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SENATE BILL 5086

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Kline, Rockefeller, Ranker, Harper, Honeyford, and Chase

Read first time 01/13/11. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to the use of geothermal resources for commercial  
2 electricity production; amending RCW 78.60.040 and 78.60.060; and  
3 repealing RCW 43.140.900.

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

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

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

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

18 This chapter is intended to preempt local regulation of the

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

21 NEW SECTION. Sec. 3. RCW 43.140.900 (Termination of chapter) and  
22 2001 c 215 s 1, 1991 c 76 s 1, & 1981 c 158 s 8 are each repealed.

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