

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE HOUSE BILL 1803

Chapter 83, Laws of 2011

62nd Legislature
2011 Regular Session

COLUMBIA RIVER BASIN MANAGEMENT PROGRAM

EFFECTIVE DATE: 07/22/11

Passed by the House March 4, 2011
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 4, 2011
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved April 15, 2011, 2:34 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1803** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 15, 2011

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1803

Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By House Capital Budget (originally sponsored by Representatives Chandler, Van De Wege, Blake, Kretz, and Warnick; by request of Department of Ecology)

READ FIRST TIME 02/24/11.

1 AN ACT Relating to modifying the Columbia river basin management
2 program to prospectively maximize investment tools; amending RCW
3 90.90.010, 90.90.020, and 90.90.040; reenacting and amending RCW
4 43.84.092; adding new sections to chapter 90.90 RCW; and creating a new
5 section.

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

7 **Sec. 1.** RCW 90.90.010 and 2006 c 6 s 2 are each amended to read as
8 follows:

9 (1) The Columbia river basin water supply development account is
10 created in the state treasury. The account may receive direct
11 appropriations from the legislature, receipts of any funds pursuant to
12 RCW 90.90.020 and 90.90.030, or funds from any other sources. The
13 account is intended to fund projects using tax exempt bonds.

14 (2)(a) Expenditures from the Columbia river basin water supply
15 development account may be used to assess, plan, and develop new
16 storage, improve or alter operations of existing storage facilities,
17 implement conservation projects, develop pump exchanges, or any other
18 actions designed to provide access to new water supplies within the
19 Columbia river basin for both instream and out-of-stream uses. Except

1 for the development of new storage projects and pump exchanges, there
2 shall be no expenditures from this account for water acquisition or
3 transfers from one water resource inventory area to another without
4 specific legislative authority. For purposes of this chapter, "pump
5 exchanges" means water supply development projects that exchange water
6 from one source to another or relocate an existing diversion
7 downstream, with resulting instream benefit.

8 (b) Two-thirds of the funds placed in the account shall be used to
9 support the development of new storage facilities and pump exchanges;
10 the remaining one-third shall be used for the other purposes listed in
11 this section.

12 (3)(a) Funds may not be expended from this account for the
13 construction of a new storage facility until the department of ecology
14 evaluates the following:

- 15 (i) Water uses to be served by the facility;
- 16 (ii) The quantity of water necessary to meet those uses;
- 17 (iii) The benefits and costs to the state of meeting those uses,
18 including short-term and long-term economic, cultural, and
19 environmental effects; and
- 20 (iv) Alternative means of supplying water to meet those uses,
21 including the costs of those alternatives and an analysis of the extent
22 to which long-term water supply needs can be met using these
23 alternatives.

24 (b) The department of ecology may rely on studies and information
25 developed through compliance with other state and federal permit
26 requirements and other sources. The department shall compile its
27 findings and conclusions, and provide a summary of the information it
28 reviewed.

29 (c) Before finalizing its evaluation under the provisions of this
30 section, the department of ecology shall make the preliminary
31 evaluation available to the public. Public comment may be made to the
32 department within thirty days of the date the preliminary evaluation is
33 made public.

34 (4) Net water savings achieved through conservation measures funded
35 by the account shall be placed in trust in proportion to the state
36 funding provided to implement a project.

37 (5) Net water savings achieved through conservation measures funded
38 by the account developed within the boundaries of the federal Columbia

1 river reclamation project and directed to the Odessa subarea to reduce
2 the use of groundwater for existing irrigation is exempt from the
3 provisions of subsection (4) of this section.

