

SSB 5369 - H COMM AMD  
By Committee on Environment

ADOPTED 04/15/2013

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Because related geothermal resources may be present on  
5 contiguous private, state, and federal lands within the state, there is  
6 a need to provide greater conformity with the state's geothermal  
7 resources statutes and the federal statutes defining geothermal  
8 resources and clarify that ownership of geothermal resources resides  
9 with the surface owner unless the interest is otherwise reserved or  
10 conveyed.

11 (2) It is in the public interest to encourage and foster the  
12 development of geothermal resources in the state, and the legislature  
13 intends to align the state statutes defining geothermal resources with  
14 current federal law with which developers are familiar, and clarify the  
15 respective regulatory roles of state agencies.

16 (3) Geothermal resources suitable for energy development are  
17 located at much greater depths than the aquifers relied upon for other  
18 beneficial uses, but in the event that a geothermal well draws from the  
19 same source as other uses, a coordinated and streamlined permitting of  
20 geothermal development can better ensure that any interference with  
21 existing water uses will be addressed and eliminated. It is the intent  
22 of this act that no water uses associated with a geothermal well impair  
23 any water use authorized through appropriation under Title 90 RCW.

24 (4) Changes to federal law in 2005 require a distribution of a  
25 portion of geothermal energy revenues from leases on federal land  
26 directly to the county in which the lease activity occurs, and  
27 therefore it is appropriate that the additional distribution to the  
28 state be provided for statewide uses relating to geothermal energy  
29 assessment, exploration, and production.

1           **Sec. 2.** RCW 78.60.030 and 1974 ex.s. c 43 s 3 are each amended to  
2 read as follows:

3           ~~((For the purposes of this chapter, unless the text otherwise~~  
4 ~~requires, the following terms shall have the following meanings:))~~ The  
5 definitions in this section apply throughout this chapter unless the  
6 context clearly requires otherwise.

7           (1)(a) "Geothermal resources" ~~((means only that natural heat energy~~  
8 ~~of the earth from which it is technologically practical to produce~~  
9 ~~electricity commercially and the medium by which such heat energy is~~  
10 ~~extracted from the earth, including liquids or gases, as well as any~~  
11 ~~minerals contained in any natural or injected fluids, brines and~~  
12 ~~associated gas, but excluding oil, hydrocarbon gas and other~~  
13 ~~hydrocarbon substances))~~ includes the natural heat of the earth, the  
14 energy, in whatever form, below the surface of the earth present in,  
15 resulting from, or created by, or that may be extracted from, the  
16 natural heat, and all minerals in solution or other products obtained  
17 from naturally heated fluids, brines, associated gases and steam, in  
18 whatever form, found below the surface of the earth, exclusive of  
19 helium or oil, hydrocarbon gas or other hydrocarbon substances, but  
20 including, specifically:

21           (i) All products of geothermal processes, including indigenous  
22 steam, and hot water and hot brines;

23           (ii) Steam and other bases, hot water and hot brines resulting from  
24 water, gas, or other fluids artificially introduced into geothermal  
25 formations;

26           (iii) Heat or other associated energy found in geothermal  
27 formations; and

28           (iv) Any by-product derived from them.

29           (b) "Geothermal resources" does not include heat energy used in  
30 ground source heat exchange systems for ground source heat pumps.

31           (2) "Waste", in addition to its ordinary meaning, shall mean  
32 "physical waste" as that term is generally understood and shall  
33 include:

34           (a) The inefficient, excessive, or improper use of, or unnecessary  
35 dissipation of, reservoir energy; or the locating, spacing, drilling,  
36 equipping, operating or producing of any geothermal energy well in a  
37 manner which results, or tends to result, in reducing the quantity of

1 geothermal energy to be recovered from any geothermal area in this  
2 state;

3 (b) The inefficient above-ground transporting or storage of  
4 geothermal energy; or the locating, spacing, drilling, equipping,  
5 operating, or producing of any geothermal well in a manner causing, or  
6 tending to cause, unnecessary excessive surface loss or destruction of  
7 geothermal energy;

8 (c) The escape into the open air, from a well of steam or hot  
9 water, in excess of what is reasonably necessary in the efficient  
10 development or production of a geothermal well.

11 (3) "Geothermal area" means any land that is, or reasonably appears  
12 to be, underlain by geothermal resources.

