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SECOND SUBSTITUTE SENATE BILL 6581

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State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Poulsen and Delvin)

READ FIRST TIME 02/7/06.

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

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that a key  
8 priority of water resource management in the Columbia river basin is  
9 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 water supplies to  
15 benefit both instream and out-of-stream uses.

16 (3) As used in this chapter, "Columbia river mainstem" means all  
17 surface water between the border of the United States and Canada and  
18 the Bonneville dam, and surface and all ground waters within one mile  
19 of the ordinary high-water line of the Columbia river surface waters.

1        NEW SECTION.    **Sec. 2.** (1) Water supplies secured through the  
2 development of new storage facilities made possible with funding from  
3 the Columbia river basin water supply account shall be allocated as  
4 follows:

5        (a) Two-thirds of active storage shall be available for  
6 appropriation for out-of-stream uses; and

7        (b) One-third of active storage shall be available to enhance  
8 instream flows and shall be managed by the department of ecology. The  
9 timing of releases of this water shall be determined by the department  
10 of ecology, in cooperation with the department of fish and wildlife, to  
11 maximize benefits to salmon and steelhead populations.

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

14        (a) Alternatives to ground water for agricultural users in the  
15 Odessa subarea aquifer;

16        (b) Sources of water supply for pending water right applications;

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

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

23        (3) For appropriations of water under the allocations provided for  
24 in subsection (1)(a) and (b) of this section, no consultation with  
25 state agencies or tribes shall be required.

26        NEW SECTION.    **Sec. 3.** (1) The Columbia river basin water supply  
27 account is created in the state treasury. The account may receive  
28 direct appropriations from the legislature and receipts of payments  
29 that are based on an appropriate and economically viable share of  
30 construction, operation, and maintenance costs of water supply  
31 projects.

32        (2) Expenditures from the Columbia river basin water supply account  
33 may be used to assess, plan, and develop new storage, improve or alter  
34 operations of existing storage facilities, implement conservation  
35 projects, or other actions, designed to provide access to new water  
36 supplies within the Columbia river basin for both instream and  
37 out-of-stream uses.

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

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

6 (5) Interest earned by deposits in the account will be retained in  
7 the account.

8 NEW SECTION. **Sec. 4.** (1) The department of ecology may enter into  
9 voluntary regional agreements under which applications for new water  
10 rights from the Columbia river mainstem may be approved.

11 (a) Voluntary regional agreements shall ensure that:

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

13 (ii) There is no negative impact on Columbia river mainstem  
14 instream flows in the months of July and August.

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

17 (c) Efforts shall be made to harmonize such regional efforts with  
18 watershed planning efforts conducted under the authority of this  
19 chapter or chapter 90.82 RCW.

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

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

25 (a) Provide a thirty-day period for consultation with the  
26 department of fish and wildlife, affected tribal governments, and  
27 affected watershed planning groups. The department of fish and  
28 wildlife shall provide written comments within that time period; and

29 (b) 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 under (a) of this subsection.

33 (4) The provisions of this section and the related agreements shall  
34 not have a precedential effect inside or outside of the Columbia river  
35 mainstem. Nothing in this chapter may be interpreted or administered  
36 in a manner that precludes the use of existing authority to process

1 water right applications under chapter 90.03 or 90.44 RCW, or in a  
2 manner that impairs or diminishes a valid water right or a habitat  
3 conservation plan.

4 (5) The department of ecology shall monitor and evaluate the water  
5 allocated to instream and out-of-stream uses under this section and  
6 provide a report to the appropriate committees of the legislature by  
7 June 30, 2010.

8 (6) Agreements entered into under this section shall remain in  
9 force and effect beyond the expiration of this section.

10 (7) This section expires June 30, 2011.