4 (6) The department of ecology may enter into water service
5 contracts with applicants receiving water from the program to recover
6 all or a portion of the cost of developing the water supply. Costs
7 recovered under water service contracts does not include staff time
8 expended by the department on developing the water supply. With the
9 applicant's concurrence, the department may receive power revenue
10 generated by the water supply developed by the department through water
11 service contracts. The department may deny an application if the
12 applicant does not enter into a water service contract. Revenue
13 collected from water service contracts must be deposited into the
14 Columbia river basin water supply revenue recovery account created in
15 section 3 of this act. The department may adopt rules describing the
16 methodology as to how charges will be established and direct costs
17 recovered for water supply developed under the Columbia river basin
18 water supply program. Water service contracts with federal agencies
19 under RCW 90.42.150 are not required to be established by rule.

20 (7) Moneys in the Columbia river basin water supply development
21 account created in this section may be spent only after appropriation.

22 ~~((+7))~~ (8) Interest earned by deposits in the account will be
23 retained in the account.

24 NEW SECTION. Sec. 2. A new section is added to chapter 90.90 RCW
25 to read as follows:

26 (1) The Columbia river basin taxable bond water supply development
27 account is created in the state treasury. All receipts from direct
28 appropriations from the legislature, moneys directed to the account
29 pursuant to RCW 90.90.020 and 90.90.030, or moneys directed to the
30 account from any other sources must be deposited in the account.
31 Moneys in the account may be spent only after appropriation. The
32 account is intended to fund projects using taxable bonds. Expenditures
33 from the account may be used only as provided in this section.

34 (2)(a) Expenditures from the Columbia river basin taxable bond
35 water supply development account may be used to assess, plan, and
36 develop new storage, improve or alter operations of existing storage
37 facilities, implement conservation projects, develop pump exchanges, or

1 any other actions designed to provide access to new water supplies
2 within the Columbia river basin for both instream and out-of-stream
3 uses. Except for the development of new storage projects and pump
4 exchanges, there may be no expenditures from the account for water
5 acquisition or transfers from one water resource inventory area to
6 another without specific legislative authority. For the purposes of
7 this section, the term "pump exchanges" means water supply development
8 projects that exchange water from one source to another or relocate an
9 existing diversion downstream, with resulting instream benefit.

10 (b) Two-thirds of the moneys placed in the account must be used to
11 support the development of new storage facilities and pump exchanges;
12 the remaining one-third of the moneys must be used for the other
13 purposes listed in this section.

14 (3)(a) Funds may not be expended from the account for the
15 construction of a new storage facility until the department of ecology
16 evaluates the following:

17 (i) Water uses to be served by the facility;

18 (ii) The quantity of water necessary to meet those uses;

19 (iii) The benefits and costs to the state of meeting those uses,
20 including short-term and long-term economic, cultural, and
21 environmental effects; and

22 (iv) Alternative means of supplying water to meet those uses,
23 including the costs of those alternatives and an analysis of the extent
24 to which long-term water supply needs can be met using these
25 alternatives.

26 (b) The department of ecology may rely on studies and information
27 developed through compliance with other state and federal permit
28 requirements and other sources. The department shall compile its
29 findings and conclusions, and provide a summary of the information it
30 reviewed.

31 (c) Before finalizing its evaluation under the provisions of this
32 section, the department of ecology shall make the preliminary
33 evaluation available to the public. Public comment may be made to the
34 department within thirty days of the date the preliminary evaluation is
35 made public.

36 (4) Net water savings achieved through conservation measures funded
37 by the account shall be placed in trust in proportion to the state
38 funding provided to implement a project.

1 (5) Net water savings achieved through conservation measures funded
2 by the account developed within the boundaries of the federal Columbia
3 river reclamation project and directed to the Odessa subarea to reduce
4 the use of groundwater for existing irrigation is exempt from the
5 provisions of subsection (4) of this section.