13 (4) "Energy transfer system" means the structures and enclosed  
14 fluids which facilitate the utilization of geothermal energy. The  
15 system includes the geothermal wells, cooling towers, reinjection  
16 wells, equipment directly involved in converting the heat energy  
17 associated with geothermal resources to mechanical or electrical energy  
18 or in transferring it to another fluid, the closed piping between such  
19 equipment, wells and towers and that portion of the earth which  
20 facilitates the transfer of a fluid from reinjection wells to  
21 geothermal wells: PROVIDED, That the system shall not include any  
22 geothermal resources which have escaped into or have been released into  
23 the nongeothermal ground or surface waters from either man-made  
24 containers or through leaks in the structure of the earth caused by or  
25 to which access was made possible by any drilling, redrilling,  
26 reworking or operating of a geothermal or reinjection well.

27 (5) "Operator" means the person supervising or in control of the  
28 operation of a geothermal resource well, whether or not such person is  
29 the owner of the well.

30 (6) "Owner" means the person who possesses the legal right to  
31 drill, convert or operate any well or other facility subject to the  
32 provisions of this chapter.

33 (7) "Person" means any individual, corporation, company,  
34 association of individuals, joint venture, partnership, receiver,  
35 trustee, guardian, executor, administrator, personal representative, or  
36 public agency that is the subject of legal rights and duties.

37 (8) "Pollution" means any damage or injury to ground or surface

1 waters, soil or air resulting from the unauthorized loss, escape, or  
2 disposal of any substances at any well subject to the provisions of  
3 this chapter.

4 (9) "Department" means the department of natural resources.

5 (10) "Well" means any excavation made for the discovery or  
6 production of geothermal resources, or any special facility, converted  
7 producing facility, or reactivated or converted abandoned facility used  
8 for the reinjection of geothermal resources, or the residue thereof  
9 underground.

10 (11) "Core holes" are holes drilled or excavations made expressly  
11 for the acquisition of geological or geophysical data for the purpose  
12 of finding and delineating a favorable geothermal area prior to the  
13 drilling of a well.

14 (12) A "completed well" is a well that has been drilled to its  
15 total depth, has been adequately cased, and is ready to be either  
16 plugged and abandoned, shut-in, or put into production.

17 (13) "Plug and abandon" means to place permanent plugs in the well  
18 in such a way and at such intervals as are necessary to prevent future  
19 leakage of fluid from the well to the surface or from one zone in the  
20 well to the other, and to remove all drilling and production equipment  
21 from the site, and to restore the surface of the site to its natural  
22 condition or contour or to such condition as may be prescribed by the  
23 department.

24 (14) "Shut-in" means to adequately cap or seal a well to control  
25 the contained geothermal resources for an interim period.

26 (15) "By-product" means any mineral or minerals, not including oil,  
27 hydrocarbon gas, or helium, which are found in solution or in  
28 association with geothermal steam and that have a value of less than  
29 seventy-five percent of the value of the geothermal resource or are  
30 not, because of quantity, quality, or technical difficulties in  
31 extraction and production, of sufficient value to warrant extraction  
32 and production by themselves.

33 **Sec. 3.** RCW 78.60.040 and 1979 ex.s. c 2 s 1 are each amended to  
34 read as follows:

35 Notwithstanding any other provision of law, geothermal resources  
36 are found and hereby determined to be sui generis, being neither a  
37 mineral resource nor a water resource and as such are ((hereby))

1 declared to be the private property of the holder of the title to the  
2 surface land above the resource, unless the geothermal resources have  
3 been otherwise reserved by or conveyed to another person or entity.  
4 Nothing in this section divests the people of the state of any rights,  
5 title, or interest in geothermal resources owned by the state.

6 **Sec. 4.** RCW 78.60.060 and 2003 c 39 s 40 are each amended to read  
7 as follows:

8 (1) This chapter is intended to preempt local regulation of the  
9 drilling and operation of wells for geothermal resources but shall not  
10 be construed to permit the locating of any well or drilling when such  
11 well or drilling is prohibited under state or local land use law or  
12 regulations promulgated thereunder. Geothermal resources, by-products  
13 (~~and/or~~), or waste products which have escaped or been released from  
14 the energy transfer system (~~and/or~~) or a mineral recovery process  
15 shall be subject to provisions of state law relating to the pollution  
16 of ground or surface waters (Title 90 RCW), provisions of the state  
17 fisheries law and the state game laws (Title 77 RCW), and any other  
18 state environmental pollution control laws.