11 NEW SECTION. **Sec. 5.** (1) To support the development of new water  
12 supplies in the Columbia river, the department of ecology shall work  
13 with all interested parties, including, but not limited to, interested  
14 watershed planning groups working adjacent to the Columbia river and  
15 tribal governments, to develop a Columbia river water supply inventory.  
16 The inventory must include:

17 (a) A list of potential supply and storage projects in the Columbia  
18 river basin;

19 (b) Conservation projects that have been implemented under this  
20 chapter and the amount of water conservation they have achieved; and

21 (c) Estimates of projects based upon, but not limited to:

22 (i) Cost per acre-foot;

23 (ii) Benefit to fish and other instream needs; and

24 (iii) Benefit to out-of-stream needs.

25 (2) The department of ecology shall complete the first Columbia  
26 river water supply inventory by November 15, 2006, and shall update the  
27 inventory annually thereafter.

28 (3) The department of ecology shall complete the first Columbia  
29 river water demand report by November 15, 2006, and shall update the  
30 report every five years thereafter.

31 NEW SECTION. **Sec. 6.** (1) In order to better understand current  
32 water use in the Columbia river mainstem, the department of ecology  
33 shall establish and maintain a Columbia river mainstem water resources  
34 information system that provides the information necessary for  
35 effective mainstem water resource planning and management, including:

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

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

6 (c) Other relevant water use data.

7 (2) To accomplish the objective in subsection (1) of this section,  
8 the department of ecology shall use information compiled by existing  
9 local watershed planning groups, the federal bureau of reclamation, the  
10 Bonneville power administration, irrigation districts, conservation  
11 districts in the basin, and other available sources.

12 (3) The data program shall include a system for collecting and  
13 providing access to water resource data. The department of ecology  
14 shall develop a system of cataloging, storing, and retrieving the  
15 information so it may be made readily available to and effectively used  
16 by the department and by the public.

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

19 NEW SECTION. **Sec. 7.** (1) By July 1, 2006, the department shall  
20 convene discussion groups, including all appropriate stakeholders, to  
21 consider and make recommendations on the following issues:

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

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

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

35 **Sec. 8.** 2005 c 488 s 332 (uncodified) is amended to read as  
36 follows:

1 **FOR THE DEPARTMENT OF ECOLOGY**

2 Columbia River Initiative (06-2-010)

3 The appropriation in this section is subject to the following  
4 conditions and limitations:

5 (1) \$6,000,000 is provided solely for feasibility studies related  
6 to off-mainstem storage projects and impacts of changing operations at  
7 the Potholes reservoir, and grant funding for the purchase and  
8 installation of water measuring devices.

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

26 Appropriation:

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

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

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

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

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

24           (4) Monthly, the state treasurer shall distribute the earnings  
25 credited to the treasury income account. The state treasurer shall  
26 credit the general fund with all the earnings credited to the treasury  
27 income account except:

28           (a) The following accounts and funds shall receive their  
29 proportionate share of earnings based upon each account's and fund's  
30 average daily balance for the period: The capitol building  
31 construction account, the Cedar River channel construction and  
32 operation account, the Central Washington University capital projects  
33 account, the charitable, educational, penal and reformatory  
34 institutions account, the Columbia river basin water supply account,  
35 the common school construction fund, the county criminal justice  
36 assistance account, the county sales and use tax equalization account,  
37 the data processing building construction account, the deferred  
38 compensation administrative account, the deferred compensation

