
SENATE BILL 5276

State of Washington

55th Legislature

1997 Regular Session

By Senators Swecker, Roach and Oke

Read first time 01/21/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to water withdrawals; amending RCW 90.03.255 and
2 90.44.055; adding new sections to chapter 90.03 RCW; adding new
3 sections to chapter 90.44 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in many basins in
6 the state there is water available on a seasonal basis that is in
7 excess of the needs of either existing water right holders or instream
8 resources. The legislature finds that excess waters often result in
9 significant flooding and damage to public and private resources.
10 Further, the impoundment of excess water can be used to provide an
11 additional source of water to offset the impact of withdrawals of
12 ground water on surface water supplies during low flow periods.
13 Further, in some areas of the state additional supplies of water are
14 needed to meet the needs of a growing economy and population. The
15 legislature finds there is a range of alternatives that offset the
16 impacts that should be encouraged including the creation, restoration,
17 enhancement, or enlargement of ponds, wetlands, and reservoirs and the
18 artificial recharge of aquifers.

1 The purpose of this act is to foster the improvement in the water
2 supplies available to meet the needs of the state. It is the goal of
3 this act to strengthen the state's economy while maintaining and
4 improving the overall quality of the state's environment.

5 **Sec. 2.** RCW 90.03.255 and 1996 c 306 s 1 are each amended to read
6 as follows:

7 The department shall, when evaluating an application for a water
8 right, transfer, or change filed pursuant to RCW 90.03.250 or 90.03.380
9 that includes provision for any water impoundment, take into
10 consideration the benefits of the water impoundment that is included as
11 a component of the application. The department's consideration shall
12 extend to any increased water supply that results from the impoundment
13 including, but not limited to, any recharge of ground water that may
14 occur. In cases that the department determines that the proposed
15 diversion of surface water would cause impairment of an existing water
16 right including an instream flow established under chapter 90.22 or
17 90.54 RCW, the department shall allow impoundment and release of
18 surface water, or the recharge of ground water from such impoundment,
19 to offset the impact of the withdrawal of ground water in the same
20 basin or diversion of surface water at a point downstream from the
21 impoundment. Provision for impoundment in an application shall be made
22 solely at the discretion of the applicant and shall not otherwise be
23 made by the department a condition for approving an application that
24 does not include provision for impoundment.

25 This section does not lessen, enlarge, or modify the rights of any
26 riparian owner, or any existing water right acquired by appropriation
27 or otherwise.

28 **Sec. 3.** RCW 90.44.055 and 1996 c 306 s 2 are each amended to read
29 as follows:

30 The department shall, when evaluating an application for a water
31 right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100 that
32 includes provision for any water impoundment, take into consideration
33 the benefits of the water impoundment that is included as a component
34 of the application. The department's consideration shall extend to any
35 increased water supply that results from the impoundment including, but
36 not limited to, any recharge of ground water that may occur. In cases
37 that the department determines that the proposed appropriation of

1 ground water would cause impairment of an existing water right
2 including an instream flow established under chapter 90.22 or 90.54
3 RCW, the department shall allow for impoundment and release of surface
4 water to offset the impact of the withdrawal of ground water in the
5 same basin. Provision for impoundment in an application shall be made
6 solely at the discretion of the applicant and shall not be made by the
7 department a condition for approving an application that does not
8 include provision for impoundment.

9 This section does not lessen, enlarge, or modify the rights of any
10 riparian owner, or any existing water right acquired by appropriation
11 or otherwise.

12 NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW
13 to read as follows:

14 (1) The department may place a priority on processing applications
15 for water rights filed pursuant to RCW 90.03.250 or 90.03.380 that
16 include a means of offsetting the impact of the diversion. However,
17 this section does not modify the priority date of a permit issued under
18 the authority of this chapter or chapter 90.44 RCW.

19 (2) Applicants who were denied permits or who had permits
20 conditioned due to impact on existing water rights or established
21 instream flows may resubmit a revised application that includes a plan
22 for offsetting the impact of the withdrawal within one hundred eighty
23 days of the department's action on the permit application.
24 Applications that are resubmitted under this section retain the same
25 date of priority as the original application.

26 NEW SECTION. Sec. 5. A new section is added to chapter 90.03 RCW
27 to read as follows:

28 The department shall, when evaluating an application for a water
29 right, transfer, or change filed pursuant to RCW 90.03.250 or
30 90.03.380, take into account the recharge of ground water from septic
31 tanks in an amount equivalent to the proposed use of water for indoor
32 purposes.

33 NEW SECTION. Sec. 6. A new section is added to chapter 90.44 RCW
34 to read as follows:

35 (1) The department may place a priority on processing applications
36 for water rights filed pursuant to RCW 90.44.050 or 90.44.100 that

1 include provisions to offset the impact of the withdrawal. However,
2 this section does not modify the priority date of a permit issued under
3 the authority of this chapter or chapter 90.03 RCW.

4 (2) Applicants who were denied permits or who had permits
5 conditioned due to impact on existing water rights or established
6 instream flows may resubmit a revised application that includes the
7 option of providing an offset for the impact of the withdrawal within
8 one hundred eighty days of the department's action on the permit
9 application. Applications that are resubmitted under this section
10 retain the same date of priority as the original application.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.44 RCW
12 to read as follows:

13 The department shall, when evaluating an application for a water
14 right, transfer, or change filed pursuant to RCW 90.44.050 or
15 90.44.100, take into account the recharge of ground water from septic
16 tanks in an amount equivalent to the proposed use of water for indoor
17 purposes.

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