  
23 condemnation, from any person or entity or combination of persons or  
24 entities. Once acquired, such rights are trust water rights.

25 (b) If an aquatic species is listed as threatened or endangered  
26 under the federal endangered species act (16 U.S.C. Sec. 1531 et seq.)  
27 for a body of water, certain instream flows are needed for the species,  
28 and the holder of a right to water from the body of water chooses to  
29 donate all or a portion of the person's water right to the trust water  
30 system to assist in providing those instream flows on a temporary or  
31 permanent basis as described in subsection (3) of this section, the  
32 department shall accept the donation on such terms as the person may  
33 prescribe. Once accepted, such rights are trust water rights within  
34 the conditions prescribed by the donor.

35 (2) The department may enter into leases, contracts, or such other  
36 arrangements with other persons or entities as appropriate, to ensure  
37 that trust water rights acquired in accordance with this chapter may be  
38 exercised to the fullest possible extent.

1       (3) Trust water rights may be acquired by the state on a temporary  
2 or permanent basis. A trust water right acquired on a temporary basis  
3 may or may not be acquired for a specified number of years or other  
4 period of time. An example of one which might not be acquired for a  
5 specified number of years is as follows: If a water right is acquired  
6 on a temporary basis to assist in providing certain instream flows for  
7 a species of fish that is listed as threatened or endangered under the  
8 federal endangered species act (16 U.S.C. Sec. 1531 et seq.), the water  
9 right could be acquired for the period of time that the species is so  
10 listed and could also be acquired for only those portions of that  
11 period of time that the water right is needed to assist in providing  
12 those instream flows. The example provided by this subsection shall  
13 not be construed as limiting in any manner the remaining provisions of  
14 this subsection.

15       (4) The provisions of RCW 90.03.380 and 90.03.390 do not apply to  
16 donations acquired under subsection (1)(b) of this section, but do  
17 apply to other transfers of water rights under this section.

18       (5) No funds may be expended for the purchase of water rights by  
19 the state pursuant to this section unless specifically appropriated for  
20 this purpose by the legislature.

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