
HOUSE BILL 2268

State of Washington

56th Legislature

1999 Regular Session

By Representative Miloscia

Read first time 03/15/1999. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to metering or measuring, reporting requirements,
2 and fees for the inventory and management of water rights; amending RCW
3 43.79A.040; adding new sections to chapter 90.03 RCW; creating a new
4 section; repealing RCW 90.44.450; prescribing penalties; and providing
5 an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that efforts to
8 restore salmon runs and address the state's population growth make
9 accurate inventories of water rights and water usage vitally important.
10 The legislature further recognizes that improved inventories, accurate
11 reporting, and a reliable funding source are necessary to ensure legal
12 withdrawals and diversions of our shared and finite water resources.
13 Therefore, it is the intent of the legislature to create mandatory
14 metering or measuring, reporting, and funding obligations for water
15 users and the department of ecology.

16 NEW SECTION. **Sec. 2.** (1) Beginning January 1, 2000, the
17 department shall require that all claimed, certificated, or permitted
18 withdrawals or diversions be metered or have other approved means of

1 measuring maximum instantaneous and total annual water withdrawal or
2 diversion.

3 (2) Beginning January 1, 2002, the department shall require that
4 all withdrawals or diversions exempt from water right permitting
5 requirements serving two or more residences shall be metered or have
6 other approved means of measuring maximum instantaneous and total
7 annual water withdrawal or diversion.

8 NEW SECTION. **Sec. 3.** (1) Beginning January 15, 2001, and each
9 January 1st thereafter, the department shall require, without
10 exception, all holders of water right claims, certificates, and permits
11 to report to the state on the following:

12 (a) The periods of the withdrawal or diversion; and

13 (b) The maximum instantaneous and annual volume of the withdrawal
14 or diversion for the previous year, under each water right claim,
15 certificate, or permit.

16 (2) Beginning January 15, 2000, the department shall begin an
17 inventory of all withdrawals and diversions exempt from water right
18 permitting requirements. This inventory is to be completed no later
19 than December 2001, and updated annually beginning in January 2003.

20 (3) Beginning January 15, 2003, and each January 1st thereafter,
21 the department shall require, without exception, all holders of a water
22 right exempt from water right permitting requirements serving two or
23 more residences to report to the state on the following:

24 (a) The periods of the withdrawal or diversion; and

25 (b) The maximum instantaneous and annual volume of the withdrawal
26 or diversion for the previous year, under each water right exempt from
27 water right permitting requirements.

28 (4) Beginning July 1, 2000, and each July 1st thereafter, the
29 department shall provide an inventory of the withdrawals and diversions
30 within the state, both instantaneous and annual, by water resource
31 inventory area (WRIA) and as applicable and requested by sub-WRIA,
32 based on reported water withdrawals and diversions and as estimated for
33 all exempt withdrawals or diversions. Additionally, beginning July 1,
34 2003, the inventory shall include the actual reported withdrawals or
35 diversions exempt from water right permitting requirements serving two
36 or more residences and estimated instantaneous and annual volumes for
37 other withdrawals or diversions exempt from water right permitting
38 requirements.

1 (5) Beginning July 1, 2000, and each July 1st thereafter, the
2 department shall provide the legislature the water withdrawal and
3 diversion inventory by WRIA and if requested by sub-WRIA. The complete
4 annual water withdrawal and diversion inventory shall be made available
5 for public review and copies thereof available at the cost of printing.

6 (6) Beginning January 1, 2000, and each January 1st thereafter, the
7 department shall require, without exception, the payment of a state
8 water use and management fee in an amount not to exceed one hundred
9 dollars per water right claim, certificate, or permit.

10 (7) Beginning January 1, 2003, and each January 1st thereafter, the
11 department shall require, without exception, the payment of a state
12 water use and management fee in an amount not to exceed fifty dollars
13 per water right exempt from water right permitting requirements serving
14 two or more residences.

15 (8) All state water use and management fee revenues shall be used
16 in the following manner and priority:

17 (a) Preparation and development of the annual water withdrawal and
18 diversion inventories as required by this section;

19 (b) Preparation and development of watershed assessments by
20 watershed planning units created under chapter 247, Laws of 1998;

21 (c) Preparation and development of watershed plans, including
22 instream flows, by watershed planning units created under chapter 247,
23 Laws of 1998; and

24 (d) Watershed water resource enhancement projects as included in
25 watershed plans developed under chapter 247, Laws of 1998.