6 (6) The department of ecology may enter into water service
7 contracts with applicants receiving water from the program to recover
8 all or a portion of the cost of developing the water supply. Costs
9 recovered under water service contracts does not include staff time
10 expended by the department on developing the water supply. With the
11 applicant's concurrence, the department may receive power revenue
12 generated by the water supply developed by the department through water
13 service contracts. The department may deny an application if the
14 applicant does not enter into a water service contract. Revenue
15 collected from water service contracts must be deposited into the
16 Columbia river basin water supply revenue recovery account created in
17 section 3 of this act. The department may adopt rules describing the
18 methodology as to how charges will be established and direct costs
19 recovered for water supply developed under the Columbia river basin
20 water supply program. Water service contracts with federal agencies
21 under RCW 90.42.150 are not required to be established by rule.

22 (7) Interest earned by deposits in the account will be retained in
23 the account.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.90 RCW
25 to read as follows:

26 (1) The Columbia river basin water supply revenue recovery account
27 is created in the state treasury. All receipts from direct
28 appropriations from the legislature, moneys directed to the account
29 pursuant to RCW 90.90.020 and 90.90.030, revenue from water service
30 contracts described in this chapter, or moneys directed into the
31 account from any other sources must be deposited in the account.
32 Moneys in the account may be spent only after appropriation.
33 Expenditures from the account may be used only as provided in this
34 section.

35 (2)(a) Expenditures from the Columbia river basin water supply
36 revenue recovery account may be used to assess, plan, and develop new
37 storage, improve or alter operations of existing storage facilities,

1 implement conservation projects, develop pump exchanges, or any other
2 actions designed to provide access to new water supplies within the
3 Columbia river basin for both instream and out-of-stream uses. Except
4 for the development of new storage projects and pump exchanges, there
5 may be no expenditures from the account for water acquisition or
6 transfers from one water resource inventory area to another without
7 specific legislative authority. For the purposes of this section, the
8 term "pump exchanges" means water supply development projects that
9 exchange water from one source to another or relocate an existing
10 diversion downstream, with resulting instream benefit.

11 (b) Two-thirds of the moneys placed in the account must be used to
12 support the development of new storage facilities and pump exchanges;
13 the remaining one-third of the moneys must be used for the other
14 purposes listed in this section.

15 (3)(a) Funds may not be expended from the account for the
16 construction of a new storage facility until the department of ecology
17 evaluates the following:

18 (i) Water uses to be served by the facility;

19 (ii) The quantity of water necessary to meet those uses;

20 (iii) The benefits and costs to the state of meeting those uses,
21 including short-term and long-term economic, cultural, and
22 environmental effects; and

23 (iv) Alternative means of supplying water to meet those uses,
24 including the costs of those alternatives and an analysis of the extent
25 to which long-term water supply needs can be met using these
26 alternatives.

27 (b) The department of ecology may rely on studies and information
28 developed through compliance with other state and federal permit
29 requirements and other sources. The department shall compile its
30 findings and conclusions, and provide a summary of the information it
31 reviewed.

32 (c) Before finalizing its evaluation under the provisions of this
33 section, the department of ecology shall make the preliminary
34 evaluation available to the public. Public comment may be made to the
35 department within thirty days of the date the preliminary evaluation is
36 made public.

37 (4) Net water savings achieved through conservation measures funded

1 by the account shall be placed in trust in proportion to the state
2 funding provided to implement a project.

3 (5) Net water savings achieved through conservation measures funded
4 by the account developed within the boundaries of the federal Columbia
5 river reclamation project and directed to the Odessa subarea to reduce
6 the use of groundwater for existing irrigation is exempt from the
7 provisions of subsection (4) of this section.

8 (6) The department of ecology may enter into water service
9 contracts with applicants receiving water from the program to recover
10 all or a portion of the cost of developing the water supply. Costs
11 recovered under water service contracts does not include staff time
12 expended by the department on developing the water supply. With the
13 applicant's concurrence, the department may receive power revenue
14 generated by the water supply developed by the department through water
15 service contracts. The department may deny an application if the
16 applicant does not enter into a water service contract. Revenue
17 collected from water service contracts must be deposited into the
18 Columbia river basin water supply revenue recovery account created in
19 this section. The department may adopt rules describing the
20 methodology as to how charges will be established and direct costs
21 recovered for water supply developed under the Columbia river basin
22 water supply program. Water service contracts with federal agencies
23 under RCW 90.42.150 are not required to be established by rule.

