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SENATE BILL 5526

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State of Washington

55th Legislature

1997 Regular Session

By Senators McDonald, Sellar and Anderson

Read first time 01/29/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to exempting certain diversions of surface waters  
2 from the permit process; amending RCW 90.03.250; and adding a new  
3 section to chapter 90.03 RCW.

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

5 **Sec. 1.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to read  
6 as follows:

7 Any person, municipal corporation, firm, irrigation district,  
8 association, corporation, or water users' association hereafter  
9 desiring to appropriate water for a beneficial use shall make an  
10 application to the department for a permit to make such appropriation,  
11 and shall not use or divert such waters until ((he)) the entity has  
12 received a permit from the department as provided in this chapter  
13 ((provided)), except for diversions authorized under section 2 of this  
14 act. The construction of any ditch, canal, or works, or performing any  
15 work in connection with ((said)) the construction or appropriation, or  
16 the use of any waters, shall not be an appropriation of such water nor  
17 an act for the purpose of appropriating water unless a permit to make  
18 ((said)) the appropriation has first been granted by the department((÷  
19 PROVIDED, That)). However, a temporary permit may be granted upon a

1 proper showing made to the department to be valid only during the  
2 pendency of such application for a permit unless sooner revoked by the  
3 department(~~(:—PROVIDED,)~~). Further, (~~(That)~~) nothing in this chapter  
4 (~~(contained)~~) shall be deemed to affect RCW 90.40.010 through 90.40.080  
5 except that the notice and certificate therein provided for in RCW  
6 90.40.030 shall be addressed to the department, and the department  
7 shall exercise the powers and perform the duties prescribed by RCW  
8 90.40.030.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW  
10 to read as follows:

11 (1) Any diversion of water for municipal purposes from: (a) A  
12 river with an annual average flow of at least fifty cubic feet per  
13 second if the diversion is made within one mile upstream from the point  
14 at which the river begins to mix with saltwater; or (b) a freshwater  
15 body with an outlet control facility, if the diversion is made at or  
16 within one mile above the outlet control facility, is exempt from the  
17 provisions of RCW 90.03.250, and the diversion is entitled to a right  
18 equal to that established by a permit issued under the provisions of  
19 this chapter.

20 (2) For diversions from a river under this section, no single  
21 diverter may put to beneficial use more than ten percent of the  
22 instantaneous flow of the river in the specific area of the diversion,  
23 and in no event may the combined diversions exceed thirty percent of  
24 the instantaneous flow of the river in the specific area of the  
25 diversion.

26 (3) A person seeking to divert water under the provisions of this  
27 section must notify the department in writing of the intent to divert  
28 water, the location of the point of diversion, and the amount of water  
29 to be diverted.

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