
SUBSTITUTE SENATE BILL 6179

State of Washington

64th Legislature

2016 Regular Session

By Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senator Honeyford)

READ FIRST TIME 01/20/16.

1 AN ACT Relating to water banking; and amending RCW 90.42.100 and
2 90.42.130.

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

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

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

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

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

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

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

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

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

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

9 (c) Administer federal project water rights, including federal
10 storage rights; ((~~or~~))

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

14 (e) Provide for mitigation of water resource impacts unless an
15 adequate water supply is available for the purpose of providing
16 mitigation.

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

22 (5) Nothing in this section may be interpreted or administered in
23 a manner that precludes the use of the department's existing
24 authority to process trust water rights applications under this
25 chapter or to process water right applications under chapter 90.03 or
26 90.44 RCW.

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

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

34 (1) The department shall seek input from agricultural
35 organizations, federal agencies, tribal governments, local
36 governments, watershed groups, conservation groups, and developers on
37 water banking, including water banking procedures and identification
38 of areas in Washington state where water banking could assist in
39 providing water supplies for instream and out-of-stream uses.

1 (2) The department shall maintain information on its web site
2 regarding water banking, including information on water banks and
3 related programs in various areas of the state. The information
4 maintained on the department's web site under this subsection must
5 include a schedule or table for each water bank that shows: (a) The
6 amount charged for mitigation; (b) the priority date of water made
7 available for mitigation; and (c) the amount of water made available
8 for mitigation. The department shall update the schedule or table on
9 a quarterly basis, using information provided to the department by
10 each water bank. Any person operating a water bank in Washington must
11 provide the information required under this subsection to the
12 department upon request.

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