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SECOND SUBSTITUTE HOUSE BILL 2860

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State of Washington                      59th Legislature                      2006 Regular Session

By House Committee on Capital Budget (originally sponsored by Representatives Grant, Newhouse, Hankins, Haler, Walsh and McCune)

READ FIRST TIME 02/13/06.

1            AN ACT Relating to water resource management in the Columbia river  
2 basin; amending 2005 c 488 s 332 (uncodified); reenacting and amending  
3 RCW 43.84.092; adding a new chapter to Title 90 RCW; making  
4 appropriations; and providing an effective date.

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

6            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that state water  
7 resources management in the Columbia river basin must immediately  
8 initiate the development of new water supplies to meet the economic and  
9 community development needs of people and the instream flow needs of  
10 fish.

11            (2) The legislature therefore declares that a Columbia river basin  
12 water supply development program is needed, and directs the department  
13 of ecology to aggressively pursue the development of cost-effective  
14 water supplies to benefit both instream and out-of-stream uses.

15            NEW SECTION.    **Sec. 2.**    (1) To support the development of new water  
16 supplies in the Columbia river, the department of ecology shall work  
17 with all interested parties, including but not limited to, interested

1 watershed planning groups working adjacent to the Columbia river and  
2 tribal governments, to develop a Columbia river water supply inventory.

3 The inventory must include:

4 (a) A list of potential conservation and storage projects in the  
5 Columbia river basin;

6 (b) Estimates of project costs and benefits;

7 (c) A ranking of projects from the least expensive per acre-foot of  
8 water conserved to the most expensive per acre-foot;

9 (d) A ranking of projects from the most beneficial to fish to the  
10 least beneficial to fish; and

11 (e) A ranking of projects from the most beneficial to agriculture  
12 to the least beneficial to agriculture.

13 (2) The Columbia river water supply inventory should consider  
14 long-term trends in water supply and demand, rely on existing project  
15 data already completed by local planning groups, and supplement  
16 existing information as necessary to develop a useful inventory.

17 (3) The department of ecology shall complete the first Columbia  
18 river water supply inventory by November 15, 2006, and shall update the  
19 inventory annually thereafter.

20 NEW SECTION. **Sec. 3.** (1) Except as otherwise provided in this  
21 section, new water supplies developed and secured through the operation  
22 or development of storage facilities made possible with funding from  
23 the Columbia river basin water storage and supply account shall be  
24 allocated as follows:

25 (a) Two-thirds of active storage shall be allocated to  
26 out-of-stream uses; and

27 (b) One-third of active storage shall be placed in the state trust  
28 water rights program to enhance instream flows. The timing of releases  
29 of this water shall be determined in cooperation with the department of  
30 fish and wildlife to maximize benefits to salmon and steelhead  
31 populations.

32 (2) The one-third/two-thirds allocation of water resources between  
33 instream and out-of-stream uses that is established in this section  
34 shall not be applied by the department of ecology when considering  
35 applications for changes or transfers of existing water rights in the  
36 Columbia river basin.

1 (3) The department of ecology shall focus its efforts to develop  
2 water supplies for the Columbia river basin on the following needs:

3 (a) Alternatives to ground water for farmers in the Odessa subarea  
4 aquifer;

5 (b) Sources of municipal water supply for pending water right  
6 applications;

7 (c) A new uninterruptible supply of water for the holders of  
8 interruptible water rights on the Columbia river mainstem that are  
9 subject to instream flows or other mitigation conditions to protect  
10 stream flows; and

11 (d) New municipal, domestic, industrial, and irrigation water needs  
12 within the Columbia river basin.

13 (4) The department of ecology shall monitor and evaluate the new  
14 water allocated to instream use under this section and section 5 of  
15 this act, in order to identify the maximum streamflow that is  
16 beneficial to aquatic life. The department shall submit a decadal  
17 report to the appropriate committees of the legislature that identifies  
18 how much new water has been dedicated to instream uses and how close  
19 the Columbia river basin is to reaching the maximum beneficial flow  
20 during the times of the year with the lowest flow levels. Once the  
21 maximum beneficial flow that is beneficial to aquatic life has been  
22 reached and maintained, all additional new water supplies developed and  
23 secured under this section shall be allocated for out-of-stream uses.

