CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2212

Chapter 161, Laws of 2012

62nd Legislature
2012 Regular Session

DEPARTMENT OF ECOLOGY--VOLUNTARY REGIONAL AGREEMENTS--NEW WATER

EFFECTIVE DATE: 06/07/12

Passed by the House January 27, 2012
Yea 95  Nay 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 1, 2012
Yea 47  Nay 0

BRAD OWEN
President of the Senate

Approved March 29, 2012, 6:16 p.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2212 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER
Chief Clerk

FILED
March 29, 2012

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to extending the expiration date of RCW 90.90.030; amending RCW 90.90.030; and providing an expiration date.

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

Sec. 1. RCW 90.90.030 and 2006 c 6 s 4 are each amended to read as follows:

(1) The department of ecology may enter into voluntary regional agreements for the purpose of providing new water for out-of-stream use, streamlining the application process, and protecting instream flow.

(2) Such agreements shall ensure that:

(a) For water rights issued from the Columbia river mainstem, there is no negative impact on Columbia river mainstem instream flows in the months of July and August as a result of the new appropriations issued under the agreement;

(b) For water rights issued from the lower Snake river mainstem, there is no negative impact on Snake river mainstem instream flows from April through August as a result of the new appropriations issued under the agreement; and
(c) Efforts are made to harmonize such agreements with watershed plans adopted under the authority of chapter 90.82 RCW that are applicable to the area covered by the agreement.

(3) The protection of instream flow as set forth in subsection (2) of this section is adequate for purposes of mitigating instream flow impacts resulting from any appropriations for out-of-stream use made under a voluntary regional agreement, and the only applicable consultation provisions under state law regarding instream flow impacts shall be those set forth in subsection (4) of this section.

(4) Before executing a voluntary agreement under this section, the department of ecology shall:

(a) Provide a sixty-day period for consultation with county legislative authorities and watershed planning groups with jurisdiction over the area where the water rights included in the agreement are located, the department of fish and wildlife, and affected tribal governments, and federal agencies. The department of fish and wildlife shall provide written comments within that time period. The consultation process for voluntary regional agreements developed under the provisions of this section is deemed adequate for the issuance of new water rights provided for in this section and satisfies all consultation requirements under state law related to the issuance of new water rights; and

(b) Provide a thirty-day public review and comment period for a draft agreement, and publish a summary of any public comments received. The thirty-day review period shall not begin until after the department of ecology has concluded its consultation under (a) of this subsection and the comments that have been received by the department are made available to the public.

(5) The provisions of subsection (4) of this section satisfy all applicable consultation requirements under state law.

(6) The provisions of this section and any voluntary regional agreements developed under such provisions may not be relied upon by the department of ecology as a precedent, standard, or model that must be followed in any other voluntary regional agreements.

(7) Nothing in this section may be interpreted or administered in a manner that precludes the processing of water right applications under chapter 90.03 or 90.44 RCW that are not included in a voluntary regional agreement.
(8) Nothing in this section may be interpreted or administered in a manner that impairs or diminishes a valid water right or a habitat conservation plan approved for purposes of compliance with the federal endangered species act.

(9) (The department of ecology shall monitor and evaluate the water allocated to instream and out-of-stream uses under this section, evaluate the program, and provide an interim report to the appropriate committees of the legislature by June 30, 2008. A final report shall be provided to the appropriate committees of the legislature by June 30, 2011.

(10) If the department of ecology executes a voluntary agreement under this section that includes water rights appropriated from the lower Snake river mainstem, the department shall develop aggregate data in accordance with the provisions of RCW 90.90.050 for the lower Snake river mainstem.

(11) Any agreement entered into under this section shall remain in full force and effect through the term of the agreement regardless of the expiration of this section.

(12) The definitions in this subsection apply to this section and RCW 90.90.050, and may only be used for purposes of implementing these sections.

(a) "Columbia river mainstem" means all water in the Columbia river within the ordinary high water mark of the main channel of the Columbia river between the border of the United States and Canada and the Bonneville dam, and all groundwater within one mile of the high water mark.

(b) "Lower Snake river mainstem" means all water in the lower Snake river within the ordinary high water mark of the main channel of the lower Snake river from the head of Ice Harbor pool to the confluence of the Snake and Columbia rivers, and all groundwater within one mile of the high water mark.

(13) This section expires June 30, 2018.

Passed by the Senate March 1, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.