
SUBSTITUTE SENATE BILL 6581

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen and Delvin)

READ FIRST TIME 02/03/06.

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

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

6 **PART I**

7 NEW SECTION. **Sec. 101.** (1) The legislature finds that state water
8 resources management in the Columbia river basin must immediately
9 initiate the development of new water supplies to meet the economic and
10 community development needs of people and the instream flow needs of
11 fish.

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

16 NEW SECTION. **Sec. 102.** (1) To support the development of new
17 water supplies in the Columbia river, the department of ecology shall

1 work with all interested parties, including but not limited to,
2 interested watershed planning groups working adjacent to the Columbia
3 river and tribal governments, to develop a Columbia river water supply
4 inventory. The inventory must include:

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

7 (b) Estimates of project costs and benefits;

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

10 (d) A ranking of projects from the most beneficial to fish and
11 other instream values to the least beneficial to fish and other
12 instream values; and

13 (e) A ranking of projects from the most beneficial to agriculture
14 to the least beneficial to agriculture.

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

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

22 NEW SECTION. **Sec. 103.** (1) New water supplies developed and
23 secured through the operation or development of storage facilities made
24 possible with funding from the Columbia river basin water supply
25 account shall be allocated as follows:

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

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

33 (2) The one-third/two-thirds allocation of water resources between
34 instream and out-of-stream uses that is established in this section
35 shall not be applied by the department of ecology when considering
36 applications for changes or transfers of existing water rights in the
37 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 105 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.

21 NEW SECTION. **Sec. 104.** (1) In order to implement the Columbia
22 river basin water supply development program, the department of ecology
23 may enter into voluntary regional agreements that establish conditions
24 under which water withdrawn from the Columbia river may be approved.
25 These agreements shall pertain to specific geographic areas and to
26 individuals or entities that use or propose to use water from the
27 Columbia river mainstem.

28 (a) Voluntary regional agreements based upon conserved water are
29 authorized. Conserved water shall be allocated in a manner that
30 concurrently ensures that:

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

32 (ii) No reduction in stream flows in the Columbia river mainstem
33 will occur as a result of the new appropriation of water.

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

36 (c) Voluntary regional agreements based upon accessing water
37 supplies from new or existing storage facilities shall be implemented

1 consistent with the requirements of section 103 of this act.
2 Applicants under a voluntary regional agreement must demonstrate
3 efficient water use practices.

4 (2) The mitigation standards established in this section are
5 intended to streamline issuance of new water rights from the Columbia
6 river.

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

9 (i) Consult with the department of fish and wildlife and watershed
10 planning groups regarding the benefits that the voluntary agreement can
11 produce for fish and wildlife species and other instream values on the
12 Columbia river mainstem; and

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

18 (b) To meet its responsibility under this section, the department
19 of fish and wildlife shall consult with fisheries comanagers and shall
20 inform the department of ecology of the recommendations of fisheries
21 comanagers. The department of fish and wildlife shall provide
22 comments, including the recommendations of fisheries comanagers, to the
23 department within thirty days following receipt of a draft agreement
24 for review.

25 (4) The department may enter into voluntary regional agreements
26 when the points of diversion of any permits issued under an agreement
27 would be located on the Columbia river mainstem or rely upon ground
28 water within one mile from the river. Agreements are authorized from
29 the Canadian border downstream to the Bonneville dam.

30 NEW SECTION. **Sec. 105.** Conserved water funded by the state:

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

36 (2) Developed within the federal Columbia basin reclamation project

1 shall become a portion of the project water supply to be used to
2 replace deep well irrigation within the Odessa ground water management
3 subarea and to reduce water diversions from the Columbia river.

