
SUBSTITUTE SENATE BILL 6151

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Schoesler, Poulsen, Mulliken, Rasmussen, Jacobsen, Morton and Delvin)

READ FIRST TIME 01/30/06.

1 AN ACT Relating to water policy in regions with regulated
2 reductions in aquifer levels; adding a new section to chapter 90.44
3 RCW; creating a new section; providing an expiration date; and
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
7 department of ecology adopted ground water management subarea rules to
8 manage aquifer depletions in the Odessa subarea, which includes
9 undeveloped portions of the federal Columbia basin project.

10 (2) The legislature also finds that deep well agricultural
11 irrigation was permitted within the Odessa subarea under the
12 expectation that federal Columbia basin project water would be
13 delivered to replace the temporary ground water withdrawals in time to
14 stabilize aquifer levels.

15 (3) The legislature further finds that because federal project
16 water has not been delivered as anticipated, aquifer levels have
17 continued to decline despite department of ecology and community
18 efforts to manage ground water withdrawals in a sustainable manner.

1 (4) The legislature further finds that, because substantial project
2 expansion and aquifer recharge is a long-term effort, the continued
3 availability of ground water for domestic, municipal, industrial, and
4 agricultural uses in the region is in great jeopardy.

5 (5) The legislature therefore declares that immediate relief is
6 needed to encourage more efficient use of water and to protect the
7 region's citizens from economic hardships and public health and safety
8 risks that can result from declining aquifer levels.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.44 RCW
10 to read as follows:

11 (1) In order to encourage more efficient use of water, where the
12 source of water is an aquifer within the Odessa ground water subarea as
13 defined in chapter 173-128A WAC:

14 (a) Any period of nonuse of a right to withdraw ground water from
15 the aquifer is deemed to be involuntary due to a drought or low flow
16 period under RCW 90.14.140(2)(b); and

17 (b) Such unused water is deemed a standby or reserve water supply
18 that may again be used after the period of nonuse, as long as: (i)
19 Reductions in water use are a result of conservation practices,
20 irrigation or water use efficiencies, long or short-term changes in the
21 types or rotations of crops grown, economic hardship, pumping or system
22 infrastructure costs, unavailability or unsuitability of water, or
23 willing and documented participation in cooperative efforts to reduce
24 aquifer depletion and optimize available water resources; (ii)
25 withdrawal or diversion facilities are maintained in good operating
26 condition; and (iii) the department has not issued a superseding water
27 right permit or certificate to designate a portion of the ground water
28 right replaced by federal Columbia basin project water as a standby or
29 reserve right under RCW 90.44.510. Additionally, all persons claiming
30 involuntary nonuse shall notify the department in writing at the
31 commencement of the claim, and include the name, number, and place of
32 use of the right. All persons recommencing use after a period of
33 nonuse shall notify the department in writing, and include the name,
34 number, and place of use of the right.

35 (2) If water from the federal Columbia basin project has been
36 delivered to a place of use authorized under a right to withdraw ground

1 water from the aquifer, the provisions of RCW 90.44.510 apply and
2 supersede the provisions of this section.

3 (3) Portions of rights protected under this section may not be
4 transferred outside Odessa subarea boundaries as defined in WAC 173-
5 128A-040. Transfers within Odessa subarea boundaries remain subject to
6 the provisions of RCW 90.03.380, 90.03.390, 90.44.100, and WAC 173-
7 130A-200.

8 (4) The department shall submit a report to the legislature as to
9 the status of the aquifer, participation in the nonuse program set
10 forth in this section, and the outcome of the United States bureau of
11 reclamation's study on feasible alternatives to Odessa groundwater use.
12 This report must be submitted six months after completion of the United
13 States bureau of reclamation's study, which is expected to be completed
14 in February 2011. The department's report must also suggest viable
15 solutions and the actions needed by the state to move forward with such
16 solutions.

17 NEW SECTION. **Sec. 3.** Section 2 of this act expires July 1, 2021.

18 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and takes effect
21 immediately.

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