

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6151

Chapter 168, Laws of 2006

59th Legislature
2006 Regular Session

WATER--AQUIFER LEVELS

EFFECTIVE DATE: 3/22/06

Passed by the Senate March 7, 2006
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2006
YEAS 96 NAYS 2

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6151** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 22, 2006.

FILED

March 22, 2006 - 3:01 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6151

AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Schoesler, Poulsen, Mulliken, Rasmussen, Jacobsen, Morton and Delvin)

READ FIRST TIME 01/30/06.

1 AN ACT Relating to water policy in regions with regulated
2 reductions in aquifer levels; adding a new section to chapter 90.44
3 RCW; creating a new section; providing an expiration date; and
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
7 department of ecology adopted ground water management subarea rules to
8 manage aquifer depletions in the Odessa subarea, which includes
9 undeveloped portions of the federal Columbia basin project.

10 (2) The legislature also finds that deep well agricultural
11 irrigation was permitted within the Odessa subarea under the
12 expectation that federal Columbia basin project water would be
13 delivered to replace the temporary ground water withdrawals in time to
14 stabilize aquifer levels.

15 (3) The legislature further finds that because federal project
16 water has not been delivered as anticipated, aquifer levels have
17 continued to decline despite department of ecology and community
18 efforts to manage ground water withdrawals in a sustainable manner.

1 (4) The legislature further finds that, because substantial project
2 expansion and aquifer recharge is a long-term effort, the continued
3 availability of ground water for domestic, municipal, industrial, and
4 agricultural uses in the region is in great jeopardy.

5 (5) The legislature therefore declares that immediate relief is
6 needed to encourage more efficient use of water and to protect the
7 region's citizens from economic hardships and public health and safety
8 risks that can result from declining aquifer levels.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.44 RCW
10 to read as follows:

11 (1) In order to encourage more efficient use of water, where the
12 source of water is an aquifer within the Odessa ground water subarea as
13 defined in chapter 173-128A WAC:

14 (a) Any period of nonuse of a right to withdraw ground water from
15 the aquifer is deemed to be involuntary due to a drought or low flow
16 period under RCW 90.14.140(2)(b); and

17 (b) Such unused water is deemed a standby or reserve water supply
18 that may again be used after the period of nonuse, as long as: (i)
19 Reductions in water use are a result of conservation practices,
20 irrigation or water use efficiencies, long or short-term changes in the
21 types or rotations of crops grown, economic hardship, pumping or system
22 infrastructure costs, unavailability or unsuitability of water, or
23 willing and documented participation in cooperative efforts to reduce
24 aquifer depletion and optimize available water resources; (ii)
25 withdrawal or diversion facilities are maintained in good operating
26 condition; and (iii) the department has not issued a superseding water
27 right permit or certificate to designate a portion of the ground water
28 right replaced by federal Columbia basin project water as a standby or
29 reserve right under RCW 90.44.510.

30 (2)(a) A water right holder choosing to not exercise a water right
31 in accordance with the provisions of this section must provide notice
32 to the department in writing within one hundred eighty days of such
33 choice. The notice shall include the name of the water right holder
34 and the number of the permit, certificate, or claim.

35 (b) When a water right holder chooses to discontinue nonuse under
36 the provisions of this section, notice of such action must be provided
37 to the department in writing. Notice is not required under this

1 subsection (2)(b) for seasonal fluctuations in use if the right is not
2 fully exercised as reflected in the notice provided under (a) of this
3 subsection.

4 (3) The provisions of this section relating to the nonuse of all or
5 a portion of a water right are in addition to any other provisions
6 relating to such nonuse under existing law.

7 (4) If water from the federal Columbia basin project has been
8 delivered to a place of use authorized under a right to withdraw ground
9 water from the aquifer, the provisions of RCW 90.44.510 apply and
10 supersede the provisions of this section.

11 (5) Portions of rights protected under this section may not be
12 transferred outside Odessa subarea boundaries as defined in WAC 173-
13 128A-040. Transfers within Odessa subarea boundaries remain subject to
14 the provisions of RCW 90.03.380, 90.03.390, 90.44.100, and WAC 173-
15 130A-200.

16 (6) The department shall submit a report to the legislature as to
17 the status of the aquifer, participation in the nonuse program set
18 forth in this section, and the outcome of the United States bureau of
19 reclamation's study on feasible alternatives to Odessa groundwater use.
20 This report must be submitted six months after completion of the United
21 States bureau of reclamation's study, which is expected to be completed
22 in February 2011. The department's report must also suggest viable
23 solutions and the actions needed by the state to move forward with such
24 solutions.

25 NEW SECTION. **Sec. 3.** Section 2 of this act expires July 1, 2021.

26 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

Passed by the Senate March 7, 2006.
Passed by the House March 3, 2006.
Approved by the Governor March 22, 2006.
Filed in Office of Secretary of State March 22, 2006.