4 NEW SECTION. **Sec. 106.** (1) By July 1, 2006, the department shall
5 convene discussion groups, including all appropriate stakeholders, to
6 consider and make recommendations on the following issues:

7 (a) The public interest in regional equity regarding the sources of
8 water supplies and mechanisms, to determine whether interregional water
9 transfers jeopardize the economic health of any region or tributary
10 basin. The review must also consider mechanisms that might provide for
11 water supplies in other regions while retaining the water right in the
12 region of the water source;

13 (b) Before the end of the legislative session immediately following
14 the completion of the review in (a) of this subsection, the department
15 shall hold in abeyance any and all of its efforts to permanently
16 acquire existing water rights for the purposes of transferring those
17 rights to a downstream user in the Columbia river basin as a source of
18 water supply or mitigation. This moratorium shall be limited to water
19 rights physically located upstream from John Day dam; and

20 (c) Whether a water bank for the Columbia river mainstem would
21 simplify and improve the approval of water acquisitions, leases, loans,
22 and exchanges; reduce the time and costs associated with such
23 transactions; and increase the availability of water supplies and
24 water-related information.

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

27 NEW SECTION. **Sec. 107.** (1) The Columbia river basin water supply
28 account is created in the state treasury. The account may receive
29 direct appropriations from the legislature and receipts of payments
30 made by water users that are based on an appropriate and economically
31 viable share of construction, operation, and maintenance costs of water
32 supply projects.

33 (2) Expenditures from the Columbia river basin water supply account
34 may be used to assess, plan, and develop new storage, improve or alter
35 operations of existing storage facilities, implement conservation

1 projects, or other actions, designed to provide access to new water
2 supplies within the Columbia river basin for both instream and
3 out-of-stream uses.

4 (3) The department of ecology shall manage any appropriations made
5 from the account for the purposes of developing water supplies in a
6 manner that yields the greatest benefits to the state while minimizing
7 associated costs.

8 (4) The account is subject to legislative appropriation.

9 (5) Interest earned by deposits in the account will be retained in
10 the account.

11 NEW SECTION. **Sec. 108.** (1) To establish a more complete
12 understanding of current water uses, the department of ecology shall
13 compile, and if necessary collect, all existing information and publish
14 data on:

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

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

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

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

24 (e) Other relevant water use data.

25 (2) The department of ecology shall collect this data annually and
26 publish it on the department's web site no later than November 1st of
27 each year.

28 **Sec. 109.** 2005 c 488 s 332 (uncodified) is amended to read as
29 follows:

30 **FOR THE DEPARTMENT OF ECOLOGY**

31 Columbia River Initiative (06-2-010)

32 The appropriation in this section is subject to the following
33 conditions and limitations:

34 (1) \$6,000,000 is provided solely for feasibility studies related
35 to off-mainstem storage projects and impacts of changing operations at

1 the Potholes reservoir, and grant funding for the purchase and
2 installation of water measuring devices.

3 (2) Of the amount appropriated in this section, \$10,000,000 (~~may~~
4 ~~not be expended prior to enactment of state legislation that~~
5 ~~establishes the policy requirements for a new water resources and water~~
6 ~~rights management program for the Columbia river mainstem. If such~~
7 ~~legislation is not enacted prior to June 30, 2006, this amount shall~~
8 ~~lapse~~) is provided to begin implementation of the Columbia river basin
9 water supply development program in sections 103 through 108 of this
10 act. Within this amount, the department shall support, to the extent
11 that projects are ready to proceed and to the extent that resources
12 allow, the following water supply projects, including, but not limited
13 to: Storage development or storage enhancement projects, projects that
14 provide surface water supply for the Odessa subarea within the
15 boundaries of the Columbia river basin project, projects which enhance
16 water supplies for the Walla Walla and Yakima rivers through exchanges
17 and other methods, and investments resulting in water use efficiency.
18 The department shall report progress under this section to the
19 appropriate committees of the legislature by December 1, 2006.

20 Appropriation:

21	State Building Construction Account--State	\$16,000,000
22	Prior Biennia (Expenditures)	\$0
23	Future Biennia (Projected Costs)	\$52,610,000
24	TOTAL	\$68,610,000

25 **PART II**

26 NEW SECTION. Sec. 201. (1) The legislature finds that the highest
27 priority of water resource management in the Columbia river basin is
28 the development of new water supplies to meet the economic and
29 community development needs of people and the instream flow needs of
30 fish.