24 NEW SECTION. **Sec. 4.** (1) In order to implement the Columbia river  
25 basin water supply development program, the department of ecology has  
26 the authority to enter into voluntary regional agreements that  
27 establish conditions under which water withdrawn from the Columbia  
28 river will be approved. These agreements shall pertain to specific  
29 geographic areas and to individuals or entities that use or propose to  
30 use water from the Columbia river mainstem. Regional solutions must,  
31 to the maximum extent practicable, include input from and acceptance by  
32 citizens within the affected region, voluntary processes and agreements  
33 that develop unique solutions for each region, avoidance of policies  
34 that will create precedents impacting the ability of other regions of  
35 the state to develop their own unique solutions, and efforts to  
36 harmonize such regional efforts with watershed planning efforts  
37 conducted under the authority of this chapter or chapter 90.82 RCW.

1 (a) Voluntary regional agreements based upon conserved water are  
2 authorized. Conserved water shall be allocated in a manner that  
3 concurrently ensures that:

4 (i) Water is provided for out-of-stream uses; and

5 (ii) No reduction in stream flows during fish critical periods in  
6 the Columbia river mainstem will occur as a result of the new  
7 appropriation of water.

8 (b) Applicants under a voluntary regional agreement must  
9 demonstrate efficient water use practices.

10 (c) Voluntary regional agreements based upon accessing water  
11 supplies from new or existing storage facilities shall be implemented  
12 consistent with the requirements of section 3 of this act. Applicants  
13 under a voluntary regional agreement must demonstrate efficient water  
14 use practices.

15 (2) The mitigation standards established in this section are  
16 intended to streamline issuance of new water rights from the Columbia  
17 river. Nothing in this chapter is intended to stop the processing of  
18 applications for new water rights. Nothing in this chapter may be  
19 interpreted or administered in a manner that precludes the use of  
20 existing authority to process water right applications under chapter  
21 90.03 or 90.44 RCW, or in a manner that impairs or diminishes a valid  
22 water right.

23 (3)(a) Before entering into a voluntary agreement under this  
24 section, the department of ecology must:

25 (i) Consult with the department of fish and wildlife and watershed  
26 planning groups regarding the benefits that the voluntary agreement can  
27 produce for fish and wildlife species and other instream values on the  
28 Columbia river mainstem; and

29 (ii) Provide a thirty-day public review and comment period for a  
30 draft agreement, and publish a summary of any public comments received.  
31 The thirty-day review period shall not begin until after the department  
32 of ecology has concluded its consultation with the department of fish  
33 and wildlife and the appropriate watershed planning groups.

34 (b) To meet its responsibility under this section, the department  
35 of fish and wildlife shall consult with fisheries comanagers and shall  
36 inform the department of ecology of the recommendations of fisheries  
37 comanagers. The department of fish and wildlife shall provide

1 comments, including the recommendations of fisheries comanagers, to the  
2 department within thirty days following receipt of a draft agreement  
3 for review.

4 (4) In implementing this section, the department of ecology shall  
5 inform the legislature as to such efforts and request any additional  
6 authority needed for implementation.

7 NEW SECTION. **Sec. 5.** Conserved water funded by the state:

8 (1) To benefit the Columbia river mainstem shall be permanently  
9 held in trust in proportion to the share of funding provided by the  
10 state to complete the project. Water held in trust under this section  
11 shall be used to improve instream flows for the benefit of fish and  
12 other instream values;

13 (2) Developed within the federal Columbia basin reclamation project  
14 shall become a portion of the project water supply to be used to  
15 replace deep well irrigation within the Odessa ground water management  
16 subarea and to reduce water diversions from the Columbia river.