19 (2) Authorization for (~~use of by-product water resources for all~~  
20 ~~beneficial uses~~) a consumptive or nonconsumptive use of water  
21 associated with a geothermal well, for purposes including but not  
22 limited to power production, greenhouse heating, warm water fish  
23 propagation, space heating plants, irrigation, swimming pools, and hot  
24 springs baths, shall be subject to the appropriation procedure as  
25 provided in Title 90 RCW, except for the following:

26 (a) Water that is removed from an aquifer or geothermal reservoir  
27 to develop and obtain geothermal resources if the water is returned to  
28 or reinjected into the same aquifer or reservoir; or

29 (b) The reasonable loss of water:

30 (i) During a test of a geothermal well; or

31 (ii) From the temporary failure of all or part of a system that  
32 removes water from an aquifer or geothermal reservoir, transfers the  
33 heat from that water, and reinjects that water into the same aquifer or  
34 reservoir.

35 (3) The department and the department of ecology shall cooperate to  
36 avoid duplication and to promote efficiency in issuing permits and  
37 other approvals for these uses.

1       (4) Nothing in this act shall affect or operate to impair any  
2 existing water rights.

3       NEW SECTION.   **Sec. 5.**   The purpose of this chapter is to provide  
4 for the allocation of revenues distributed to the state under section  
5 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec.  
6 191), with respect to activities of the United States bureau of land  
7 management undertaken pursuant to the Geothermal Steam Act of 1970 (30  
8 U.S.C. Sec. 1001 et seq.) in order to accomplish the following general  
9 objectives:

10       (1) Reduction of dependence on nonrenewable energy and stimulation  
11 of the state's economy through development of geothermal energy.

12       (2) Mitigation of the social, economic, and environmental impacts  
13 of geothermal development.

14       (3) Maintenance of the productivity of renewable resources through  
15 the investment of proceeds from these resources.

16       NEW SECTION.   **Sec. 6.**   (1) There is created the geothermal account  
17 in the state treasury. All expenditures from this account are subject  
18 to appropriation and chapter 43.88 RCW.

19       (2) All revenues received by the state treasurer under section 35  
20 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec.  
21 191), with respect to activities of the United States bureau of land  
22 management undertaken pursuant to the Geothermal Steam Act of 1970 (30  
23 U.S.C. Sec. 1001 et seq.) shall be deposited in the geothermal account  
24 in the state treasury immediately upon receipt.

25       (3) Expenditures from the account may only be used as provided in  
26 section 7 of this act.

27       NEW SECTION.   **Sec. 7.**   Distribution of funds from the geothermal  
28 account created in section 6 of this act shall be subject to the  
29 following limitations:

30       (1) Seventy percent to the department of natural resources for  
31 geothermal exploration and assessment; and

32       (2) Thirty percent to Washington State University or its statutory  
33 successor for the purpose of encouraging the development of geothermal  
34 energy.

1           NEW SECTION.   **Sec. 8.** Sections 5 through 7 of this act constitute  
2 a new chapter in Title 43 RCW.

3           NEW SECTION.   **Sec. 9.** The following acts or parts of acts are each  
4 repealed:

5           (1) RCW 43.140.010 (Purpose) and 1981 c 158 s 1;

6           (2) RCW 43.140.020 (Definitions) and 1981 c 158 s 2;

7           (3) RCW 43.140.030 (Geothermal account--Deposit of revenues) and  
8 1991 sp.s. c 13 s 7, 1985 c 57 s 58, & 1981 c 158 s 3;

9           (4) RCW 43.140.040 (Geothermal account--Limitations on  
10 distributions) and 1996 c 186 s 510 & 1981 c 158 s 4;

11           (5) RCW 43.140.050 (Distribution of funds to county of origin) and  
12 1996 c 186 s 511, 1996 c 186 s 107, & 1981 c 158 s 5;

13           (6) RCW 43.140.060 (Appropriation for exploration and assessment of  
14 geothermal energy--Reimbursement) and 1981 c 158 s 7; and

15           (7) RCW 43.140.900 (Termination of chapter) and 2001 c 215 s 1,  
16 1991 c 76 s 1, & 1981 c 158 s 8."

17           Correct the title.

EFFECT: Repeals the existing codified, yet terminated, statutes that deal with how the state allocates revenue provided by the federal government for geothermal resources developed on federal lands located in Washington.

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