
SUBSTITUTE SENATE BILL 5018

State of Washington

64th Legislature

2015 Regular Session

By Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Honeyford and Ericksen)

READ FIRST TIME 02/13/15.

1 AN ACT Relating to underground artificial storage and recovery
2 projects; and amending RCW 90.03.370.

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

4 **Sec. 1.** RCW 90.03.370 and 2003 c 329 s 1 are each amended to
5 read as follows:

6 (1)(a) All applications for reservoir permits are subject to the
7 provisions of RCW 90.03.250 through 90.03.320. But the party or
8 parties proposing to apply to a beneficial use the water stored in
9 any such reservoir shall also file an application for a permit, to be
10 known as the secondary permit, which shall be in compliance with the
11 provisions of RCW 90.03.250 through 90.03.320. Such secondary
12 application shall refer to such reservoir as its source of water
13 supply and shall show documentary evidence that an agreement has been
14 entered into with the owners of the reservoir for a permanent and
15 sufficient interest in said reservoir to impound enough water for the
16 purposes set forth in said application. When the beneficial use has
17 been completed and perfected under the secondary permit, the
18 department shall take the proof of the water users under such permit
19 and the final certificate of appropriation shall refer to both the
20 ditch and works described in the secondary permit and the reservoir
21 described in the primary permit. The department may accept for

1 processing a single application form covering both a proposed
2 reservoir and a proposed secondary permit or permits for use of water
3 from that reservoir.

4 (b) The department shall expedite processing applications for the
5 following types of storage proposals:

6 (i) Development of storage facilities that will not require a new
7 water right for diversion or withdrawal of the water to be stored;

8 (ii) Adding or changing one or more purposes of use of stored
9 water;

10 (iii) Adding to the storage capacity of an existing storage
11 facility; and

12 (iv) Applications for secondary permits to secure use from
13 existing storage facilities.

14 (c) A secondary permit for the beneficial use of water shall not
15 be required for use of water stored in a reservoir where the water
16 right for the source of the stored water authorizes the beneficial
17 use.

18 (2)(a) For the purposes of this section, "reservoir" includes, in
19 addition to any surface reservoir, any naturally occurring
20 underground geological formation where water is collected and stored
21 for subsequent use as part of an underground artificial storage and
22 recovery project. To qualify for issuance of a reservoir permit an
23 underground geological formation must meet standards for review and
24 mitigation of adverse impacts identified, for the following issues:

25 (i) Aquifer vulnerability and hydraulic continuity;

26 (ii) Potential impairment of existing water rights;

27 (iii) Geotechnical impacts and aquifer boundaries and
28 characteristics;

29 (iv) Chemical compatibility of surface waters and groundwater;

30 (v) Recharge and recovery treatment requirements;

31 (vi) System operation;

32 (vii) Water rights and ownership of water stored for recovery;

33 and

34 (viii) Environmental impacts.

35 (b) Standards for review and standards for mitigation of adverse
36 impacts for an underground artificial storage and recovery project
37 shall be established by the department by rule. Notwithstanding the
38 provisions of RCW 90.03.250 through 90.03.320, analysis of each
39 underground artificial storage and recovery project and each
40 underground geological formation for which an applicant seeks the

1 status of a reservoir shall be through applicant-initiated studies
2 reviewed by the department.

3 (c) An underground artificial storage and recovery project is
4 deemed to comply with state water quality standards for groundwater
5 if the following requirements are met: (i) Water stored in the
6 project is controlled such that there is a high likelihood that the
7 quantity of water stored will be available for recovery; (ii) water
8 stored in the project that is not recovered does not preclude
9 groundwater from being used for beneficial uses in the future; (iii)
10 the project is protective of aquatic resources; and (iv) at the point
11 of injection or other point agreed upon by the project applicant and
12 the department, water quality for water in the project does not
13 exceed fifty percent of the state drinking water quality standard for
14 maximum contaminant levels or maximum residual disinfectant levels
15 adopted pursuant to RCW 43.20.050.

16 (3) For the purposes of this section, "underground artificial
17 storage and recovery project" means any project in which it is
18 intended to artificially store water in the ground through injection,
19 surface spreading and infiltration, or other department-approved
20 method, and to make subsequent use of the stored water. However, (a)
21 this subsection does not apply to irrigation return flow, or to
22 operational and seepage losses that occur during the irrigation of
23 land, or to water that is artificially stored due to the
24 construction, operation, or maintenance of an irrigation district
25 project, or to projects involving water reclaimed in accordance with
26 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances
27 of claimed artificial recharge occurring due to the construction,
28 operation, or maintenance of an irrigation district project or
29 operational and seepage losses that occur during the irrigation of
30 land, as well as other forms of claimed artificial recharge already
31 existing at the time a groundwater subarea is established.

32 (4) Nothing in chapter 98, Laws of 2000 changes the requirements
33 of existing law governing issuance of permits to appropriate or
34 withdraw the waters of the state.

35 (5) The department shall report to the legislature by December
36 31, 2001, on the standards for review and standards for mitigation
37 developed under subsection (3) of this section and on the status of
38 any applications that have been filed with the department for
39 underground artificial storage and recovery projects by that date.

1 (6) Where needed to ensure that existing storage capacity is
2 effectively and efficiently used to meet multiple purposes, the
3 department may authorize reservoirs to be filled more than once per
4 year or more than once per season of use.

5 (7) This section does not apply to facilities to recapture and
6 reuse return flow from irrigation operations serving a single farm
7 under an existing water right as long as the acreage irrigated is not
8 increased beyond the acreage allowed to be irrigated under the water
9 right.

10 (8) In addition to the facilities exempted under subsection (7)
11 of this section, this section does not apply to small irrigation
12 impoundments. For purposes of this section, "small irrigation
13 impoundments" means lined surface storage ponds less than ten acre
14 feet in volume used to impound irrigation water under an existing
15 water right where use of the impoundment: (a)(i) Facilitates
16 efficient use of water; or (ii) promotes compliance with an approved
17 recovery plan for endangered or threatened species; and (b) does not
18 expand the number of acres irrigated or the annual consumptive
19 quantity of water used. Such ponds must be lined unless a licensed
20 engineer determines that a liner is not needed to retain water in the
21 pond and to prevent groundwater contamination. Although it may also
22 be composed of other materials, a properly maintained liner may be
23 composed of bentonite. Water remaining in a small irrigation
24 impoundment at the end of an irrigation season may be carried over
25 for use in the next season. However, the limitations of this
26 subsection (8) apply. Development and use of a small irrigation
27 impoundment does not constitute a change or amendment for purposes of
28 RCW 90.03.380 or 90.44.055.

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