
SUBSTITUTE HOUSE BILL 2867

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, G. Chandler, Miloscia, Mitchell, Koster and Cooper)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to underground water storage; amending RCW
2 90.44.035, 90.03.370, and 90.03.470; and adding a new section to
3 chapter 90.44 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44 RCW
6 to read as follows:

7 The legislature recognizes the importance of sound water
8 management. In an effort to promote new and innovative methods of
9 water storage, the legislature authorizes the department of ecology to
10 issue reservoir permits that enable an entity to artificially store and
11 recover ground water in any underground geological formation, which
12 qualifies as a reservoir under RCW 90.03.370.

13 **Sec. 2.** RCW 90.44.035 and 1987 c 109 s 107 are each amended to
14 read as follows:

15 For purposes of this chapter:

16 (1) "Department" means the department of ecology;

17 (2) "Director" means the director of ecology;

1 (3) "Ground waters" means all waters that exist beneath the land
2 surface or beneath the bed of any stream, lake or reservoir, or other
3 body of surface water within the boundaries of this state, whatever may
4 be the geological formation or structure in which such water stands or
5 flows, percolates or otherwise moves. There is a recognized
6 distinction between natural ground water and artificially stored ground
7 water;

8 (4) "Natural ground water" means water that exists in underground
9 storage owing wholly to natural processes; ((and))

10 (5) "Artificially stored ground water" means water that is made
11 available in underground storage artificially, either intentionally, or
12 incidentally to irrigation and that otherwise would have been
13 dissipated by natural ((waste)) processes; and

14 (6) "Artificial storage and recovery project" means any project in
15 which it is intended to artificially store water in the ground through
16 injection or surface spreading and infiltration, including, but not
17 limited to, projects involving water reclaimed in accordance with
18 chapter 90.46 RCW. However, (a) this subsection does not apply to
19 water that is artificially stored due to seepage losses during the
20 irrigation of land; and (b) RCW 90.44.130 applies to those instances of
21 claimed artificial recharge occurring due to irrigation seepage losses
22 as well as other forms of claimed artificial recharge already existing
23 at the time a ground water subarea is established.

24 **Sec. 3.** RCW 90.03.370 and 1987 c 109 s 93 are each amended to read
25 as follows:

26 (1) All applications for reservoir permits shall be subject to the
27 provisions of RCW 90.03.250 through 90.03.320. But the party or
28 parties proposing to apply to a beneficial use the water stored in any
29 such reservoir shall also file an application for a permit, to be known
30 as the secondary permit, which shall be in compliance with the
31 provisions of RCW 90.03.250 through 90.03.320. Such secondary
32 application shall refer to such reservoir as its source of water supply
33 and shall show documentary evidence that an agreement has been entered
34 into with the owners of the reservoir for a permanent and sufficient
35 interest in said reservoir to impound enough water for the purposes set
36 forth in said application. When the beneficial use has been completed
37 and perfected under the secondary permit, the department shall take the
38 proof of the water users under such permit and the final certificate of

1 appropriation shall refer to both the ditch and works described in the
2 secondary permit and the reservoir described in the primary permit.

3 (2)(a) For the purposes of this section, "reservoir" includes, in
4 addition to any surface reservoir, any naturally occurring underground
5 geological formation where water is collected and stored for use as
6 part of an artificial storage and recovery project. To qualify for
7 issuance of a reservoir permit an underground geological formation must
8 meet standards for review and mitigation of impacts identified, for the
9 following issues:

- 10 (i) Aquifer vulnerability and hydraulic continuity;
- 11 (ii) Geotechnical impacts;
- 12 (iii) Chemical compatibility of surface waters and ground water;
- 13 (iv) Recharge and recovery treatment requirements;
- 14 (v) System operation;
- 15 (vi) Water rights and ownership of water stored for recovery; and
- 16 (vii) Environmental impacts.

17 (b) Standards for review and standards for mitigation of impacts
18 shall be established by the department by rule. Notwithstanding the
19 provisions of RCW 90.03.250 through 90.03.320, analysis of each
20 artificial storage and recovery project and each underground geological
21 formation for which an applicant seeks the status of a reservoir shall
22 be through applicant-initiated studies under the direction and review
23 of the department.

24 (3) For the purposes of this section, "artificial storage and
25 recovery project" means any project in which it is intended to
26 artificially store water in the ground through injection or surface
27 spreading and infiltration, including, but not limited to, projects
28 involving water reclaimed in accordance with chapter 90.46 RCW.
29 However, (a) this subsection does not apply to water that is
30 artificially stored due to seepage losses during the irrigation of
31 land; and (b) RCW 90.44.130 applies to those instances of claimed
32 artificial recharge occurring due to irrigation seepage losses as well
33 as other forms of claimed artificial recharge already existing at the
34 time a ground water subarea is established.

