SUBSTITUTE SENATE BILL 5526

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State of Washington   **55th Legislature**   **1997 Regular Session**

By Senate Committee on Agriculture & Environment (originally sponsored by Senators McDonald, Sellar and Anderson)

Read first time 02/24/97.

1   AN ACT Relating to exempting certain diversions of surface waters
2 from the permit process; amending RCW 90.03.250 and 90.03.340; and
3 adding a new section to chapter 90.03 RCW.

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

5   **Sec. 1.** RCW 90.03.250 and 1987 c 109 s 83 are each amended to read
6 as follows:
7   Any person, municipal corporation, firm, irrigation district,
8 association, corporation, or water users' association hereafter
9 desiring to appropriate water for a beneficial use shall make an
10 application to the department for a permit to make such appropriation,
11 and shall not use or divert such waters until ((he)) the entity has
12 received a permit from the department as provided in this chapter
13 ((provided)), except for diversions authorized under section 3 of this
14 act. The construction of any ditch, canal, or works, or performing any
15 work in connection with ((said)) the construction or appropriation, or
16 the use of any waters, shall not be an appropriation of such water nor
17 an act for the purpose of appropriating water unless a permit to make
18 ((said)) the appropriation has first been granted by the department((:
19 PROVIDED, That)). However, a temporary permit may be granted upon a

1 proper showing made to the department to be valid only during the
2 pendency of such application for a permit unless sooner revoked by the
3 department((: PROVIDED,)). Further, ((That)) nothing in this chapter
4 ((contained)) shall be deemed to affect RCW 90.40.010 through 90.40.080
5 except that the notice and certificate therein provided for in RCW
6 90.40.030 shall be addressed to the department, and the department
7 shall exercise the powers and perform the duties prescribed by RCW
8 90.40.030.

9   **Sec. 2.** RCW 90.03.340 and 1987 c 109 s 90 are each amended to read
10 as follows:
11   The right acquired by appropriation shall relate back to the date
12 of filing of the original application with the department, or to the
13 commencement date of an appropriation for municipal uses under section
14 3 of this act.

15   NEW SECTION. **Sec. 3.** A new section is added to chapter 90.03 RCW
16 to read as follows:
17   (1) Any diversion of water for municipal purposes from: (a) A
18 river with an instantaneous minimum flow of at least fifty cubic feet
19 per second, measured at the point of diversion, if the diversion is
20 made within one mile upstream from the point at which the river begins
21 to mix with saltwater; or (b) a freshwater body impounded behind an
22 outlet control facility, the waterway below which reaches the point at
23 which the fresh water begins to mix with saltwater within one mile of
24 the facility, is exempt from the provisions of RCW 90.03.250. The
25 diversion is entitled to a right equal to that established by a permit
26 issued under the provisions of this chapter, and is subject to minimum
27 water flows or levels established by rule.
28   (2) For diversions from a river under this section, no single
29 diverter may put to beneficial use more than ten percent of the
30 instantaneous flow of the river in the specific area of the diversion,
31 and in no event may the combined diversions exceed thirty percent of
32 the instantaneous flow of the river in the specific area of the
33 diversion.
34   (3) For diversions from a freshwater body under this section, no
35 single diverter may put to beneficial use more than ten percent of the
36 annual average inflow to the impounded body, and in no event may the

1 combined diversions exceed thirty percent of the annual average inflow
2 to the impounded body.
3   (4) A person seeking to divert water under the provisions of this
4 section must notify the department in writing of the intent to divert
5 water, the location of the point of diversion, and the amount of water
6 to be diverted.

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