
SUBSTITUTE HOUSE BILL 1735

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Economic Development, Agriculture & Trade
(originally sponsored by Representatives Hunt, Buck, Williams,
Linville, Kenney, Walsh, Wallace, B. Sullivan, Dickerson, McCoy,
Chase, Simpson and Roach)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to exempting limited water storage facilities from
2 permit requirements; and amending RCW 90.03.250 and 90.03.370.

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

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

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

18 (2) A temporary permit may be granted upon a proper showing made to

1 the department to be valid only during the pendency of such application
2 for a permit unless sooner revoked by the department(~~(~~PROVIDED,~~~~
3 ~~FURTHER, That~~)).

4 (3) Nothing in this chapter ((contained)) shall be deemed to affect
5 RCW 90.40.010 through 90.40.080 except that the notice and certificate
6 ((therein)) provided for in RCW 90.40.030 shall be addressed to the
7 department, and the department shall exercise the powers and perform
8 the duties prescribed by RCW 90.40.030.

9 (4) This section does not apply to rain barrels, cisterns, and
10 other similar facilities for capturing runoff from roofs, paved areas,
11 and other hard surfaces on a single residential, commercial, or
12 industrial property or public facility when the:

13 (a) Total amount of water storage does not exceed five thousand
14 gallons; and

15 (b) Water is intended to be put to beneficial use on the property
16 where the rainwater is collected.

17 (5) The department shall consult with local building permit
18 agencies to monitor the installation of very large capacity rainwater
19 collection systems for any cumulative effect that the systems have on
20 ground water recharge rates and potential impacts upon other well users
21 from the same ground water source.

22 **Sec. 2.** RCW 90.03.370 and 2003 c 329 s 1 are each amended to read
23 as follows:

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

1 secondary permit and the reservoir described in the primary permit.
2 The department may accept for processing a single application form
3 covering both a proposed reservoir and a proposed secondary permit or
4 permits for use of water from that reservoir.

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

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

9 (ii) Adding or changing one or more purposes of use of stored
10 water;

11 (iii) Adding to the storage capacity of an existing storage
12 facility; and

13 (iv) Applications for secondary permits to secure use from existing
14 storage facilities.

15 (c) A secondary permit for the beneficial use of water shall not be
16 required for use of water stored in a reservoir where the water right
17 for the source of the stored water authorizes the beneficial use.

18 (2)(a) For the purposes of this section, "reservoir" includes, in
19 addition to any surface reservoir, any naturally occurring underground
20 geological formation where water is collected and stored for subsequent
21 use as part of an underground artificial storage and recovery project.
22 To qualify for issuance of a reservoir permit an underground geological
23 formation must meet standards for review and mitigation of adverse
24 impacts identified, for the following issues:

25 (i) Aquifer vulnerability and hydraulic continuity;

26 (ii) Potential impairment of existing water rights;

27 (iii) Geotechnical impacts and aquifer boundaries and
28 characteristics;

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

30 (v) Recharge and recovery treatment requirements;

31 (vi) System operation;

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

33 (viii) Environmental impacts.

34 (b) Standards for review and standards for mitigation of adverse
35 impacts for an underground artificial storage and recovery project
36 shall be established by the department by rule. Notwithstanding the
37 provisions of RCW 90.03.250 through 90.03.320, analysis of each
38 underground artificial storage and recovery project and each

1 underground geological formation for which an applicant seeks the
2 status of a reservoir shall be through applicant-initiated studies
3 reviewed by the department.

4 (3) For the purposes of this section, "underground artificial
5 storage and recovery project" means any project in which it is intended
6 to artificially store water in the ground through injection, surface
7 spreading and infiltration, or other department-approved method, and to
8 make subsequent use of the stored water. However, (a) this subsection
9 does not apply to irrigation return flow, or to operational and seepage
10 losses that occur during the irrigation of land, or to water that is
11 artificially stored due to the construction, operation, or maintenance
12 of an irrigation district project, or to projects involving water
13 reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130
14 applies to those instances of claimed artificial recharge occurring due
15 to the construction, operation, or maintenance of an irrigation
16 district project or operational and seepage losses that occur during
17 the irrigation of land, as well as other forms of claimed artificial
18 recharge already existing at the time a ground water subarea is
19 established.

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

23 (5) The department shall report to the legislature by December 31,
24 2001, on the standards for review and standards for mitigation
25 developed under subsection (3) of this section and on the status of any
26 applications that have been filed with the department for underground
27 artificial storage and recovery projects by that date.

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

32 (7) This section does not apply to facilities to recapture and
33 reuse return flow from irrigation operations serving a single farm
34 under an existing water right as long as the acreage irrigated is not
35 increased beyond the acreage allowed to be irrigated under the water
36 right.

37 (8) In addition to the facilities exempted under subsection (7) of
38 this section, this section does not apply to small irrigation

1 impoundments. For purposes of this section, "small irrigation
2 impoundments" means lined surface storage ponds less than ten acre feet
3 in volume used to impound irrigation water under an existing water
4 right where use of the impoundment: (a)(i) Facilitates efficient use
5 of water; or (ii) promotes compliance with an approved recovery plan
6 for endangered or threatened species; and (b) does not expand the
7 number of acres irrigated or the annual consumptive quantity of water
8 used. Such ponds must be lined unless a licensed engineer determines
9 that a liner is not needed to retain water in the pond and to prevent
10 ground water contamination. Although it may also be composed of other
11 materials, a properly maintained liner may be composed of bentonite.
12 Water remaining in a small irrigation impoundment at the end of an
13 irrigation season may be carried over for use in the next season.
14 However, the limitations of this subsection (8) apply. Development and
15 use of a small irrigation impoundment does not constitute a change or
16 amendment for purposes of RCW 90.03.380 or 90.44.055.

17 (9) Rain barrels, cisterns, and other similar facilities for
18 capturing runoff from roofs, paved areas, and other hard surfaces on a
19 single residential, commercial, or industrial property or public
20 facility are exempt from the reservoir and secondary permit
21 requirements of this chapter when the:

22 (a) Total amount of water storage does not exceed five thousand
23 gallons; and

24 (b) Water is intended to be put to beneficial use on the property
25 where the rainwater is collected.

26 (10) The department shall consult with local building permit
27 agencies to monitor the installation of very large capacity rainwater
28 collection systems for any cumulative effect that the systems have on
29 ground water recharge rates and potential impacts upon other well users
30 from the same ground water source.

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