17 NEW SECTION. **Sec. 6.** (1) By July 1, 2006, the department shall  
18 convene discussion groups, including all appropriate stakeholders, to  
19 consider and make recommendations on the following issues:

20 (a) The public interest in regional equity regarding the sources of  
21 water supplies and mechanisms, to determine whether interregional water  
22 transfers jeopardize the economic health of any region or tributary  
23 basin. The review must also consider mechanisms that might provide for  
24 water supplies in other regions while retaining the water right in the  
25 region of the water source;

26 (b) Whether a water bank for the Columbia river mainstem would  
27 simplify and improve the approval of water acquisitions, leases, loans,  
28 and exchanges; reduce the time and costs associated with such  
29 transactions; and increase the availability of water supplies and  
30 water-related information.

31 (2) Reports from the reviews under this section are due to the  
32 appropriate committees of the legislature by December 31, 2006.

33 NEW SECTION. **Sec. 7.** The Columbia river basin water storage and  
34 supply account is created in the state treasury. All receipts from  
35 appropriations made to the account and receipts of payments made by

1 water users that are based on an appropriate and economically viable  
2 share of construction, operation, and maintenance costs of water supply  
3 projects must be deposited into the account. Moneys in the account may  
4 be spent only after appropriation. Expenditures from the account may  
5 be used to assess, plan, and develop new storage and improve or alter  
6 operations of existing storage facilities designed to provide access to  
7 new water supplies within the Columbia river basin for both instream  
8 and out-of-stream uses. The department of ecology shall manage any  
9 appropriations made from the account for the purposes of developing  
10 water supplies in a manner that yields the greatest benefits to the  
11 state.

12 NEW SECTION. **Sec. 8.** (1) In order to better understand current  
13 water use in the Columbia mainstem, the department of ecology shall  
14 establish and maintain a Columbia mainstem water resources information  
15 system that provides the information necessary for effective mainstem  
16 water resource planning and management. To accomplish this objective,  
17 the department shall consult with and use information already compiled  
18 by existing local watershed planning groups, the United States bureau  
19 of reclamation, the Bonneville power administration, irrigation  
20 districts, and conservation districts in the basin.

21 (2) The data program shall include a system for collecting and  
22 providing access to water resource data as well as a system for  
23 cataloging, storing, and retrieving the information so it may be made  
24 readily available to and effectively used by the department and by the  
25 public and also include data on:

26 (a) The total aggregate quantity of water issued under state  
27 permits and certificates and filed under state claims on the Columbia  
28 river mainstem and for ground water within one mile of the mainstem;

29 (b) The total aggregate volume of current water use under these  
30 rights as metered and reported by water users;

31 (c) The aggregate quantity of water that is currently inchoate or  
32 under development under these rights;

33 (d) Conservation projects that have been implemented under this  
34 chapter and the amount of water conservation they have achieved; and

35 (e) Other relevant water use data.

36 (3) The department of ecology shall collect this data annually and

1 publish it on the department's web site no later than November 1st of  
2 each year.

3 **Sec. 9.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005  
4 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 are  
5 each reenacted and amended to read as follows:

6 (1) All earnings of investments of surplus balances in the state  
7 treasury shall be deposited to the treasury income account, which  
8 account is hereby established in the state treasury.

9 (2) The treasury income account shall be utilized to pay or receive  
10 funds associated with federal programs as required by the federal cash  
11 management improvement act of 1990. The treasury income account is  
12 subject in all respects to chapter 43.88 RCW, but no appropriation is  
13 required for refunds or allocations of interest earnings required by  
14 the cash management improvement act. Refunds of interest to the  
15 federal treasury required under the cash management improvement act  
16 fall under RCW 43.88.180 and shall not require appropriation. The  
17 office of financial management shall determine the amounts due to or  
18 from the federal government pursuant to the cash management improvement  
19 act. The office of financial management may direct transfers of funds  
20 between accounts as deemed necessary to implement the provisions of the  
21 cash management improvement act, and this subsection. Refunds or  
22 allocations shall occur prior to the distributions of earnings set  
23 forth in subsection (4) of this section.