24 (7) Interest earned by deposits in the account will be retained in
25 the account.

26 **Sec. 4.** RCW 90.90.020 and 2006 c 6 s 3 are each amended to read as
27 follows:

28 (1)(a) Water supplies secured through the development of new
29 storage facilities made possible with funding from the Columbia river
30 basin water supply development account, the Columbia river basin
31 taxable bond water supply development account, and the Columbia river
32 basin water supply revenue recovery account shall be allocated as
33 follows:

34 (i) Two-thirds of active storage shall be available for
35 appropriation for out-of-stream uses; and

36 (ii) One-third of active storage shall be available to augment
37 instream flows and shall be managed by the department of ecology. The

1 timing of releases of this water shall be determined by the department
2 of ecology, in cooperation with the department of fish and wildlife and
3 fisheries comanagers, to maximize benefits to salmon and steelhead
4 populations.

5 (b) Water available for appropriation under (a)(i) of this
6 subsection but not yet appropriated shall be temporarily available to
7 augment instream flows to the extent that it does not impair existing
8 water rights.

9 (2) Water developed under the provisions of this section to offset
10 out-of-stream uses and for instream flows is deemed adequate mitigation
11 for the issuance of new water rights provided for in subsection (1)(a)
12 of this section and satisfies all consultation requirements under state
13 law related to the issuance of new water rights.

14 (3) The department of ecology shall focus its efforts to develop
15 water supplies for the Columbia river basin on the following needs:

16 (a) Alternatives to groundwater for agricultural users in the
17 Odessa subarea aquifer;

18 (b) Sources of water supply for pending water right applications;

19 (c) A new uninterruptible supply of water for the holders of
20 interruptible water rights on the Columbia river mainstem that are
21 subject to instream flows or other mitigation conditions to protect
22 stream flows; and

23 (d) New municipal, domestic, industrial, and irrigation water needs
24 within the Columbia river basin.

25 (4) The one-third/two-thirds allocation of water resources between
26 instream and out-of-stream uses established in this section does not
27 apply to applications for changes or transfers of existing water rights
28 in the Columbia river basin.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.90 RCW
30 to read as follows:

31 Two-thirds of the water made available through reoperation of
32 Sullivan lake funded from the Columbia river basin water supply
33 development account created in RCW 90.90.010 must be used to supply or
34 offset out-of-stream uses described in RCW 90.90.020(3) in Douglas,
35 Ferry, Lincoln, Okanogan, Pend Oreille, and Stevens counties. At least
36 one-half of this quantity must be made available for municipal,
37 domestic, and industrial uses.

1 **Sec. 6.** RCW 90.90.040 and 2006 c 6 s 5 are each amended to read as
2 follows:

3 (1) To support the development of new water supplies in the
4 Columbia river and to protect instream flow, the department of ecology
5 shall work with all interested parties, including interested county
6 legislative authorities and watershed planning groups(~~(, adjacent to)~~)
7 in the Columbia river basin, and affected tribal governments, to
8 develop a Columbia river water supply inventory and a long-term water
9 supply and demand forecast. The inventory must include:

10 (a) A list of conservation projects that have been implemented
11 under this chapter and the amount of water conservation they have
12 achieved; and

13 (b) A list of potential water supply and storage projects in the
14 Columbia river basin, including estimates of:

- 15 (i) Cost per acre-foot;
- 16 (ii) Benefit to fish and other instream needs;
- 17 (iii) Benefit to out-of-stream needs; and
- 18 (iv) Environmental and cultural impacts.

19 (2) The department of ecology shall complete the first Columbia
20 river water supply inventory by November 15, 2006, and shall update the
21 inventory annually thereafter.

