

---

**SUBSTITUTE SENATE BILL 5915**

---

**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Environment, Energy & Water (originally sponsored by Senators Patterson and Regala)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to wetlands mitigation projects; amending RCW  
2 90.82.070; adding a new section to chapter 90.74 RCW; and creating new  
3 sections.

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

5 NEW SECTION. **Sec. 1.** The legislature intends that this act  
6 improve the scientific basis for making decisions in site selection for  
7 wetlands mitigation projects.

8 The legislature further intends that this act maximize the cost-  
9 effectiveness of public and private investment in compensatory wetland  
10 mitigation projects.

11 NEW SECTION. **Sec. 2.** The legislature finds that wetlands are  
12 important aquatic resources that provide many valuable functions such  
13 as flood control, ground water recharge, water filtration, water  
14 purification, and erosion control. These functions make them important  
15 to protect property and property values, promote quality neighborhoods,  
16 and to protect and enhance wildlife and the wetlands' associated  
17 ecosystems.

1       When impacts to wetlands are permitted, the creation, restoration,  
2 or enhancement of other wetlands are generally required. The  
3 legislature further finds that recent studies of the effectiveness of  
4 compensatory wetland mitigation projects show that over seventy percent  
5 are failing. The principal reasons stem from failure during the  
6 permitting process to adequately investigate the practical  
7 relationships between the proposed project and the local water  
8 resources that will be associated with it. There has also been a  
9 finding that, frequently, the original wetland functioned better than  
10 the mitigated wetland, such that a net loss of wetland area and  
11 functions frequently occurs in spite of the mitigation project.

12       **Sec. 3.** RCW 90.82.070 and 1998 c 247 s 3 are each amended to read  
13 as follows:

14       Watershed planning under this chapter shall address water quantity  
15 in the management area by undertaking an assessment of water supply and  
16 use in the management area and developing strategies for future use.

17       (1) The assessment shall include:

18       (a) An estimate of the surface and ground water present in the  
19 management area;

20       (b) An estimate of the surface and ground water available in the  
21 management area, taking into account seasonal and other variations;

22       (c) An estimate of the water in the management area represented by  
23 claims in the water rights claims registry, water use permits,  
24 certificated rights, existing minimum instream flow rules, federally  
25 reserved rights, and any other rights to water;

26       (d) An estimate of the surface and ground water actually being used  
27 in the management area;

28       (e) An estimate of the water needed in the future for use in the  
29 management area;

30       (f) An identification of the location of areas where aquifers are  
31 known to recharge surface bodies of water (~~and~~), the location of  
32 areas known to provide for the recharge of aquifers from the surface,  
33 and the relationship between these aquifers and nearby surface and  
34 ground water; and

35       (g) An estimate of the surface and ground water available for  
36 further appropriation, taking into account the minimum instream flows  
37 adopted by rule or to be adopted by rule under this chapter for streams

1 in the management area including the data necessary to evaluate  
2 necessary flows for fish.

3 (2) Strategies for increasing water supplies in the management  
4 area, which may include, but are not limited to, increasing water  
5 supplies through water conservation, water reuse, the use of reclaimed  
6 water, voluntary water transfers, aquifer recharge and recovery,  
7 additional water allocations, or additional water storage and water  
8 storage enhancements. The objective of these strategies is to supply  
9 water in sufficient quantities to satisfy the minimum instream flows  
10 for fish and to provide water for future out-of-stream uses for water  
11 identified in subsection (1)(e) and (g) of this section and to ensure  
12 that adequate water supplies are available for agriculture, energy  
13 production, and population and economic growth under the requirements  
14 of the state's growth management act, chapter 36.70A RCW. These  
15 strategies, in and of themselves, shall not be construed to confer new  
16 water rights. The watershed plan must address the strategies required  
17 under this subsection.

18 (3) The assessment may include an identification of the location of  
19 areas where wetlands exist, areas that provide the potential for  
20 wetlands restoration, and areas with potential for use in wetlands  
21 mitigation projects.

22 NEW SECTION. Sec. 4. A new section is added to chapter 90.74 RCW  
23 to read as follows:

24 (1) The department of ecology shall review wetlands compensatory  
25 mitigation projects and evaluate the adequacy of hydrological  
26 information presented by a project proponent to determine the  
27 likelihood of success of the project.

28 (2) The department may require a hydrological assessment of the  
29 site.

30 (3) The hydrological assessment must be sufficiently detailed to  
31 demonstrate that the mitigation site will attain a hydrologic regime to  
32 meet the goals presented in the proponent's compensatory mitigation  
33 project.

34 (4) The hydrological assessment should identify the relationship  
35 between the proponent's compensatory wetlands mitigation project and  
36 the site's existing ground water and surface water.

37 (5) If a proposed wetlands compensation project targets specific  
38 functions, the hydrological assessment must demonstrate that the site

1 will achieve a hydrologic regime needed to develop and support these  
2 functions.

--- END ---