24 (3) Except for the provisions of RCW 43.84.160, the treasury income  
25 account may be utilized for the payment of purchased banking services  
26 on behalf of treasury funds including, but not limited to, depository,  
27 safekeeping, and disbursement functions for the state treasury and  
28 affected state agencies. The treasury income account is subject in all  
29 respects to chapter 43.88 RCW, but no appropriation is required for  
30 payments to financial institutions. Payments shall occur prior to  
31 distribution of earnings set forth in subsection (4) of this section.

32 (4) Monthly, the state treasurer shall distribute the earnings  
33 credited to the treasury income account. The state treasurer shall  
34 credit the general fund with all the earnings credited to the treasury  
35 income account except:

36 (a) The following accounts and funds shall receive their  
37 proportionate share of earnings based upon each account's and fund's

1 average daily balance for the period: The capitol building  
2 construction account, the Cedar River channel construction and  
3 operation account, the Central Washington University capital projects  
4 account, the charitable, educational, penal and reformatory  
5 institutions account, the Columbia river basin water storage and supply  
6 account, the common school construction fund, the county criminal  
7 justice assistance account, the county sales and use tax equalization  
8 account, the data processing building construction account, the  
9 deferred compensation administrative account, the deferred compensation  
10 principal account, the department of retirement systems expense  
11 account, the developmental disabilities community trust account, the  
12 drinking water assistance account, the drinking water assistance  
13 administrative account, the drinking water assistance repayment  
14 account, the Eastern Washington University capital projects account,  
15 the education construction fund, the education legacy trust account,  
16 the election account, the emergency reserve fund, The Evergreen State  
17 College capital projects account, the federal forest revolving account,  
18 the freight mobility investment account, the health services account,  
19 the public health services account, the health system capacity account,  
20 the personal health services account, the state higher education  
21 construction account, the higher education construction account, the  
22 highway infrastructure account, the high-occupancy toll lanes  
23 operations account, the industrial insurance premium refund account,  
24 the judges' retirement account, the judicial retirement administrative  
25 account, the judicial retirement principal account, the local leasehold  
26 excise tax account, the local real estate excise tax account, the local  
27 sales and use tax account, the medical aid account, the mobile home  
28 park relocation fund, the multimodal transportation account, the  
29 municipal criminal justice assistance account, the municipal sales and  
30 use tax equalization account, the natural resources deposit account,  
31 the oyster reserve land account, the perpetual surveillance and  
32 maintenance account, the public employees' retirement system plan 1  
33 account, the public employees' retirement system combined plan 2 and  
34 plan 3 account, the public facilities construction loan revolving  
35 account beginning July 1, 2004, the public health supplemental account,  
36 the public works assistance account, the Puyallup tribal settlement  
37 account, the real estate appraiser commission account, the regional  
38 transportation investment district account, the resource management

1 cost account, the rural Washington loan fund, the site closure account,  
2 the small city pavement and sidewalk account, the special wildlife  
3 account, the state employees' insurance account, the state employees'  
4 insurance reserve account, the state investment board expense account,  
5 the state investment board commingled trust fund accounts, the  
6 supplemental pension account, the Tacoma Narrows toll bridge account,  
7 the teachers' retirement system plan 1 account, the teachers'  
8 retirement system combined plan 2 and plan 3 account, the tobacco  
9 prevention and control account, the tobacco settlement account, the  
10 transportation infrastructure account, the transportation partnership  
11 account, the tuition recovery trust fund, the University of Washington  
12 bond retirement fund, the University of Washington building account,  
13 the volunteer fire fighters' and reserve officers' relief and pension  
14 principal fund, the volunteer fire fighters' and reserve officers'  
15 administrative fund, the Washington fruit express account, the  
16 Washington judicial retirement system account, the Washington law  
17 enforcement officers' and fire fighters' system plan 1 retirement  
18 account, the Washington law enforcement officers' and fire fighters'  
19 system plan 2 retirement account, the Washington public safety  
20 employees' plan 2 retirement account, the Washington school employees'  
21 retirement system combined plan 2 and 3 account, the Washington state  
22 health insurance pool account, the Washington state patrol retirement  
23 account, the Washington State University building account, the  
24 Washington State University bond retirement fund, the water pollution  
25 control revolving fund, and the Western Washington University capital  
26 projects account. Earnings derived from investing balances of the  
27 agricultural permanent fund, the normal school permanent fund, the  
28 permanent common school fund, the scientific permanent fund, and the  
29 state university permanent fund shall be allocated to their respective  
30 beneficiary accounts. All earnings to be distributed under this  
31 subsection (4)(a) shall first be reduced by the allocation to the state  
32 treasurer's service fund pursuant to RCW 43.08.190.

