

SSB 6179 - H COMM AMD

By Committee on Agriculture & Natural Resources

ADOPTED AS AMENDED 03/04/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.42.100 and 2009 c 283 s 2 are each amended to
4 read as follows:

5 (1) The department is (~~hereby~~) authorized to use the trust
6 water rights program for water banking purposes statewide.

7 (2) Water banking may be used for one or more of the following
8 purposes:

9 (a) To authorize the use of trust water rights to mitigate for
10 water resource impacts, future water supply needs, or any beneficial
11 use under chapter 90.03, 90.44, or 90.54 RCW, consistent with any
12 terms and conditions established by the transferor, except that
13 within the Yakima river basin return flows from water rights
14 authorized in whole or in part for any purpose shall remain available
15 as part of the Yakima basin's total water supply available and to
16 satisfy existing rights for other downstream uses and users;

17 (b) To document transfers of water rights to and from the trust
18 water rights program; and

19 (c) To provide a source of water rights the department can make
20 available to third parties on a temporary or permanent basis for any
21 beneficial use under chapter 90.03, 90.44, or 90.54 RCW.

22 (3) The department shall not use water banking to:

23 (a) Cause detriment or injury to existing rights;

24 (b) Issue temporary water rights or portions thereof for new
25 potable uses requiring an adequate and reliable water supply under
26 RCW 19.27.097;

27 (c) Administer federal project water rights, including federal
28 storage rights; (~~or~~)

29 (d) Allow carryover of stored water in the Yakima basin from one
30 water year to another water year if it would negatively impact the
31 total water supply available; or

1 (e) Provide for mitigation of water resource impacts unless an
2 adequate and reliable water supply is available for the purpose of
3 providing mitigation.

4 (4) The department shall provide electronic notice and
5 opportunity for comment to affected local governments and affected
6 federally recognized tribal governments prior to initiating use of
7 the trust water rights program for water banking purposes for the
8 first time in each water resource inventory area.

9 (5) Nothing in this section may be interpreted or administered in
10 a manner that precludes the use of the department's existing
11 authority to process trust water rights applications under this
12 chapter or to process water right applications under chapter 90.03 or
13 90.44 RCW.

14 (6) For purposes of this section and RCW 90.42.135, "total water
15 supply available" shall be defined as provided in the 1945 consent
16 decree between the United States and water users in the Yakima river
17 basin, and consistent with later interpretation by state and federal
18 courts.

19 **Sec. 2.** RCW 90.42.130 and 2014 c 76 s 9 are each amended to read
20 as follows:

21 ~~((1))~~ The department shall seek input from agricultural
22 organizations, federal agencies, tribal governments, local
23 governments, watershed groups, conservation groups, and developers on
24 water banking, including water banking procedures and identification
25 of areas in Washington ~~((state))~~ where water banking could assist in
26 providing water supplies for instream and out-of-stream uses.

27 ~~((2) The department shall maintain information on its web site
28 regarding water banking, including information on water banks and
29 related programs in various areas of the state.))~~

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.42
31 RCW to read as follows:

32 (1)(a) The department must maintain information on its web site
33 regarding water banking, including information on water banks and
34 related programs in various areas of the state.

35 (b) The information maintained on the department's web site under
36 this subsection must include a schedule or table for each water bank
37 that shows:

38 (i) The amount charged for mitigation, including any fees;

1 (ii) If applicable, the priority date of the water rights made
2 available for mitigation;
3 (iii) The amount of water made available for mitigation;
4 (iv) If applicable, any geographic areas in the state where the
5 department may issue permits or other approvals to use the water
6 rights associated with the water bank as mitigation;
7 (v) The processes utilized by the water bank to obtain approval
8 from the department, or any other applicable governmental agency, to
9 use the water rights as mitigation for new water uses; and
10 (vi) The nature of the ownership interest of the water right
11 available to be conveyed to the landowner and whether the ownership
12 interest will be recorded on the title.
13 (2) The department must update the schedule or table required
14 under this section on a quarterly basis, using information provided
15 to the department by the operator of each water bank. Any person
16 operating a water bank in Washington must provide the information
17 required under this section to the department upon request."

18 Correct the title.

EFFECT: Adds the concept of reliability to the descriptors of a water supply necessary to support water resource mitigation, specifies that any fees must be part of the mitigation credit price disclosure provided by a water bank operator, requires the department of ecology to publish on its web site information regarding areas of the state where each water bank has been approved to issue mitigation credits and the process used to secure the approval, and requires each water bank sponsor to disclose the nature of the ownership interest of conveyed water rights and whether that interest will be recorded on a title.

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