31 (2) The legislature therefore declares that a Columbia river basin
32 water storage development program is needed, and directs the department
33 of ecology to aggressively facilitate the development of new storage
34 that will provide access to new water supplies to benefit both instream
35 and out-of-stream uses.

1 (3) The department shall allocate new water supplies developed and
2 secured with funding from the Columbia river basin water storage
3 account created in section 202 of this act as follows: Two-thirds
4 shall be allocated to out-of-stream uses and one-third shall be managed
5 by the department of ecology to improve instream flows to the extent
6 needed to benefit fish.

7 (4) The department shall focus its efforts on the following out-of-
8 stream uses: Alternatives to ground water for farmers in the Odessa
9 subarea; sources of municipal water supply for pending water right
10 applications and existing mainstem water right permits requiring
11 mitigation; a new uninterruptible supply of water for holders of
12 interruptible water rights on the Columbia river mainstem that are
13 subject to minimum instream flows or other mitigation conditions to
14 protect stream flows; new supplies of water for the Yakima basin to be
15 provided through completion of the Black Rock storage project; and new
16 municipal, domestic, industrial, and irrigation water needs within the
17 Columbia river basin.

18 NEW SECTION. **Sec. 202.** (1) The Columbia river basin water storage
19 account is created in the state treasury. The sum of fifty million
20 dollars is appropriated for the biennium ending June 30, 2007, from the
21 state building construction account to the department of ecology for
22 deposit into the Columbia river basin water storage account to
23 implement the purposes in section 201 of this act.

24 (2) Appropriations from the account must be used by the department
25 to facilitate the development of new storage that will provide access
26 to new water supplies to benefit both instream and out-of-stream uses
27 in accordance with section 201 of this act.

28 (3) The account is subject to legislative appropriation.

29 (4) Interest earned by deposits to the account will be retained in
30 the account.

31 NEW SECTION. **Sec. 203.** (1) In managing the waters of the state,
32 the department of ecology shall vigorously seek to develop solutions to
33 water usage and allocation concerns on a regional basis. These
34 regional solutions must, to the maximum extent practicable, include:

35 (a) Input from and acceptance by citizens within the affected
36 region;

1 (b) Voluntary processes and agreements that develop unique
2 solutions for each region;

3 (c) Avoidance of policies that will create precedents impacting the
4 ability of other regions of the state to develop their own unique
5 solutions; and

6 (d) Efforts to harmonize such regional efforts with watershed
7 planning efforts conducted under the authority of this chapter or
8 chapter 90.82 RCW.

9 (2) Nothing in this chapter is intended to stop the processing of
10 applications for new water rights. Nothing in this chapter may be
11 interpreted or administered in a manner that precludes the use of
12 existing authority to process water right applications under chapter
13 90.03 or 90.44 RCW, or in a manner that impairs or diminishes a valid
14 water right.

15 (3) In implementing this section, the department of ecology shall
16 inform the legislature as to such efforts and request any additional
17 authority needed for implementation.

18 NEW SECTION. **Sec. 204.** (1) In order to secure new water supplies
19 over the short term that will benefit both instream and out-of-stream
20 uses, the department of ecology shall aggressively pursue and
21 facilitate the implementation of new or expanded conservation projects
22 in the Columbia river basin. In implementing such projects, the
23 department shall rely on conservation project studies or plans already
24 completed by existing local watershed planning groups, the federal
25 bureau of reclamation, irrigation districts, and conservation districts
26 in the Columbia river basin. Priority in funding water conservation
27 projects should ensure that the most cost-effective projects,
28 consistent with the objectives of this chapter and providing the
29 greatest benefit to agriculture and fish, are funded before more
30 expensive or less beneficial conservation projects are funded.

31 (2) Water conserved as a result of state investment in conservation
32 projects shall be held in trust by the state for the life of the water
33 conservation project and in proportion to the share of funding provided
34 by the state to complete the project, and shall revert to the water
35 right holder at the end of the conservation project's effective life.