26 (9) The failure to report maximum instantaneous, total annual
27 withdrawal or diversion volume, or to pay the required state water use
28 and management fee by the end of January of each year for each claim,
29 certificate, permit, or water right exempt from water right permitting
30 requirements shall result in an annual fine of not more than ten
31 thousand dollars nor less than one thousand dollars based upon the
32 estimated total volume of the withdrawal or diversion.

33 NEW SECTION. **Sec. 4.** The failure to report maximum instantaneous,
34 total annual withdrawal or diversion volume, or to pay the required
35 state water use and management fee for any:

36 (1) Claim;

37 (2) Certificate;

38 (3) Permit; or

1 (4) Water right exempt from water right permitting requirements,
2 but required to meter or measure and report under sections 2 and 3 of
3 this act;
4 for five consecutive years or for five of any ten years shall result in
5 the statutory relinquishment of the water right under the claim,
6 certificate, permit, or water right exempt from water right permitting
7 requirements, but required to meter or measure and report under
8 sections 2 and 3 of this act.

9 NEW SECTION. **Sec. 5.** The failure to report maximum instantaneous,
10 total annual withdrawal or diversion volume, or to pay the required
11 state water use and management fee for any claim, certificate, permit,
12 or water right exempt from water right permitting requirements, but
13 required to meter or measure and report under sections 2 and 3 of this
14 act, is prima facie evidence of nonuse and abandonment.

15 NEW SECTION. **Sec. 6.** The state water use and management fee
16 account is created in the custody of the state treasurer. All receipts
17 from section 3 of this act must be deposited into the account.
18 Expenditures from the account may be used only for the purposes under
19 section 3 of this act. Only the director of ecology or the director's
20 designee may authorize expenditures from the account. The account is
21 subject to allotment procedures under chapter 43.88 RCW, but an
22 appropriation is not required for expenditures.

23 **Sec. 7.** RCW 43.79A.040 and 1998 c 268 s 1 are each amended to read
24 as follows:

25 (1) Money in the treasurer's trust fund may be deposited, invested,
26 and reinvested by the state treasurer in accordance with RCW 43.84.080
27 in the same manner and to the same extent as if the money were in the
28 state treasury.

29 (2) All income received from investment of the treasurer's trust
30 fund shall be set aside in an account in the treasury trust fund to be
31 known as the investment income account.

32 (3) The investment income account may be utilized for the payment
33 of purchased banking services on behalf of treasurer's trust funds
34 including, but not limited to, depository, safekeeping, and
35 disbursement functions for the state treasurer or affected state
36 agencies. The investment income account is subject in all respects to

1 chapter 43.88 RCW, but no appropriation is required for payments to
2 financial institutions. Payments shall occur prior to distribution of
3 earnings set forth in subsection (4) of this section.

4 (4)(a) Monthly, the state treasurer shall distribute the earnings
5 credited to the investment income account to the state general fund
6 except under (b) and (c) of this subsection.

7 (b) The following accounts and funds shall receive their
8 proportionate share of earnings based upon each account's or fund's
9 average daily balance for the period: The Washington advanced college
10 tuition payment program account, the agricultural local fund, the
11 American Indian scholarship endowment fund, the Washington
12 international exchange scholarship endowment fund, the energy account,
13 the fair fund, the game farm alternative account, the grain inspection
14 revolving fund, the rural rehabilitation account, the stadium and
15 exhibition center account, the youth athletic facility grant account,
16 the self-insurance revolving fund, the sulfur dioxide abatement
17 account, ~~((and))~~ the children's trust fund, and the state water use and
18 management fee account. However, the earnings to be distributed shall
19 first be reduced by the allocation to the state treasurer's service
20 fund pursuant to RCW 43.08.190.

21 (c) The following accounts and funds shall receive eighty percent
22 of their proportionate share of earnings based upon each account's or
23 fund's average daily balance for the period: The advanced right of way
24 revolving fund, the advanced environmental mitigation revolving
25 account, the federal narcotics asset forfeitures account, the high
26 occupancy vehicle account, the local rail service assistance account,
27 and the miscellaneous transportation programs account.

28 (5) In conformance with Article II, section 37 of the state
29 Constitution, no trust accounts or funds shall be allocated earnings
30 without the specific affirmative directive of this section.

31 NEW SECTION. **Sec. 8.** The director shall adopt rules to implement
32 sections 2 through 5 of this act.

33 NEW SECTION. **Sec. 9.** RCW 90.44.450 (Metering or measuring ground
34 water withdrawals--Reports) and 1989 c 348 s 7 are each repealed.

35 NEW SECTION. **Sec. 10.** Section 9 of this act takes effect January
36 1, 2000.

1 NEW SECTION. **Sec. 11.** Sections 2 through 6 and 8 of this act are
2 added to chapter 90.03 RCW.

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