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**SUBSTITUTE SENATE BILL 6179**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senator Honeyford)

AN ACT Relating to water banking; and amending RCW 90.42.100 and 90.42.130.

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

**Sec.**  RCW 90.42.100 and 2009 c 283 s 2 are each amended to read as follows:

(1) The department is hereby authorized to use the trust water rights program for water banking purposes statewide.

(2) Water banking may be used for one or more of the following purposes:

(a) To authorize the use of trust water rights to mitigate for water resource impacts, future water supply needs, or any beneficial use under chapter 90.03, 90.44, or 90.54 RCW, consistent with any terms and conditions established by the transferor, except that within the Yakima river basin return flows from water rights authorized in whole or in part for any purpose shall remain available as part of the Yakima basin's total water supply available and to satisfy existing rights for other downstream uses and users;

(b) To document transfers of water rights to and from the trust water rights program; and

(c) To provide a source of water rights the department can make available to third parties on a temporary or permanent basis for any beneficial use under chapter 90.03, 90.44, or 90.54 RCW.

(3) The department shall not use water banking to:

(a) Cause detriment or injury to existing rights;

(b) Issue temporary water rights or portions thereof for new potable uses requiring an adequate and reliable water supply under RCW 19.27.097;

(c) Administer federal project water rights, including federal storage rights; ((~~or~~))

(d) Allow carryover of stored water in the Yakima basin from one water year to another water year if it would negatively impact the total water supply available; or

(e) Provide for mitigation of water resource impacts unless an adequate water supply is available for the purpose of providing mitigation.

(4) The department shall provide electronic notice and opportunity for comment to affected local governments and affected federally recognized tribal governments prior to initiating use of the trust water rights program for water banking purposes for the first time in each water resource inventory area.

(5) Nothing in this section may be interpreted or administered in a manner that precludes the use of the department's existing authority to process trust water rights applications under this chapter or to process water right applications under chapter 90.03 or 90.44 RCW.

(6) For purposes of this section and RCW 90.42.135, "total water supply available" shall be defined as provided in the 1945 consent decree between the United States and water users in the Yakima river basin, and consistent with later interpretation by state and federal courts.

**Sec.**  RCW 90.42.130 and 2014 c 76 s 9 are each amended to read as follows:

(1) The department shall seek input from agricultural organizations, federal agencies, tribal governments, local governments, watershed groups, conservation groups, and developers on water banking, including water banking procedures and identification of areas in Washington state where water banking could assist in providing water supplies for instream and out-of-stream uses.

(2) The department shall maintain information on its web site regarding water banking, including information on water banks and related programs in various areas of the state. The information maintained on the department's web site under this subsection must include a schedule or table for each water bank that shows: (a) The amount charged for mitigation; (b) the priority date of water made available for mitigation; and (c) the amount of water made available for mitigation. The department shall update the schedule or table on a quarterly basis, using information provided to the department by each water bank. Any person operating a water bank in Washington must provide the information required under this subsection to the department upon request.

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