33 (b) The following accounts and funds shall receive eighty percent  
34 of their proportionate share of earnings based upon each account's or  
35 fund's average daily balance for the period: The aeronautics account,  
36 the aircraft search and rescue account, the county arterial  
37 preservation account, the department of licensing services account, the  
38 essential rail assistance account, the ferry bond retirement fund, the

1 grade crossing protective fund, the high capacity transportation  
2 account, the highway bond retirement fund, the highway safety account,  
3 the motor vehicle fund, the motorcycle safety education account, the  
4 pilotage account, the public transportation systems account, the Puget  
5 Sound capital construction account, the Puget Sound ferry operations  
6 account, the recreational vehicle account, the rural arterial trust  
7 account, the safety and education account, the special category C  
8 account, the state patrol highway account, the transportation 2003  
9 account (nickel account), the transportation equipment fund, the  
10 transportation fund, the transportation improvement account, the  
11 transportation improvement board bond retirement account, and the urban  
12 arterial trust account.

13 (5) In conformance with Article II, section 37 of the state  
14 Constitution, no treasury accounts or funds shall be allocated earnings  
15 without the specific affirmative directive of this section.

16 **Sec. 10.** 2005 c 488 s 332 (uncodified) is amended to read as  
17 follows:

18 **FOR THE DEPARTMENT OF ECOLOGY**

19 Columbia River Initiative (06-2-010)

20 The appropriation in this section is subject to the following  
21 conditions and limitations:

22 (1) \$6,000,000 is provided solely for feasibility studies related  
23 to off-mainstem storage projects and impacts of changing operations at  
24 the Potholes reservoir, and grant funding for the purchase and  
25 installation of water measuring devices.

26 (2) Of the amount appropriated in this section, \$10,000,000 (~~may~~  
27 ~~not be expended prior to enactment of state legislation that~~  
28 ~~establishes the policy requirements for a new water resources and water~~  
29 ~~rights management program for the Columbia river mainstem. If such~~  
30 ~~legislation is not enacted prior to June 30, 2006, this amount shall~~  
31 ~~lapse~~) is provided to begin implementation of the Columbia basin water  
32 storage and supply development program established in this act. Within  
33 this amount, the department shall support, to the extent that projects  
34 are ready to proceed and to the extent that resources allow, the  
35 following water supply projects, including but not limited to: Storage  
36 development or storage enhancement projects, projects that provide  
37 surface water supply for the Odessa subarea within the boundaries of

1 the Columbia river basin project, projects which enhance water supplies  
2 for the Walla Walla and Yakima rivers through exchanges and other  
3 methods, projects which address water supply needs for the Quad-Cities,  
4 and investments resulting in water use efficiency. The department  
5 shall report progress under this section to the appropriate committees  
6 of the legislature by December 1, 2006.

7 Appropriation:

8	State Building Construction Account--State . . . . .	\$16,000,000
9	Prior Biennia (Expenditures) . . . . .	\$0
10	Future Biennia (Projected Costs) . . . . .	\$52,610,000
11	TOTAL . . . . .	\$68,610,000

12 NEW SECTION. Sec. 11. Sections 1 through 8 of this act constitute  
13 a new chapter in Title 90 RCW.

14 NEW SECTION. Sec. 12. This act takes effect July 1, 2006.

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