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SENATE BILL 6125

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State of Washington

65th Legislature

2018 Regular Session

By Senator Honeyford

Read first time 01/09/18. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to extending the expiration date of the  
2 department of ecology's authority to enter into voluntary regional  
3 agreements; amending RCW 90.90.030 and 90.90.050; and providing an  
4 expiration date.

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

6 **Sec. 1.** RCW 90.90.030 and 2012 c 161 s 1 are each amended to  
7 read as follows:

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

12 (2) Such agreements shall ensure that:

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

17 (b) For water rights issued from the lower Snake river mainstem,  
18 there is no negative impact on Snake river mainstem instream flows  
19 from April through August as a result of the new appropriations  
20 issued under the agreement; and

1 (c) Efforts are made to harmonize such agreements with watershed  
2 plans adopted under the authority of chapter 90.82 RCW that are  
3 applicable to the area covered by the agreement.

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

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

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

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

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

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

35 (7) Nothing in this section may be interpreted or administered in  
36 a manner that precludes the processing of water right applications  
37 under chapter 90.03 or 90.44 RCW that are not included in a voluntary  
38 regional agreement.

39 (8) Nothing in this section may be interpreted or administered in  
40 a manner that impairs or diminishes a valid water right or a habitat

1 conservation plan approved for purposes of compliance with the  
2 federal endangered species act.

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

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

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

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

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

24 (12) This section expires June 30, (~~(2018)~~) 2024.

25 **Sec. 2.** RCW 90.90.050 and 2006 c 6 s 6 are each amended to read  
26 as follows:

27 (1) In order to better understand current water use and instream  
28 flows in the Columbia river mainstem, the department of ecology shall  
29 establish and maintain a Columbia river mainstem water resources  
30 information system that provides the information necessary for  
31 effective mainstem water resource planning and management.

32 (2) To accomplish the objective in subsection (1) of this  
33 section, the department of ecology shall use information compiled by  
34 existing local watershed planning groups, federal agencies, the  
35 Bonneville power administration, irrigation districts, conservation  
36 districts in the basin, and other available sources. The information  
37 shall include:

38 (a) The total aggregate quantity of water rights issued under  
39 state permits and certificates and filed under state claims on the

1 Columbia river mainstem and for groundwater within one mile of the  
2 mainstem; and

3 (b) The total aggregate volume of current water use under these  
4 rights as metered and reported by water users under current law.

5 (3) The department of ecology shall publish the aggregate data on  
6 the department's web site no later than June 30, 2009, and shall  
7 periodically update the data.

8 (4) For purposes of this section, the definition of Columbia  
9 river mainstem in RCW 90.90.030(~~((+12+))~~) (11) shall apply and the use  
10 of the definition is solely limited to the purpose of collecting data  
11 to meet the information requirements of this section.

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