

FINAL BILL REPORT

HB 1792

C 160 L 23

Synopsis as Enacted

Brief Description: Modifying timelines and other initial procedural actions in a water rights adjudication.

Sponsors: Representatives Timmons, Dent, Lekanoff, Fitzgibbon, Rule, Ramel, Springer and Eslick.

House Committee on Agriculture and Natural Resources

Senate Committee on Agriculture, Water, Natural Resources & Parks

Background:

Water Rights General Adjudications.

The state's Surface Water Code establishes a general adjudication procedure for the purpose of determining rights to surface water. Holders of water rights or watershed planning units may petition the Department of Ecology (Ecology) to start an adjudication, or Ecology may start an adjudication at its own discretion. Such a proceeding is conducted in a superior court with Ecology as the plaintiff, and the defendants being the persons or entities owning real property situated within the area to be adjudicated that do not receive their water from municipal water providers, as well as all known persons claiming a right to the water sought to be determined.

Water Rights General Adjudications—Commencement.

Ecology begins the adjudication process by preparing a statement of the facts, together with a plan or map of the locality under investigation. Ecology files the statement of facts, along with the plan or map, in the superior court of the county in which the water is located. The statement includes information about the water rights to be adjudicated, such as the identification of persons or entities owning real property situated within the area to be adjudicated that do not receive their water from municipal water providers, the identification of all known persons claiming a right to the water sought to be determined, and a brief statement of the facts in relation to the water.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Once the statement of facts and map have been filed, the judge of the superior court issues an order directing summonses to be issued and identifies the date by which the summonses must be returned. The summons must contain a brief statement of the objects and purpose of the proceedings and must require parties with water right claims to appear on the return day thereof, and to make and file an adjudication claim to the water involved. The summons must also state that unless parties appear at the stated time and place and assert their water right claim, a judgment will be entered determining their rights according to the evidence before the court.

Service of the summons in a water rights adjudication may either be by personal service or certified mail. The summons must be served at least 60 days before the required return date of the summons and the return date must be between 100 and 130 days after the issuance of the order.

On or before the date specified in the summons, each defendant must file with the clerk of the superior court an adjudication claim on a form and in a manner provided by Ecology, and mail or email a copy to Ecology.

Within the date set by the court for filing evidence, each defendant must file with the court evidence to support the defendant's adjudication claims. The court is encouraged to set a date for filing evidence that is reasonable and fair for the timely processing of the adjudication. After that date, except for good cause, a defendant may not file additional evidence to support the claim.

Water Rights General Adjudications—Rules of Procedure.

The rules of procedure for a superior court apply to a water rights adjudication, except that a superior court may choose to adopt simplified procedures for claimants of small uses of water.

Water Resources Inventory Areas.

Ecology and other state natural resources agencies have divided Washington into 62 numbered Water Resource Inventory Areas (WRIAs) to delineate the state's major watersheds. The Nooksack watershed is designated as WRIA 1.

Summary:

For a water rights adjudication filed in Water Resource Inventory Area 1 after June 1, 2023:

- the return day for the latest time to file claims pursuant to a court summons must be not less than one year after the date on which the court ordered the issuance of the summons, unless special rules of procedure established by the court provide for a later date;
- the latest day for a party to appear by filing a claim in response to a court summons must be set by the court and listed within the summons as a date not less than one year after the service of the summons, unless special rules of procedure established by

- the court provide for a later date;
- any summons of the adjudication claim form must state that adjudication claims must be filed not less than one year after the date on which the court ordered the issuance of the summons, unless special rules of procedure established by the court provide for a later date;
 - the Department of Ecology (Ecology) must broadly distribute a draft version of the adjudication claim form to enable review and input by prospective claimants, including, at a minimum, Indian tribes, local governments, and special purpose districts, and must allow for at least 60 days of public comment on the draft adjudication claim form prior to adoption; and
 - the latest date for filing evidence to support the claimant's adjudication claims must be no less than three years after the date for the filing of adjudication claims by a party set by the court, unless special rules of procedure established by the court provide for a later date. Simplified procedures for claimants of small uses of water are not subject to this provision.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 23, 2023