1 principal account, the department of retirement systems expense  
2 account, the developmental disabilities community trust account, the  
3 drinking water assistance account, the drinking water assistance  
4 administrative account, the drinking water assistance repayment  
5 account, the Eastern Washington University capital projects account,  
6 the education construction fund, the education legacy trust account,  
7 the election account, the emergency reserve fund, The Evergreen State  
8 College capital projects account, the federal forest revolving account,  
9 the freight mobility investment account, the health services account,  
10 the public health services account, the health system capacity account,  
11 the personal health services account, the state higher education  
12 construction account, the higher education construction account, the  
13 highway infrastructure account, the high-occupancy toll lanes  
14 operations account, the industrial insurance premium refund account,  
15 the judges' retirement account, the judicial retirement administrative  
16 account, the judicial retirement principal account, the local leasehold  
17 excise tax account, the local real estate excise tax account, the local  
18 sales and use tax account, the medical aid account, the mobile home  
19 park relocation fund, the multimodal transportation account, the  
20 municipal criminal justice assistance account, the municipal sales and  
21 use tax equalization account, the natural resources deposit account,  
22 the oyster reserve land account, the perpetual surveillance and  
23 maintenance account, the public employees' retirement system plan 1  
24 account, the public employees' retirement system combined plan 2 and  
25 plan 3 account, the public facilities construction loan revolving  
26 account beginning July 1, 2004, the public health supplemental account,  
27 the public works assistance account, the Puyallup tribal settlement  
28 account, the real estate appraiser commission account, the regional  
29 transportation investment district account, the resource management  
30 cost account, the rural Washington loan fund, the site closure account,  
31 the small city pavement and sidewalk account, the special wildlife  
32 account, the state employees' insurance account, the state employees'  
33 insurance reserve account, the state investment board expense account,  
34 the state investment board commingled trust fund accounts, the  
35 supplemental pension account, the Tacoma Narrows toll bridge account,  
36 the teachers' retirement system plan 1 account, the teachers'  
37 retirement system combined plan 2 and plan 3 account, the tobacco  
38 prevention and control account, the tobacco settlement account, the



1 transportation infrastructure account, the transportation partnership  
2 account, the tuition recovery trust fund, the University of Washington  
3 bond retirement fund, the University of Washington building account,  
4 the volunteer fire fighters' and reserve officers' relief and pension  
5 principal fund, the volunteer fire fighters' and reserve officers'  
6 administrative fund, the Washington fruit express account, the  
7 Washington judicial retirement system account, the Washington law  
8 enforcement officers' and fire fighters' system plan 1 retirement  
9 account, the Washington law enforcement officers' and fire fighters'  
10 system plan 2 retirement account, the Washington public safety  
11 employees' plan 2 retirement account, the Washington school employees'  
12 retirement system combined plan 2 and 3 account, the Washington state  
13 health insurance pool account, the Washington state patrol retirement  
14 account, the Washington State University building account, the  
15 Washington State University bond retirement fund, the water pollution  
16 control revolving fund, and the Western Washington University capital  
17 projects account. Earnings derived from investing balances of the  
18 agricultural permanent fund, the normal school permanent fund, the  
19 permanent common school fund, the scientific permanent fund, and the  
20 state university permanent fund shall be allocated to their respective  
21 beneficiary accounts. All earnings to be distributed under this  
22 subsection (4)(a) shall first be reduced by the allocation to the state  
23 treasurer's service fund pursuant to RCW 43.08.190.

24 (b) The following accounts and funds shall receive eighty percent  
25 of their proportionate share of earnings based upon each account's or  
26 fund's average daily balance for the period: The aeronautics account,  
27 the aircraft search and rescue account, the county arterial  
28 preservation account, the department of licensing services account, the  
29 essential rail assistance account, the ferry bond retirement fund, the  
30 grade crossing protective fund, the high capacity transportation  
31 account, the highway bond retirement fund, the highway safety account,  
32 the motor vehicle fund, the motorcycle safety education account, the  
33 pilotage account, the public transportation systems account, the Puget  
34 Sound capital construction account, the Puget Sound ferry operations  
35 account, the recreational vehicle account, the rural arterial trust  
36 account, the safety and education account, the special category C  
37 account, the state patrol highway account, the transportation 2003  
38 account (nickel account), the transportation equipment fund, the

1 transportation fund, the transportation improvement account, the  
2 transportation improvement board bond retirement account, and the urban  
3 arterial trust account.

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

7 NEW SECTION. **Sec. 10.** Sections 1 through 6 of this act constitute  
8 a new chapter in Title 90 RCW.

9 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2006.

10 NEW SECTION. **Sec. 12.** If the O'Sullivan reservoir, also known as  
11 Potholes reservoir storage rehabilitation project, is not fully funded  
12 in order to improve capacity and operations of existing facilities by  
13 June 30, 2006, in the omnibus appropriations act, this act is null and  
14 void.

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