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**SUBSTITUTE SENATE BILL 5298**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Ericksen, Hatfield, Honeyford, and Warnick)

READ FIRST TIME 02/18/15.

1 AN ACT Relating to the diversion of certain municipal waters; and  
2 amending RCW 90.03.397.

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

4 **Sec. 1.** RCW 90.03.397 and 2011 c 117 s 1 are each amended to  
5 read as follows:

6 (1) The department may approve a change of the point of diversion  
7 prescribed in a permit to appropriate surface water for a beneficial  
8 use if the ownership, purpose of use, season of use, and place of use  
9 of the permit remain the same to an approved intake structure with  
10 capacity to transport the additional diversion to either: (a) A point  
11 of diversion that is located downstream; or (b) a point of diversion  
12 located between Columbia river miles 215.6 and 292, if the existing  
13 point of diversion is contained therein.

14 (2) This section may not be construed as limiting in any manner  
15 whatsoever other authorities of the department under RCW 90.03.380 or  
16 other changes that may be approved under RCW 90.03.380 under  
17 authorities existing before July 25, 1999.

18 (3)(a) The legislature finds that it will clearly serve  
19 overriding considerations of the public interest for the department  
20 to make uninterruptible supplies of water available for appropriation  
21 for a municipal water supplier, notwithstanding when minimum instream

1 flows or levels have been established under chapter 90.22 or 90.54  
2 RCW, when all of the following are met:

3 (i) For both instantaneous rate of the diversion, as measured on  
4 a daily basis, and annual volume of the diversion, a quantity of  
5 foreign water that is equivalent to or greater than the quantity of  
6 water diverted by the municipal water supplier is introduced into the  
7 same body of water from which the diversion is made. The point of  
8 introduction of the foreign water must be located less than one mile  
9 downstream from the point of diversion;

10 (ii) The instantaneous diversion represents no more than 0.1  
11 percent of adopted minimum instream flows or levels;

12 (iii) The total volume diverted and the total volume of foreign  
13 water introduced are measured and reported to the department no less  
14 than four times per year; and

15 (iv) The introduction of foreign water complies with all  
16 applicable water quality regulations for receiving water and complies  
17 with all local, state, and federal permitting requirements.

18 (b) For the purposes of this subsection, "foreign water" means  
19 water that does not naturally contribute as a source of water supply  
20 that would reach the river, river basin, or groundwater associated  
21 with the location of the diversion.

22 (c) Nothing in this section may be construed to affect,  
23 constrain, or otherwise limit the authority of the department to  
24 determine that overriding considerations of the public interest have  
25 been met in approving new withdrawals under RCW 90.54.020(3).

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