

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5860

67th Legislature
2022 Regular Session

Passed by the Senate February 14,
2022

Yeas 43 Nays 4

President of the Senate

Passed by the House March 1, 2022

Yeas 97 Nays 0

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5860** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5860

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Warnick, Dozier, and Schoesler)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to water policy in regions with regulated
2 reductions in aquifer levels; adding a new section to chapter 90.44
3 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** In 2006, the legislature approved chapter
6 168, Laws of 2006 (Engrossed Substitute Senate Bill No. 6151) in
7 order to encourage the efficient use of water in the Odessa subarea.
8 Chapter 168, Laws of 2006 (Engrossed Substitute Senate Bill No. 6151)
9 expired in July of 2021. The legislature finds that this program was
10 effective and is necessary.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.44
12 RCW to read as follows:

13 (1) In order to encourage more efficient use of water, where the
14 source of water is an aquifer within the Odessa groundwater subarea
15 as defined in chapter 173-128A WAC:

16 (a) Any period of nonuse of a right to withdraw groundwater from
17 the aquifer is deemed to be involuntary due to a drought or low flow
18 period under RCW 90.14.140(2)(b); and

19 (b) Such unused water is deemed a standby or reserve water supply
20 that may again be used after the period of nonuse, as long as: (i)

1 Reductions in water use are a result of conservation practices,
2 irrigation or water use efficiencies, long or short-term changes in
3 the types or rotations of crops grown, economic hardship, pumping or
4 system infrastructure costs, unavailability or unsuitability of
5 water, or willing and documented participation in cooperative efforts
6 to reduce aquifer depletion and optimize available water resources;
7 (ii) withdrawal or diversion facilities are maintained in good
8 operating condition; and (iii) the department has not issued a
9 superseding water right permit or certificate to designate a portion
10 of the groundwater right replaced by federal Columbia basin project
11 water as a standby or reserve right under RCW 90.44.510.

12 (2) (a) A water right holder choosing to not exercise a water
13 right in accordance with the provisions of this section must provide
14 notice to the department in writing within 180 days of such a choice.
15 The notice must include the name of the water right holder and the
16 number of the permit, certificate, or claim.

17 (b) When a water right holder chooses to discontinue nonuse under
18 the provisions of this section, notice of such action must be
19 provided to the department in writing. Notice is not required under
20 this subsection (2) (b) for seasonal fluctuations in use if the right
21 is not fully exercised as reflected in the notice provided under (a)
22 of this subsection.

23 (c) A water right holder who submitted notice under RCW
24 90.44.520(2) (a) as it existed on June 30, 2021, is deemed to have
25 provided notice under (a) of this subsection.

26 (3) The provisions of this section relating to the nonuse of all
27 or a portion of a water right are in addition to any other provisions
28 relating to such nonuse under existing law.

29 (4) If water from the federal Columbia basin project has been
30 delivered to a place of use authorized under a right to withdraw
31 groundwater from the aquifer, the provisions of RCW 90.44.510 apply
32 and supersede the provisions of this section.

33 (5) Portions of rights protected under this section may not be
34 transferred outside Odessa subarea boundaries as defined in WAC
35 173-128A-040. Transfers within Odessa subarea boundaries remain
36 subject to the provisions of RCW 90.03.380, 90.03.390, 90.44.100, and
37 WAC 173-130A-200.

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