
SUBSTITUTE SENATE BILL 5030

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senator Horn)

Read first time 02/05/97.

1 AN ACT Relating to the appropriation of water from lakes and
2 reservoirs for single-family residential noncommercial garden and
3 landscape irrigation; adding a new section to chapter 90.03 RCW;
4 creating new sections; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that as demands on
7 water resources increase, water must be used in a manner that is most
8 beneficial to the natural resources of the state, while avoiding
9 unnecessary capital costs and public infrastructure expenditures. The
10 legislature also finds that in appropriate circumstances, use of water
11 from lakes and reservoirs by shoreland owners will allow more water to
12 remain in rivers and streams for stockwater, fish, wildlife, municipal
13 drinking water, and recreation. The legislature also finds that use of
14 municipally treated drinking water for garden and landscape irrigation
15 may in some cases be an unnecessary use of the public infrastructure,
16 creating the need for additional public facilities to meet the demands
17 of growing populations.

18 (2) The legislature finds that while there may be numerous benefits
19 to using lake water in urban settings to water lawns and noncommercial

1 gardens, the legislature also finds that great caution must be
2 exercised when establishing a new exemption from the standard permit
3 processing system for appropriating increasingly scarce water
4 resources. The legislature therefore declares that any appropriations
5 made under chapter . . ., Laws of 1997 (this act) shall be limited to
6 lakes and reservoirs in Washington that are equal to or greater than
7 twenty thousand surface acres.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW
9 to read as follows:

10 (1) The department shall determine whether there is sufficient
11 water in a lake or reservoir with a surface area of twenty thousand
12 acres or more to allow owners of single-family residences that abut the
13 lake or reservoir of twenty thousand acres or more located west of the
14 crest of the Cascade mountains to use water for noncommercial garden
15 and landscape irrigation.

16 (2) In making the determination provided for in subsection (1) of
17 this section, the department shall consider at least the following
18 factors:

19 (a) Whether there is water available to be appropriated;

20 (b) Whether allowing additional appropriation from the lake or
21 reservoir may have an adverse impact on existing water right holders;

22 (c) The existing uses and applications for uses of water from the
23 lake or reservoir;

24 (d) The effect on stockwater, fish, wildlife, and other instream
25 resources of allowing or not allowing withdrawal from the lake or
26 reservoir; and

27 (e) The lake's or reservoir's physical characteristics, including
28 depth, volume, surface area, inflows, outflows, and surface level
29 control features.

30 (3) If the department determines that there may be sufficient water
31 in the lake or reservoir to allow use of water for single-family
32 residential noncommercial garden and landscape irrigation, it shall
33 hold one or more public hearings in the area affected by the proposal.
34 At the public hearing, the department shall report on the factors
35 described in subsection (2) of this section, any additional factors it
36 has used to evaluate the proposal, and options for use of the available
37 water that will satisfy requirements for efficiency.

1 (4) After reviewing comments received at the public hearing, the
2 department shall make a final determination whether there is sufficient
3 water available for single-family residential noncommercial garden and
4 landscape irrigation purposes. If the department determines there is
5 sufficient water it shall, by rule:

6 (a) Establish the maximum quantity of water that may be withdrawn
7 from the lake or reservoir on a yearly basis for single-family
8 noncommercial garden and landscape irrigation under this section;

9 (b) Establish conditions and limitations on withdrawal by
10 individual property owners. The conditions and limitations may
11 include, but are not limited to: Time of day and year, maximum area
12 that may be watered, maximum flow and annual water usage allowed,
13 protection for existing water right holders who may be affected by the
14 withdrawal, and conservation and efficiency measures to be used. In
15 adopting the terms and conditions, the department shall encourage water
16 use efficiency and conservation; and

17 (c) Establish screening requirements to protect fish life.

18 (5) A person withdrawing water under a rule adopted under
19 subsection (4) of this section may, but shall not be required to, apply
20 for a water right permit as otherwise provided by this chapter. The
21 right to withdraw water under this section shall have a priority date
22 of the effective date of the rule adopted pursuant to this section.

23 (6) The department may suspend temporarily the authority to
24 withdraw water granted under this section if the department determines:

25 (a) Under chapter 43.83B RCW that drought conditions exist in the
26 geographical area including a lake or reservoir for which the
27 department has established water withdrawal standards under subsection
28 (4) of this section; or

29 (b) By rule that continued withdrawal of water under this section
30 will have an adverse impact on flows or lake levels below essential
31 minimums necessary to assure the maintenance of existing water rights
32 or claims, fisheries requirements, or to protect federal or state
33 interests including, but not limited to, power generation, navigation,
34 and shoreline facilities.

35 (7) The department may temporarily suspend or impose conditions on
36 the withdrawal of water authorized under this section if there is a
37 water shortage in the geographical area including the lake or reservoir
38 and a public water system with a water right affected by the withdrawal

1 authorized under this section has imposed use restrictions and has
2 requested similar restrictions for water withdrawn under this section.

3 (8) The department shall conduct the analysis required by
4 subsection (1) of this section for lakes and reservoirs of twenty
5 thousand acres or more located west of the crest of the Cascade
6 mountains and, if it determines water is available, adopt the rule
7 required by subsection (4) of this section not later than June 1, 1998.

8 (9) If requested by a public water system that may be affected by
9 the withdrawal of water authorized under subsection (4) of this
10 section, the department shall notify the system of use restrictions
11 that the department has established and shall consult with the system
12 on methods to enforce the restrictions imposed under subsection (4) of
13 this section.

14 (10) Any person withdrawing water under the provisions of this
15 section who uses an irrigation system that has connections to both the
16 supply from the lake or reservoir and a potable drinking water supply
17 system shall assure that the irrigation system complies with all
18 health, safety, and building code requirements.

19 (11) This section applies to lakes or reservoirs of twenty thousand
20 acres or more located east of the crest of the Cascade mountains if a
21 petition signed by more than ten percent of the private owners of land
22 surrounding the lake or reservoir is filed with the department
23 requesting the process in this section to be commenced. If such a
24 petition has been filed, the department shall, within six months, begin
25 the evaluation process in this section for the lake or reservoir for
26 which the petition is filed. Within twelve months after beginning the
27 evaluation process under this section, the department shall make a
28 final determination as provided for in subsection (4) of this section
29 and begin rule making if the determination finds there is sufficient
30 water.

31 NEW SECTION. **Sec. 3.** (1) If water is appropriated as authorized
32 in chapter . . . , Laws of 1997 (this act), the department of ecology
33 shall evaluate the advantages and disadvantages of allowing similar
34 appropriations in other urban lakes and reservoirs and report its
35 findings to the appropriate standing committees of the legislature by
36 June 1, 2000.

1 (2) This section expires June 30, 2000.

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