

EHB 1376 - S COMM AMD

By Committee on Natural Resources, Energy & Water

ADOPTED AS AMENDED 04/17/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.03.250 and 1987 c 109 s 83 are each amended to
4 read as follows:

5 (1) Any person, municipal corporation, firm, irrigation district,
6 association, corporation, or water users' association hereafter
7 desiring to appropriate water for a beneficial use shall make an
8 application to the department for a permit to make such appropriation,
9 and shall not use or divert such waters until he or she has received a
10 permit from the department as in this chapter provided. The
11 construction of any ditch, canal, or works, or performing any work in
12 connection with said construction or appropriation, or the use of any
13 waters, shall not be an appropriation of such water nor an act for the
14 purpose of appropriating water unless a permit to make said
15 appropriation has first been granted by the department(~~(:—PROVIDED,~~
16 ~~That))~~).

17 (2) A temporary permit may be granted upon a proper showing made to
18 the department to be valid only during the pendency of such application
19 for a permit unless sooner revoked by the department(~~(:—PROVIDED,~~
20 ~~FURTHER, That))~~).

21 (3) Nothing in this chapter (~~(contained)~~) shall be deemed to affect
22 RCW 90.40.010 through 90.40.080 except that the notice and certificate
23 (~~(therein)~~) provided for in RCW 90.40.030 shall be addressed to the
24 department, and the department shall exercise the powers and perform
25 the duties prescribed by RCW 90.40.030.

26 (4) No permit is required to capture or use water in rain barrels,
27 cisterns, constructed ponds, or other storm water facilities for
28 capturing runoff from residential, commercial, or industrial
29 properties, or from public facilities, regardless of whether the
30 captured water is put to beneficial use. The captured water may not be

1 transferred to or used in a water resource inventory area (WRIA), as
2 defined in RCW 90.82.020, other than the water resource inventory area
3 in which the water is captured, and may not be stored in a manner that
4 creates a public nuisance as specified in RCW 17.28.170.

5 **Sec. 2.** RCW 90.03.370 and 2002 c 329 s 10 are each amended to read
6 as follows:

7 (1)(a) All applications for reservoir permits are subject to the
8 provisions of RCW 90.03.250 through 90.03.320. But the party or
9 parties proposing to apply to a beneficial use the water stored in any
10 such reservoir shall also file an application for a permit, to be known
11 as the secondary permit, which shall be in compliance with the
12 provisions of RCW 90.03.250 through 90.03.320. Such secondary
13 application shall refer to such reservoir as its source of water supply
14 and shall show documentary evidence that an agreement has been entered
15 into with the owners of the reservoir for a permanent and sufficient
16 interest in said reservoir to impound enough water for the purposes set
17 forth in said application. When the beneficial use has been completed
18 and perfected under the secondary permit, the department shall take the
19 proof of the water users under such permit and the final certificate of
20 appropriation shall refer to both the ditch and works described in the
21 secondary permit and the reservoir described in the primary permit.
22 The department may accept for processing a single application form
23 covering both a proposed reservoir and a proposed secondary permit or
24 permits for use of water from that reservoir.

25 (b) The department shall expedite processing applications for the
26 following types of storage proposals:

27 (i) Development of storage facilities that will not require a new
28 water right for diversion or withdrawal of the water to be stored;

29 (ii) Adding or changing one or more purposes of use of stored
30 water;

31 (iii) Adding to the storage capacity of an existing storage
32 facility; and

33 (iv) Applications for secondary permits to secure use from existing
34 storage facilities.

35 (c) A secondary permit for the beneficial use of water shall not be

1 required for use of water stored in a reservoir where the water right
2 for the source of the stored water authorizes the beneficial use.

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 subsequent
6 use as part of an underground artificial storage and recovery project.
7 To qualify for issuance of a reservoir permit an underground geological
8 formation must meet standards for review and mitigation of adverse
9 impacts identified, for the following issues:

10 (i) Aquifer vulnerability and hydraulic continuity;

11 (ii) Potential impairment of existing water rights;

12 (iii) Geotechnical impacts and aquifer boundaries and
13 characteristics;

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

15 (v) Recharge and recovery treatment requirements;

16 (vi) System operation;

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

18 (viii) Environmental impacts.

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

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

1 to the construction, operation, or maintenance of an irrigation
2 district project or operational and seepage losses that occur during
3 the irrigation of land, as well as other forms of claimed artificial
4 recharge already existing at the time a ground water subarea is
5 established.

6 (4) Nothing in chapter 98, Laws of 2000 changes the requirements of
7 existing law governing issuance of permits to appropriate or withdraw
8 the waters of the state.

9 (5) The department shall report to the legislature by December 31,
10 2001, on the standards for review and standards for mitigation
11 developed under subsection (3) of this section and on the status of any
12 applications that have been filed with the department for underground
13 artificial storage and recovery projects by that date.

14 (6) Where needed to ensure that existing storage capacity is
15 effectively and efficiently used to meet multiple purposes, the
16 department may authorize reservoirs to be filled more than once per
17 year or more than once per season of use.

18 (7) No permit is required to capture or use water in rain barrels,
19 cisterns, constructed ponds, or other storm water facilities for
20 capturing runoff from residential, commercial, or industrial
21 properties, or from public facilities, regardless of whether the
22 captured water is put to beneficial use. The captured water may not be
23 transferred to or used in a water resource inventory area (WRIA), as
24 defined in RCW 90.82.020, other than the water resource inventory area
25 in which the water is captured, and may not be stored in a manner that
26 creates a public nuisance as specified in RCW 17.28.170.

27 (8) This section does not apply to facilities to recapture and
28 reuse return flow from irrigation operations serving a single farm
29 under an existing water right as long as the acreage irrigated is not
30 increased beyond the acreage allowed to be irrigated under the water
31 right that applies to the property.

32 (9) In addition to the facilities exempted under subsection (8) of
33 this section, this section does not apply to small irrigation
34 impoundments. For purposes of this subsection, "small irrigation
35 impoundments" means surface storage ponds less than ten acre feet in
36 volume used to impound irrigation water under an existing water right
37 where use of the impoundment: (a)(i) Facilitates efficient use of

1 water; or (ii) promotes compliance with an approved recovery plan for
2 endangered or threatened species; and (b) does not expand the number of
3 acres irrigated or the annual consumptive quantity of water used.
4 Water remaining in a small irrigation impoundment at the end of an
5 irrigation season may be carried over for use in the next season;
6 however, the limitations of this subsection (9) apply to such a carry
7 over."

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8 On page 1, line 2 of the title, after "requirements;" strike the
9 remainder of the title and insert "and amending RCW 90.03.250 and
10 90.03.370."

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