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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2867

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State of Washington

56th Legislature

2000 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, G. Chandler, Miloscia, Mitchell, Koster and Cooper)

Read first time 02/07/2000. Referred to Committee on .

1 AN ACT Relating to underground water storage; amending RCW  
2 90.44.035 and 90.03.370; and adding a new section to chapter 90.44 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44 RCW  
5 to read as follows:

6 The legislature recognizes the importance of sound water  
7 management. In an effort to promote new and innovative methods of  
8 water storage, the legislature authorizes the department of ecology to  
9 issue reservoir permits that enable an entity to artificially store and  
10 recover ground water in any underground geological formation, which  
11 qualifies as a reservoir under RCW 90.03.370.

12 **Sec. 2.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to  
13 read as follows:

14 For purposes of this chapter:

15 (1) "Department" means the department of ecology;

16 (2) "Director" means the director of ecology;

17 (3) "Ground waters" means all waters that exist beneath the land  
18 surface or beneath the bed of any stream, lake or reservoir, or other

1 body of surface water within the boundaries of this state, whatever may  
2 be the geological formation or structure in which such water stands or  
3 flows, percolates or otherwise moves. There is a recognized  
4 distinction between natural ground water and artificially stored ground  
5 water;

6 (4) "Natural ground water" means water that exists in underground  
7 storage owing wholly to natural processes; (~~and~~)

8 (5) "Artificially stored ground water" means water that is made  
9 available in underground storage artificially, either intentionally, or  
10 incidentally to irrigation and that otherwise would have been  
11 dissipated by natural (~~waste~~) processes; and

12 (6) "Underground artificial storage and recovery project" means any  
13 project in which it is intended to artificially store water in the  
14 ground through injection or surface spreading and infiltration.  
15 However, (a) this subsection does not apply to operational and seepage  
16 losses that occur during the irrigation of land, or to water that is  
17 artificially stored due to the construction, operation, or maintenance  
18 of an irrigation district project, or to projects involving water  
19 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130  
20 applies to those instances of claimed artificial recharge occurring due  
21 to the construction, operation, or maintenance of an irrigation  
22 district project or operational and seepage losses that occur during  
23 the irrigation of land, as well as other forms of claimed artificial  
24 recharge already existing at the time a ground water subarea is  
25 established.

26 **Sec. 3.** RCW 90.03.370 and 1987 c 109 s 93 are each amended to read  
27 as follows:

28 (1) All applications for reservoir permits shall be subject to the  
29 provisions of RCW 90.03.250 through 90.03.320. But the party or  
30 parties proposing to apply to a beneficial use the water stored in any  
31 such reservoir shall also file an application for a permit, to be known  
32 as the secondary permit, which shall be in compliance with the  
33 provisions of RCW 90.03.250 through 90.03.320. Such secondary  
34 application shall refer to such reservoir as its source of water supply  
35 and shall show documentary evidence that an agreement has been entered  
36 into with the owners of the reservoir for a permanent and sufficient  
37 interest in said reservoir to impound enough water for the purposes set  
38 forth in said application. When the beneficial use has been completed

1 and perfected under the secondary permit, the department shall take the  
2 proof of the water users under such permit and the final certificate of  
3 appropriation shall refer to both the ditch and works described in the  
4 secondary permit and the reservoir described in the primary permit.

5 (2)(a) For the purposes of this section, "reservoir" includes, in  
6 addition to any surface reservoir, any naturally occurring underground  
7 geological formation where water is collected and stored for use as  
8 part of an underground artificial storage and recovery project. To  
9 qualify for issuance of a reservoir permit an underground geological  
10 formation must meet standards for review and mitigation of adverse  
11 impacts identified, for the following issues:

- 12 (i) Aquifer vulnerability and hydraulic continuity;
- 13 (ii) Potential impairment of existing water rights;
- 14 (iii) Geotechnical impacts;
- 15 (iv) Chemical compatibility of surface waters and ground water;
- 16 (v) Recharge and recovery treatment requirements;
- 17 (vi) System operation;
- 18 (vii) Water rights and ownership of water stored for recovery; and
- 19 (viii) Environmental impacts.

20 (b) Standards for review and standards for mitigation of adverse  
21 impacts shall be established by the department by rule.  
22 Notwithstanding the provisions of RCW 90.03.250 through 90.03.320,  
23 analysis of each underground artificial storage and recovery project  
24 and each underground geological formation for which an applicant seeks  
25 the status of a reservoir shall be through applicant-initiated studies  
26 reviewed by the department.

27 (3) For the purposes of this section, "underground artificial  
28 storage and recovery project" means any project in which it is intended  
29 to artificially store water in the ground through injection or surface  
30 spreading and infiltration. However, (a) this subsection does not  
31 apply to operational and seepage losses that occur during the  
32 irrigation of land, or to water that is artificially stored due to the  
33 construction, operation, or maintenance of an irrigation district  
34 project, or to projects involving water reclaimed in accordance with  
35 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of  
36 claimed artificial recharge occurring due to the construction,  
37 operation, or maintenance of an irrigation district project or  
38 operational and seepage losses that occur during the irrigation of

1 land, as well as other forms of claimed artificial recharge already  
2 existing at the time a ground water subarea is established.

3 (4) The department shall report to the legislature by December 31,  
4 2001, on the standards for review and standards for mitigation  
5 developed under subsection (3) of this section and on the status of any  
6 applications that have been filed with the department for underground  
7 artificial storage and recovery projects by that date.

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