22 (3) The department of ecology shall complete the first Columbia
23 river long-term water supply and demand forecast by November 15, 2006,
24 and shall update the report every five years thereafter.

25 **Sec. 7.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s.
26 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145
27 s 11 are each reenacted and amended to read as follows:

28 (1) All earnings of investments of surplus balances in the state
29 treasury shall be deposited to the treasury income account, which
30 account is hereby established in the state treasury.

31 (2) The treasury income account shall be utilized to pay or receive
32 funds associated with federal programs as required by the federal cash
33 management improvement act of 1990. The treasury income account is
34 subject in all respects to chapter 43.88 RCW, but no appropriation is
35 required for refunds or allocations of interest earnings required by
36 the cash management improvement act. Refunds of interest to the
37 federal treasury required under the cash management improvement act

1 fall under RCW 43.88.180 and shall not require appropriation. The
2 office of financial management shall determine the amounts due to or
3 from the federal government pursuant to the cash management improvement
4 act. The office of financial management may direct transfers of funds
5 between accounts as deemed necessary to implement the provisions of the
6 cash management improvement act, and this subsection. Refunds or
7 allocations shall occur prior to the distributions of earnings set
8 forth in subsection (4) of this section.

9 (3) Except for the provisions of RCW 43.84.160, the treasury income
10 account may be utilized for the payment of purchased banking services
11 on behalf of treasury funds including, but not limited to, depository,
12 safekeeping, and disbursement functions for the state treasury and
13 affected state agencies. The treasury income account is subject in all
14 respects to chapter 43.88 RCW, but no appropriation is required for
15 payments to financial institutions. Payments shall occur prior to
16 distribution of earnings set forth in subsection (4) of this section.

17 (4) Monthly, the state treasurer shall distribute the earnings
18 credited to the treasury income account. The state treasurer shall
19 credit the general fund with all the earnings credited to the treasury
20 income account except:

21 (a) The following accounts and funds shall receive their
22 proportionate share of earnings based upon each account's and fund's
23 average daily balance for the period: The aeronautics account, the
24 aircraft search and rescue account, the budget stabilization account,
25 the capitol building construction account, the Cedar River channel
26 construction and operation account, the Central Washington University
27 capital projects account, the charitable, educational, penal and
28 reformatory institutions account, the cleanup settlement account, the
29 Columbia river basin water supply development account, the Columbia
30 river basin taxable bond water supply development account, the Columbia
31 river basin water supply revenue recovery account, the common school
32 construction fund, the county arterial preservation account, the county
33 criminal justice assistance account, the county sales and use tax
34 equalization account, the deferred compensation administrative account,
35 the deferred compensation principal account, the department of
36 licensing services account, the department of retirement systems
37 expense account, the developmental disabilities community trust
38 account, the drinking water assistance account, the drinking water

1 assistance administrative account, the drinking water assistance
2 repayment account, the Eastern Washington University capital projects
3 account, the education construction fund, the education legacy trust
4 account, the election account, the energy freedom account, the energy
5 recovery act account, the essential rail assistance account, The
6 Evergreen State College capital projects account, the federal forest
7 revolving account, the ferry bond retirement fund, the freight
8 congestion relief account, the freight mobility investment account, the
9 freight mobility multimodal account, the grade crossing protective
10 fund, the public health services account, the health system capacity
11 account, the high capacity transportation account, the state higher
12 education construction account, the higher education construction
13 account, the highway bond retirement fund, the highway infrastructure
14 account, the highway safety account, the high occupancy toll lanes
15 operations account, the hospital safety net assessment fund, the
16 industrial insurance premium refund account, the judges' retirement
17 account, the judicial retirement administrative account, the judicial
18 retirement principal account, the local leasehold excise tax account,
19 the local real estate excise tax account, the local sales and use tax
20 account, the marine resources stewardship trust account, the medical
21 aid account, the mobile home park relocation fund, the motor vehicle
22 fund, the motorcycle safety education account, the multiagency
23 permitting team account, the multimodal transportation account, the
24 municipal criminal justice assistance account, the municipal sales and
25 use tax equalization account, the natural resources deposit account,
26 the oyster reserve land account, the pension funding stabilization
27 account, the perpetual surveillance and maintenance account, the public
28 employees' retirement system plan 1 account, the public employees'
29 retirement system combined plan 2 and plan 3 account, the public
30 facilities construction loan revolving account beginning July 1, 2004,
31 the public health supplemental account, the public transportation
32 systems account, the public works assistance account, the Puget Sound
33 capital construction account, the Puget Sound ferry operations account,
34 the Puyallup tribal settlement account, the real estate appraiser
35 commission account, the recreational vehicle account, the regional
36 mobility grant program account, the resource management cost account,
37 the rural arterial trust account, the rural Washington loan fund, the
38 site closure account, the small city pavement and sidewalk account, the

