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**SENATE BILL 6278**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Carlyle, Braun, Van De Wege, Rolfes, Nguyen, Saldaña, Das, Billig, and Hasegawa

Read first time 01/14/20. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to water withdrawals for commercial bottled water  
2 production; and amending RCW 90.03.290.

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

4 **Sec. 1.** RCW 90.03.290 and 2018 c 1 s 303 are each amended to  
5 read as follows:

6 (1) When an application complying with the provisions of this  
7 chapter and with the rules of the department has been filed, the same  
8 shall be placed on record with the department, and it shall be its  
9 duty to investigate the application, and determine what water, if  
10 any, is available for appropriation, and find and determine to what  
11 beneficial use or uses it can be applied. If it is proposed to  
12 appropriate water for irrigation purposes, the department shall  
13 investigate, determine and find what lands are capable of irrigation  
14 by means of water found available for appropriation. If it is  
15 proposed to appropriate water for the purpose of power development,  
16 the department shall investigate, determine and find whether the  
17 proposed development is likely to prove detrimental to the public  
18 interest, having in mind the highest feasible use of the waters  
19 belonging to the public.

20 (2)(a) If the application does not contain, and the applicant  
21 does not promptly furnish sufficient information on which to base

1 such findings, the department may issue a preliminary permit, for a  
2 period of not to exceed three years, requiring the applicant to make  
3 such surveys, investigations, studies, and progress reports, as in  
4 the opinion of the department may be necessary. If the applicant  
5 fails to comply with the conditions of the preliminary permit, it and  
6 the application or applications on which it is based shall be  
7 automatically canceled and the applicant so notified. If the holder  
8 of a preliminary permit shall, before its expiration, file with the  
9 department a verified report of expenditures made and work done under  
10 the preliminary permit, which, in the opinion of the department,  
11 establishes the good faith, intent, and ability of the applicant to  
12 carry on the proposed development, the preliminary permit may, with  
13 the approval of the governor, be extended, but not to exceed a  
14 maximum period of five years from the date of the issuance of the  
15 preliminary permit.

16 (b) For any application for which a preliminary permit was issued  
17 and for which the availability of water was directly affected by a  
18 moratorium on further diversions from the Columbia river during the  
19 years from 1990 to 1998, the preliminary permit is extended through  
20 June 30, 2002. If such an application and preliminary permit were  
21 canceled during the moratorium, the application and preliminary  
22 permit shall be reinstated until June 30, 2002, if the application  
23 and permit: (i) Are for providing regional water supplies in more  
24 than one urban growth area designated under chapter 36.70A RCW and in  
25 one or more areas near such urban growth areas, or the application  
26 and permit are modified for providing such supplies, and (ii) provide  
27 or are modified to provide such regional supplies through the use of  
28 existing intake or diversion structures. The authority to modify such  
29 a canceled application and permit to accomplish the objectives of  
30 (b)(i) and (ii) of this subsection is hereby granted.

31 (3) The department shall make and file as part of the record in  
32 the matter, written findings of fact concerning all things  
33 investigated, and if it shall find that there is water available for  
34 appropriation for a beneficial use, and the appropriation thereof as  
35 proposed in the application will not impair existing rights or be  
36 detrimental to the public welfare, it shall issue a permit stating  
37 the amount of water to which the applicant shall be entitled and the  
38 beneficial use or uses to which it may be applied: PROVIDED, That  
39 where the water applied for is to be used for irrigation purposes, it  
40 shall become appurtenant only to such land as may be reclaimed

1 thereby to the full extent of the soil for agricultural purposes. But  
2 where there is no unappropriated water in the proposed source of  
3 supply, or where the proposed use conflicts with existing rights, or  
4 threatens to prove detrimental to the public interest, having due  
5 regard to the highest feasible development of the use of the waters  
6 belonging to the public, it shall be duty of the department to reject  
7 such application and to refuse to issue the permit asked for.

8 (4) (a) For the purposes of this section, any use of water for the  
9 commercial production of bottled water is deemed to be detrimental to  
10 the public welfare and the public interest.

11 (b) For the purposes of this subsection, "bottled water" includes  
12 all water that is labeled or marketed for sale as "water" in  
13 containers including, but not limited to, plastic bottles, glass  
14 bottles, jugs, or similar containers. "Bottled water" also includes  
15 the category of bottled waters known as "enhanced waters," but does  
16 not include any other product made from water that is not marketed as  
17 "water." This limitation does not apply if there is a public health  
18 emergency and bottled water is needed because of a public water  
19 system's inability to provide water service to its customers.

20 (5) If the permit is refused because of conflict with existing  
21 rights and such applicant shall acquire same by purchase or  
22 condemnation under RCW 90.03.040, the department may thereupon grant  
23 such permit. Any application may be approved for a less amount of  
24 water than that applied for, if there exists substantial reason  
25 therefor, and in any event shall not be approved for more water than  
26 can be applied to beneficial use for the purposes named in the  
27 application. In determining whether or not a permit shall issue upon  
28 any application, it shall be the duty of the department to  
29 investigate all facts relevant and material to the application. After  
30 the department approves said application in whole or in part and  
31 before any permit shall be issued thereon to the applicant, such  
32 applicant shall pay the fee provided in RCW 90.03.470: PROVIDED  
33 FURTHER, That in the event a permit is issued by the department upon  
34 any application, it shall be its duty to notify the director of fish  
35 and wildlife of such issuance.

36 ~~((+5))~~ (6) The requirements of subsections (1) and (3) of this  
37 section do not apply to water resource mitigation pilot projects for  
38 which permits are issued in reliance upon water resource mitigation

1 of impacts to instream flows and closed surface water bodies under  
2 RCW 90.94.090.

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