

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5276

Chapter 360, Laws of 1997
(partial veto)

55th Legislature
1997 Regular Session

WATER WITHDRAWALS AND DIVERSIONS--ALTERNATIVE MANAGEMENT OF WATER
RESOURCES

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 23, 1997
YEAS 37 NAYS 3

BRAD OWEN

President of the Senate

Passed by the House April 16, 1997
YEAS 95 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 14, 1997, with the
exception of sections 4 and 5, which
are vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 5276 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MIKE O'CONNELL

Secretary

FILED

May 14, 1997 - 2:23 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5276

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Roach and Oke)

Read first time 03/05/97.

1 AN ACT Relating to water withdrawals and diversions; amending RCW
2 90.03.255 and 90.44.055; adding a new section to chapter 90.03 RCW;
3 adding a new section to chapter 90.44 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in many basins in
6 the state there is water available on a seasonal basis that is in
7 excess of the needs of either existing water right holders or instream
8 resources. The legislature finds that excess waters often result in
9 significant flooding and damage to public and private resources.
10 Further, it is in the public interest to encourage the impoundment of
11 excess water and other measures that can be used to offset the impact
12 of withdrawals and diversions on existing rights and instream
13 resources. Further, in some areas of the state additional supplies of
14 water are needed to meet the needs of a growing economy and population.
15 The legislature finds there is a range of alternatives that offset the
16 impacts that should be encouraged including the creation, restoration,
17 enhancement, or enlargement of ponds, wetlands, and reservoirs and the
18 artificial recharge of aquifers.

1 The purpose of this act is to foster the improvement in the water
2 supplies available to meet the needs of the state. It is the goal of
3 this act to strengthen the state's economy while maintaining and
4 improving the overall quality of the state's environment.

5 **Sec. 2.** RCW 90.03.255 and 1996 c 306 s 1 are each amended to read
6 as follows:

7 The department shall, when evaluating an application for a water
8 right, transfer, or change filed pursuant to RCW 90.03.250 or 90.03.380
9 that includes provision for any water impoundment or other resource
10 management technique, take into consideration the benefits and costs,
11 including environmental effects, of ((the)) any water impoundment or
12 other resource management technique that is included as a component of
13 the application. The department's consideration shall extend to any
14 increased water supply that results from the impoundment or other
15 resource management technique, including(()) but not limited to(())
16 any recharge of ground water that may occur, as a means of making water
17 available or otherwise offsetting the impact of the diversion of
18 surface water proposed in the application for the water right,
19 transfer, or change. Provision for an impoundment or other resource
20 management technique in an application shall be made solely at the
21 discretion of the applicant and shall not otherwise be made by the
22 department as a condition for approving an application that does not
23 include such provision ((for impoundment)).

24 This section does not lessen, enlarge, or modify the rights of any
25 riparian owner, or any existing water right acquired by appropriation
26 or otherwise.

27 **Sec. 3.** RCW 90.44.055 and 1996 c 306 s 2 are each amended to read
28 as follows:

29 The department shall, when evaluating an application for a water
30 right or an amendment filed pursuant to RCW 90.44.050 or 90.44.100 that
31 includes provision for any water impoundment or other resource
32 management technique, take into consideration the benefits and costs,
33 including environmental effects, of ((the)) any water impoundment or
34 other resource management technique that is included as a component of
35 the application. The department's consideration shall extend to any
36 increased water supply that results from the impoundment or other
37 resource management technique, including(()) but not limited to(())

1 any recharge of ground water that may occur, as a means of making water
2 available or otherwise offsetting the impact of the withdrawal of
3 ground water proposed in the application for the water right or
4 amendment in the same water resource inventory area. Provision for an
5 impoundment or other resource management technique in an application
6 shall be made solely at the discretion of the applicant and shall not
7 be made by the department as a condition for approving an application
8 that does not include such provision ((for impoundment)).

9 This section does not lessen, enlarge, or modify the rights of any
10 riparian owner, or any existing water right acquired by appropriation
11 or otherwise.

12 ****NEW SECTION. Sec. 4. A new section is added to chapter 90.03 RCW***
13 ***to read as follows:***

14 *Upon the request of the applicant, the department shall, when*
15 *evaluating an application for a water right, transfer, or change filed*
16 *pursuant to RCW 90.03.250 or 90.03.380, take into account the recharge*
17 *of ground water from septic tanks or other on-site wastewater treatment*
18 *facilities in an amount not to exceed the proposed use of water for*
19 *indoor purposes. The department shall, based upon hydrogeologic data*
20 *for the area in which the application is located, determine the amount*
21 *of recharge to the aquifer that is likely to occur and factor that*
22 *amount into the decision it makes on the application. Any water right*
23 *permit, transfer, or change that is authorized under this section shall*
24 *be conditioned to state that the water right permit, transfer, or*
25 *change shall remain in effect only so long as the water use, including*
26 *the discharge of water used for indoor purposes through a septic tank*
27 *or other wastewater treatment facility, remains unchanged from that*
28 *proposed in the original application.*

29 **Sec. 4 was vetoed. See message at end of chapter.*

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

32 *Upon the request of the applicant, the department shall, when*
33 *evaluating an application for a water right or an amendment to a water*
34 *right or permit filed pursuant to RCW 90.44.050 or 90.44.100, take into*
35 *account the recharge of ground water from septic tanks or other on-site*
36 *wastewater treatment facilities in an amount not to exceed the proposed*
37 *use of water for indoor purposes. The department shall, based upon*

1 hydrogeologic data for the area in which the application is located,
2 determine the amount of recharge to the aquifer that is likely to occur
3 and factor that amount into the decision it makes on the application.
4 Any water right permit or amendment that is authorized under this
5 section shall be conditioned to state that the water right permit or
6 amendment shall remain in effect only so long as the water use,
7 including the discharge of water used for indoor purposes through a
8 septic tank or other wastewater treatment facility, remains unchanged
9 from that proposed in the original application.

10 *Sec. 5 was vetoed. See message at end of chapter.

Passed the Senate April 23, 1997.

Passed the House April 16, 1997.

Approved by the Governor May 14, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 14, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 4 and
3 5, Substitute Senate Bill No. 5276 entitled:

4 "AN ACT Relating to water withdrawals and diversions;"

5 Substitute Senate Bill No. 5276 provides mitigation policy
6 direction for the state as it relates to water rights, transfers,
7 changes and amendments. Sections 1 through 3 of the bill provide
8 innovative mitigation policy direction to help the state address
9 increased demand on our finite water resources while protecting the
10 environment, and I support those sections.

11 Sections 4 and 5 of SSB 5276 contain provisions that would require
12 the termination of water rights if the right holder were to stop using
13 a septic system or other wastewater treatment facility that was
14 recharging the water supply. It would create an impractical
15 expectation that the water right would be terminated if sewers
16 eventually replace the septic systems or other wastewater treatment
17 facilities involved. These sections also create a disincentive to
18 convert from septic systems to sewers, contrary to state policy.

19 For these reasons, I have vetoed sections 4 and 5 of Substitute
20 Senate Bill No. 5276.

21 With the exception of sections 4 and 5, Substitute Senate Bill No.
22 5276 is approved."