

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1322

68th Legislature
2023 Regular Session

Passed by the House March 2, 2023
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2023
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1322** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1322

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By House Capital Budget (originally sponsored by Representatives Rude, Chapman, Klicker, Lekanoff, and Reeves; by request of Department of Ecology)

READ FIRST TIME 02/22/23.

1 AN ACT Relating to the Walla Walla water 2050 plan; amending RCW
2 90.90.020; and adding a new section to chapter 90.90 RCW.

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

4 **Sec. 1.** RCW 90.90.020 and 2011 c 83 s 4 are each amended to read
5 as follows:

6 (1)(a) Water supplies secured through the development of new
7 storage facilities made possible with funding from the Columbia river
8 basin water supply development account, the Columbia river basin
9 taxable bond water supply development account, and the Columbia river
10 basin water supply revenue recovery account shall be allocated as
11 follows:

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

14 (ii) One-third of active storage shall be available to augment
15 instream flows and shall be managed by the department of ecology. The
16 timing of releases of this water shall be determined by the
17 department of ecology, in cooperation with the department of fish and
18 wildlife and fisheries comanagers, to maximize benefits to salmon and
19 steelhead populations.

20 (b) Water available for appropriation under (a)(i) of this
21 subsection but not yet appropriated shall be temporarily available to

1 augment instream flows to the extent that it does not impair existing
2 water rights.

3 (2) Water developed under the provisions of this section to
4 offset out-of-stream uses and for instream flows is deemed adequate
5 mitigation for the issuance of new water rights provided for in
6 subsection (1)(a) of this section and satisfies all consultation
7 requirements under state law related to the issuance of new water
8 rights.

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

11 (a) Alternatives to groundwater for agricultural users in the
12 Odessa subarea aquifer;

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

14 (c) A new uninterruptible supply of water for the holders of
15 interruptible water rights on the Columbia river mainstem that are
16 subject to instream flows or other mitigation conditions to protect
17 streamflows; and

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

20 (4) The one-third/two-thirds allocation of water resources
21 between instream and out-of-stream uses established in this section
22 does not apply to ~~((applications))~~:

23 (a) Applications for changes or transfers of existing water
24 rights in the Columbia river basin; or

25 (b) Applications for water rights in the Walla Walla river basin
26 implementing the Walla Walla water 2050 plan adopted June 30, 2021.

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

29 (1) The Walla Walla water 2050 plan must be used as an integrated
30 water resource strategy, through a coordinated effort between the
31 states of Washington and Oregon, affected federally recognized
32 tribes, affected federal, state, and local agencies, and
33 agricultural, environmental, business, and other community
34 stakeholders.

35 (2) In developing water supply solutions in the Walla Walla river
36 basin, the department of ecology should employ an integrated water
37 resource management strategy that will provide concurrent water
38 supply benefits to both instream and out-of-stream uses and address a
39 variety of water resource and ecosystem challenges affecting fish

1 passage, habitat functions, and agricultural, municipal, industrial,
2 and domestic water supply, consistent with the Walla Walla water 2050
3 plan.

4 (3) The department of ecology shall consider any increase in the
5 quantity of water supply due to a project being implemented under the
6 Walla Walla water 2050 plan that is completed after the effective
7 date of this section to be water supply developed under this section.

8 (4) In implementing subsection (2) of this section, the
9 department of ecology will be advised by the Walla Walla basin
10 advisory committee, including representatives from a broad range of
11 interests, including agricultural, environmental, and other
12 stakeholders, and tribal, local, state, and federal governments.

13 (5) In consultation with affected federally recognized tribes,
14 the department of ecology shall evaluate the development of a bistate
15 legal regulatory framework for allocation of developed water
16 resources, in collaboration with the state of Oregon.

17 (6) The department of ecology shall submit a report to the
18 relevant committees of the legislature by June 30, 2025, with a
19 recommendation for the bistate legal regulatory framework necessary
20 for equitable allocation and management of developed water resources
21 from the build out of water supply projects envisioned in the Walla
22 Walla water 2050 plan.

23 (7) Subject to the availability of amounts appropriated for this
24 specific purpose, the department of ecology is authorized to fund the
25 development, construction, and implementation of projects to
26 implement the Walla Walla water 2050 plan that may be located outside
27 of the state, provided that the projects benefit instream and out-of-
28 stream water demands in the state.

29 (8) Water supplies developed under this section must be
30 apportioned between the states consistent with any written agreements
31 entered into with the state of Oregon and the confederated tribes of
32 the Umatilla Indian reservation related to the management of water in
33 the Walla Walla river basin.

34 (9) The department of ecology has the authority to designate
35 water supplies developed under this section for instream flow
36 purposes and placed into the trust water rights program authorized
37 under chapter 90.42 RCW. Water supplies developed under this section
38 that are designated for instream flow purposes are unavailable to
39 satisfy existing water rights, including water rights with superior
40 priority, and are exempt from provisions under RCW 90.42.070.

1 (10) Water supplies developed under this section must be managed
2 consistent with the intent of the specific project being implemented.

3 (11) It is the intent of the legislature for the state to share
4 in the cost to implement the Walla Walla water 2050 plan authorized
5 under this section, subject to the availability of amounts
6 appropriated for this specific purpose, with at least one-half of the
7 total costs to finance the implementation of the Walla Walla water
8 2050 plan funded through federal, private, and other nonstate
9 sources, including private funding sources from entities that benefit
10 from projects. This section applies to the total costs of the Walla
11 Walla water 2050 plan and not to individual projects within the plan
12 and includes funding for projects that have been completed prior to
13 the effective date of this section.

14 (12) Nothing in this section prevents the department of ecology
15 from regulating water users consistent with existing adjudications to
16 ensure that water use by holders of adjudicated surface water right
17 certificates are not impaired by use under junior groundwater right
18 certificates, claims, and permits.

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