36 (3) Conserved water held in trust under subsection (2) of this
37 section shall be allocated and appropriated in proportions equivalent

1 to those established in section 201(3) of this act in order to provide
2 new water supplies for out-of-stream uses and to improve instream flows
3 to the extent needed to benefit fish.

4 (4) In securing new water supplies gained through water
5 conservation projects, the department of ecology shall focus its
6 initial efforts on providing alternatives to ground water for farmers
7 in the Odessa subarea; sources of municipal water supply for pending
8 water right applications and existing mainstem water right permits
9 requiring mitigation; and a new uninterruptible supply of water for
10 holders of interruptible water rights on the Columbia river mainstem
11 that are subject to minimum instream flows or other mitigation
12 conditions to protect stream flows.

13 (5) For the purposes of this section, "water conservation project"
14 means any project or program located in the Columbia river basin,
15 including water conservation projects implemented up to fifteen years
16 before July 1, 2006, that contribute to relieving water shortages,
17 provide for presently unmet needs, and assist in meeting future water
18 needs, or that achieve physical or operational improvements that
19 provide for increased water use efficiency in any systems of diversion,
20 conveyance, application, or use of water under water rights.

21 (6) A water right holder conserving water under a water
22 conservation project shall not be deemed to have voluntarily failed to
23 beneficially use the conserved water if the person has continued to use
24 at least a portion of the water right for the established purpose of
25 use.

26 NEW SECTION. **Sec. 205.** (1) In order to better understand current
27 water use in the Columbia river mainstem, the department of ecology
28 shall establish and maintain a Columbia river mainstem water resources
29 information system that provides the information necessary for
30 effective mainstem water resource planning and management. To
31 accomplish this objective, the department shall use information already
32 compiled by existing local watershed planning groups, the federal
33 bureau of reclamation, the Bonneville power administration, irrigation
34 districts, and conservation districts in the basin.

35 (2) The data program shall include a system for collecting and
36 providing access to water resource data. The department of ecology

1 shall develop a system of cataloging, storing, and retrieving the
2 information so it may be made readily available to and effectively used
3 by the department and by the public.

4 (3) The department of ecology shall collect this data and publish
5 it on the department's web site no later than November 1, 2006.

6 **Sec. 206.** 2005 c 488 s 332 (uncodified) is amended to read as
7 follows:

8 **FOR THE DEPARTMENT OF ECOLOGY**

9 Columbia River Initiative (06-2-010)

10 The appropriation in this section is subject to the following
11 conditions and limitations:

12 (1) \$6,000,000 is provided solely for feasibility studies related
13 to off-mainstem storage projects and impacts of changing operations at
14 the Potholes reservoir, and grant funding for the purchase and
15 installation of water measuring devices.

16 (2) Of the amount appropriated in this section, \$10,000,000 (~~may~~
17 ~~not~~) shall be expended (~~(prior to enactment of state legislation that~~
18 ~~establishes the policy requirements for a new water resources and water~~
19 ~~rights management program for the Columbia river mainstem. If such~~
20 ~~legislation is not enacted prior to June 30, 2006, this amount shall~~
21 ~~lapse~~) to begin implementation of sections 201 through 205 of this
22 act. The department shall report progress under this section to the
23 appropriate committees of the legislature by December 1, 2006.

24 Appropriation:

25	State Building Construction Account--State	\$16,000,000
26	Prior Biennia (Expenditures)	\$0
27	Future Biennia (Projected Costs)	\$52,610,000
28	TOTAL	\$68,610,000

29 **PART III**
30 **MISCELLANEOUS**

31 NEW SECTION. **Sec. 301.** Part headings used in this act are not any
32 part of the law.

1 NEW SECTION. **Sec. 302.** Sections 101 through 108 of this act
2 constitute a new chapter in Title 90 RCW.

3 NEW SECTION. **Sec. 303.** Sections 201 through 205 of this act
4 constitute a new chapter in Title 90 RCW.

5 NEW SECTION. **Sec. 304.** This act takes effect July 1, 2006.

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