1 special category C account, the special wildlife account, the state
2 employees' insurance account, the state employees' insurance reserve
3 account, the state investment board expense account, the state
4 investment board commingled trust fund accounts, the state patrol
5 highway account, the state route number 520 civil penalties account,
6 the state route number 520 corridor account, the supplemental pension
7 account, the Tacoma Narrows toll bridge account, the teachers'
8 retirement system plan 1 account, the teachers' retirement system
9 combined plan 2 and plan 3 account, the tobacco prevention and control
10 account, the tobacco settlement account, the transportation 2003
11 account (nickel account), the transportation equipment fund, the
12 transportation fund, the transportation improvement account, the
13 transportation improvement board bond retirement account, the
14 transportation infrastructure account, the transportation partnership
15 account, the traumatic brain injury account, the tuition recovery trust
16 fund, the University of Washington bond retirement fund, the University
17 of Washington building account, the urban arterial trust account, the
18 volunteer firefighters' and reserve officers' relief and pension
19 principal fund, the volunteer firefighters' and reserve officers'
20 administrative fund, the Washington judicial retirement system account,
21 the Washington law enforcement officers' and firefighters' system plan
22 1 retirement account, the Washington law enforcement officers' and
23 firefighters' system plan 2 retirement account, the Washington public
24 safety employees' plan 2 retirement account, the Washington school
25 employees' retirement system combined plan 2 and 3 account, the
26 Washington state health insurance pool account, the Washington state
27 patrol retirement account, the Washington State University building
28 account, the Washington State University bond retirement fund, the
29 water pollution control revolving fund, and the Western Washington
30 University capital projects account. Earnings derived from investing
31 balances of the agricultural permanent fund, the normal school
32 permanent fund, the permanent common school fund, the scientific
33 permanent fund, and the state university permanent fund shall be
34 allocated to their respective beneficiary accounts.

35 (b) Any state agency that has independent authority over accounts
36 or funds not statutorily required to be held in the state treasury that
37 deposits funds into a fund or account in the state treasury pursuant to

1 an agreement with the office of the state treasurer shall receive its
2 proportionate share of earnings based upon each account's or fund's
3 average daily balance for the period.

4 (5) In conformance with Article II, section 37 of the state
5 Constitution, no treasury accounts or funds shall be allocated earnings
6 without the specific affirmative directive of this section.

7 NEW SECTION. **Sec. 8.** The department of ecology shall, within
8 existing resources and in consultation with stakeholders, evaluate
9 options for aggregating projects to achieve the instream and out-of-
10 stream allocation under RCW 90.90.020. The department of ecology shall
11 report its findings to the legislature, consistent with RCW 43.01.036,
12 by September 15, 2011.

Passed by the House March 4, 2011.

Passed by the Senate April 4, 2011.

Approved by the Governor April 15, 2011.

Filed in Office of Secretary of State April 15, 2011.