
SUBSTITUTE SENATE BILL 5086

State of Washington

62nd Legislature

2011 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Kline, Rockefeller, Ranker, Harper, Honeyford, and Chase)

READ FIRST TIME 02/08/11.

1 AN ACT Relating to the use of geothermal resources; amending RCW
2 78.60.040 and 78.60.060; and adding a new chapter to Title 43 RCW.

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

4 **Sec. 1.** RCW 78.60.040 and 1979 ex.s. c 2 s 1 are each amended to
5 read as follows:

6 Notwithstanding any other provision of law, geothermal resources
7 are found and hereby determined to be sui generis, being neither a
8 mineral resource nor a water resource and as such are ((hereby))
9 declared to be the ((private)) property of the holder of the title to
10 the surface land above the resource, unless the geothermal resources
11 have been reserved by or conveyed to another person or entity.
12 Interests in geothermal resources may be severed from the surface
13 estate and reserved or conveyed as separate and distinct property
14 interests.

15 **Sec. 2.** RCW 78.60.060 and 2003 c 39 s 40 are each amended to read
16 as follows:

17 This chapter is intended to preempt local regulation of the
18 drilling and operation of wells for geothermal resources but shall not

1 be construed to permit the locating of any well or drilling when such
2 well or drilling is prohibited under state or local land use law or
3 regulations promulgated thereunder. Geothermal resources(~~(, by~~
4 ~~products and/or)~~) or waste products which have escaped or been released
5 from the energy transfer system (~~(and/or)~~) or a mineral recovery
6 process shall be subject to provisions of state law relating to the
7 pollution of ground or surface waters (Title 90 RCW), provisions of the
8 state fisheries law and the state game laws (Title 77 RCW), and any
9 other state environmental pollution control laws. Authorization for a
10 beneficial use of (~~(by product)~~) water related to geothermal resources
11 (~~(for all beneficial uses)~~), other than commercial electricity
12 production, including but not limited to greenhouse heating, warm water
13 fish propagation, space heating plants, irrigation, swimming pools, and
14 hot springs baths, shall be subject to the appropriation procedure as
15 provided in Title 90 RCW. However, the use of geothermal resources for
16 commercial electricity production is not subject to the appropriation
17 procedure as provided in Title 90 RCW if the use takes place in a
18 closed loop system that is connected to and integrated into a
19 commercial electricity production project that meets the requirements
20 of this chapter.

21 NEW SECTION. **Sec. 3.** The purpose of this chapter is to provide
22 for the allocation of revenues distributed to the state under section
23 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec.
24 191), with respect to activities of the United States bureau of land
25 management undertaken pursuant to the Geothermal Steam Act of 1970 (30
26 U.S.C. Sec. 1001 et seq.) in order to accomplish the following general
27 objectives:

28 (1) Reduction of dependence on nonrenewable energy and stimulation
29 of the state's economy through development of geothermal energy.

30 (2) Mitigation of the social, economic, and environmental impacts
31 of geothermal development.

32 (3) Financial assistance to counties to offset the costs of
33 providing public services and facilities necessitated by the
34 development of geothermal resources within their jurisdictions.

35 (4) Maintenance of the productivity of renewable resources through
36 the investment of proceeds from these resources.

1 NEW SECTION. **Sec. 4.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "County of origin" means any county in which the United States
4 bureau of land management has leased lands for geothermal development.

5 (2) "Geothermal energy" means the natural heat of the earth and the
6 medium by which this heat is extracted from the earth, including
7 liquids or gases, as well as any minerals contained in any natural or
8 injected fluids, brines, and associated gas but excluding oil,
9 hydrocarbon gas, and other hydrocarbon substances.

10 NEW SECTION. **Sec. 5.** There is created the geothermal account in
11 the state treasury. All expenditures from this account are subject to
12 appropriation and chapter 43.88 RCW.

13 All revenues received by the state treasurer under section 35 of
14 the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191),
15 with respect to activities of the United States bureau of land
16 management undertaken pursuant to the Geothermal Steam Act of 1970 (30
17 U.S.C. Sec. 1001 et seq.) shall be deposited in the geothermal account
18 in the state treasury immediately upon receipt.

19 NEW SECTION. **Sec. 6.** Distribution of funds from the geothermal
20 account of the general fund shall be subject to the following
21 limitations:

22 (1) Thirty percent to the department of natural resources for
23 geothermal exploration and assessment;

24 (2) Thirty percent to Washington State University or its statutory
25 successor for the purpose of encouraging the development of geothermal
26 energy; and

27 (3) Forty percent to the county of origin for mitigating impacts
28 caused by geothermal energy exploration, assessment, and development.

29 NEW SECTION. **Sec. 7.** The state treasurer shall be responsible for
30 distribution of funds to the county of origin. Each county's share of
31 rentals and royalties from a lease including lands in more than one
32 county shall be computed on the basis of the ratio that the acreage
33 within each county has to the total acreage in the lease. Washington
34 State University shall obtain the necessary information to make the
35 distribution of funds on such a basis.

1 NEW SECTION. **Sec. 8.** Sections 3 through 7 of this act constitute
2 a new chapter in Title 43 RCW.

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