
SECOND 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 02/07/2000. Referred to Committee on .

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

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

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

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

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

14 For purposes of this chapter:

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

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

17 (3) "Ground waters" means all waters that exist beneath the land
18 surface or beneath the bed of any stream, lake or reservoir, or other

1 body of surface water within the boundaries of this state, whatever may
2 be the geological formation or structure in which such water stands or
3 flows, percolates or otherwise moves. There is a recognized
4 distinction between natural ground water and artificially stored ground
5 water;

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

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

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

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

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

1 and perfected under the secondary permit, the department shall take the
2 proof of the water users under such permit and the final certificate of
3 appropriation shall refer to both the ditch and works described in the
4 secondary permit and the reservoir described in the primary permit.

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

12 (i) Aquifer vulnerability and hydraulic continuity;

13 (ii) Geotechnical impacts;

14 (iii) Chemical compatibility of surface waters and ground water;

15 (iv) Recharge and recovery treatment requirements;

16 (v) System operation;

17 (vi) Water rights and ownership of water stored for recovery; and

18 (vii) Environmental impacts.

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

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

1 recharge already existing at the time a ground water subarea is
2 established.

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