35 **Sec. 4.** RCW 90.03.470 and 1993 c 495 s 2 are each amended to read
36 as follows:

1 (~~Except as otherwise provided in subsection (15) of this~~
2 ~~section,~~) The following fees shall be collected by the department in
3 advance:

4 (1) For the examination of an application for permit to appropriate
5 water or on application to change point of diversion, withdrawal,
6 purpose or place of use, a minimum of ten dollars, to be paid with the
7 application. For each second foot between one and five hundred second
8 feet, two dollars per second foot; for each second foot between five
9 hundred and two thousand second feet, fifty cents per second foot; and
10 for each second foot in excess thereof, twenty cents per second foot.
11 For each acre foot of storage up to and including one hundred thousand
12 acre feet, one cent per acre foot, and for each acre foot in excess
13 thereof, one-fifth cent per acre foot. The ten dollar fee payable with
14 the application shall be a credit to that amount whenever the fee for
15 direct diversion or storage totals more than ten dollars under the
16 above schedule and in such case the further fee due shall be the total
17 computed amount less ten dollars.

18 Within five days from receipt of an application the department
19 shall notify the applicant by registered mail of any additional fees
20 due under the above schedule and any additional fees shall be paid to
21 and received by the department within thirty days from the date of
22 filing the application, or the application shall be rejected.

23 (2) For filing and recording a permit to appropriate water for
24 irrigation purposes, forty cents per acre for each acre to be irrigated
25 up to and including one hundred acres, and twenty cents per acre for
26 each acre in excess of one hundred acres up to and including one
27 thousand acres, and ten cents for each acre in excess of one thousand
28 acres; and also twenty cents for each theoretical horsepower up to and
29 including one thousand horsepower, and four cents for each theoretical
30 horsepower in excess of one thousand horsepower, but in no instance
31 shall the minimum fee for filing and recording a permit to appropriate
32 water be less than five dollars. For all other beneficial purposes the
33 fee shall be twice the amount of the examination fee except that for
34 individual household and domestic use, which may include water for
35 irrigation of a family garden, the fee shall be five dollars.

36 (3) For filing and recording any other water right instrument, four
37 dollars for the first hundred words and forty cents for each additional
38 hundred words or fraction thereof.

1 (4) For making a copy of any document recorded or filed in his
2 office, forty cents for each hundred words or fraction thereof, but
3 when the amount exceeds twenty dollars, only the actual cost in excess
4 of that amount shall be charged.

5 (5) For certifying to copies, documents, records or maps, two
6 dollars for each certification.

7 (6) For blueprint copies of a map or drawing, or, for such other
8 work of a similar nature as may be required of the department, at
9 actual cost of the work.

10 (7) For granting each extension of time for beginning construction
11 work under a permit to appropriate water, an amount equal to one-half
12 of the filing and recording fee, except that the minimum fee shall be
13 not less than five dollars for each year that an extension is granted,
14 and for granting an extension of time for completion of construction
15 work or for completing application of water to a beneficial use, five
16 dollars for each year that an extension is granted.

17 (8) For the inspection of any hydraulic works to (~~(insure)~~) ensure
18 safety to life and property, the actual cost of the inspection,
19 including the expense incident thereto.

20 (9) For the examination of plans and specifications as to safety of
21 controlling works for storage of ten acre feet or more of water, a
22 minimum fee of ten dollars, or the actual cost.

23 (10) For filing and examination of an application for a reservoir
24 permit for an artificial storage and recovery project, two thousand
25 five hundred dollars. However, this fee will be reimbursed if a permit
26 is issued for a project that conveys a trust water right to the state
27 of Washington. No separate permit fee will be charged, but recording
28 fees do apply.

29 (11) For recording an assignment either of a permit to appropriate
30 water or of an application for such a permit, a fee of five dollars.

31 (~~(11)~~) (12) For preparing and issuing all water right
32 certificates, five dollars.

33 (~~(12)~~) (13) For filing and recording a protest against granting
34 any application, two dollars.

35 (~~(13)~~) (14) The department shall provide timely notification by
36 certified mail with return receipt requested to applicants that fees
37 are due. No action may be taken until the fee is paid in full.
38 Failure to remit fees within sixty days of the department's
39 notification shall be grounds for rejecting the application or

1 canceling the permit. Cash shall not be accepted. Fees must be paid
2 by check or money order and are nonrefundable.

3 ~~((14))~~ (15) For purposes of calculating fees for ground water
4 filings, one cubic foot per second shall be regarded as equivalent to
5 four hundred fifty gallons per minute.

6 ~~((15) For the period beginning July 1, 1993, and ending June 30,
7 1994, there is imposed and the department shall collect a one hundred
8 dollar surcharge on all water rights applications or changes filed
9 under this section, and upon all water rights applications or changes
10 pending as of July 1, 1993. This charge shall be in addition to any
11 other fees imposed under this section.))~~

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