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**SUBSTITUTE HOUSE BILL 1322**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Agriculture and Natural Resources (originally sponsored by Representatives Rude, Chapman, Klicker, Lekanoff, and Reeves; by request of Department of Ecology)

READ FIRST TIME 02/01/23.

1 AN ACT Relating to the Walla Walla water 2050 plan; amending RCW  
2 90.90.020; and adding a new section to chapter 90.90 RCW.

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

4 **Sec. 1.** RCW 90.90.020 and 2011 c 83 s 4 are each amended to read  
5 as follows:

6 (1)(a) Water supplies secured through the development of new  
7 storage facilities made possible with funding from the Columbia river  
8 basin water supply development account, the Columbia river basin  
9 taxable bond water supply development account, and the Columbia river  
10 basin water supply revenue recovery account shall be allocated as  
11 follows:

12 (i) Two-thirds of active storage shall be available for  
13 appropriation for out-of-stream uses; and

14 (ii) One-third of active storage shall be available to augment  
15 instream flows and shall be managed by the department of ecology. The  
16 timing of releases of this water shall be determined by the  
17 department of ecology, in cooperation with the department of fish and  
18 wildlife and fisheries comanagers, to maximize benefits to salmon and  
19 steelhead populations.

20 (b) Water available for appropriation under (a)(i) of this  
21 subsection but not yet appropriated shall be temporarily available to

1 augment instream flows to the extent that it does not impair existing  
2 water rights.

3 (2) Water developed under the provisions of this section to  
4 offset out-of-stream uses and for instream flows is deemed adequate  
5 mitigation for the issuance of new water rights provided for in  
6 subsection (1)(a) of this section and satisfies all consultation  
7 requirements under state law related to the issuance of new water  
8 rights.

9 (3) The department of ecology shall focus its efforts to develop  
10 water supplies for the Columbia river basin on the following needs:

11 (a) Alternatives to groundwater for agricultural users in the  
12 Odessa subarea aquifer;

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

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

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

20 (4) The one-third/two-thirds allocation of water resources  
21 between instream and out-of-stream uses established in this section  
22 does not apply to ~~((applications))~~:

23 (a) Applications for changes or transfers of existing water  
24 rights in the Columbia river basin; or

25 (b) Applications for water rights in the Walla Walla river basin  
26 implementing the Walla Walla water 2050 plan adopted June 30, 2021.

27 NEW SECTION. Sec. 2. A new section is added to chapter 90.90  
28 RCW to read as follows:

29 (1) The Walla Walla water 2050 plan must be used as an integrated  
30 water resource strategy, through a coordinated effort between the  
31 states of Washington and Oregon, affected federally recognized  
32 tribes, affected federal, state, and local agencies, and  
33 agricultural, environmental, business, and other community  
34 stakeholders.

35 (2) In developing water supply solutions in the Walla Walla river  
36 basin, the department of ecology should employ an integrated water  
37 resource management strategy that will provide concurrent water  
38 supply benefits to both instream and out-of-stream uses and address a  
39 variety of water resource and ecosystem challenges affecting fish

1 passage, habitat functions, and agricultural, municipal, industrial,  
2 and domestic water supply, consistent with the Walla Walla water 2050  
3 plan.

4 (3) The department of ecology shall consider any increase in the  
5 quantity of water supply due to a project being implemented under the  
6 Walla Walla water 2050 plan that is completed after the effective  
7 date of this section to be water supply developed under this section.

8 (4) In implementing subsection (2) of this section, the  
9 department of ecology will be advised by the Walla Walla basin  
10 advisory committee, including representatives from a broad range of  
11 interests, including agricultural, environmental, and other  
12 stakeholders, and tribal, local, state, and federal governments.

13 (5) In consultation with affected federally recognized tribes,  
14 the department of ecology shall evaluate the development of a bistate  
15 legal regulatory framework for allocation of developed water  
16 resources, in collaboration with the state of Oregon.

17 (6) The department of ecology shall submit a report to the  
18 relevant committees of the legislature by June 30, 2025, with a  
19 recommendation for the bistate legal regulatory framework necessary  
20 for equitable allocation and management of developed water resources  
21 from the build out of water supply projects envisioned in the Walla  
22 Walla water 2050 plan.

23 (7) The department of ecology is authorized to fund the  
24 development, construction, and implementation of projects to  
25 implement the Walla Walla water 2050 plan that may be located outside  
26 of the state, provided that the projects benefit instream and out-of-  
27 stream water demands in the state.

28 (8) Water supplies developed under this section must be  
29 apportioned between the states consistent with any written agreements  
30 entered into with the state of Oregon and the confederated tribes of  
31 the Umatilla Indian reservation related to the management of water in  
32 the Walla Walla river basin.

33 (9) The department of ecology has the authority to designate  
34 water supplies developed under this section for instream flow  
35 purposes and placed into the trust water rights program authorized  
36 under chapter 90.42 RCW. Water supplies developed under this section  
37 that are designated for instream flow purposes are unavailable to  
38 satisfy existing water rights, including water rights with superior  
39 priority, and are exempt from provisions under RCW 90.42.070.

1           (10) Water supplies developed under this section must be managed  
2 consistent with the intent of the specific project being implemented.

3           (11) It is the intent of the legislature for the state to share  
4 in the cost to implement the Walla Walla water 2050 plan authorized  
5 under this section. At least one-half of the total costs to finance  
6 the implementation of the Walla Walla water 2050 plan must be funded  
7 through federal, private, and other nonstate sources, including  
8 private funding sources from entities that benefit from projects.  
9 This section applies to the total costs of the Walla Walla water 2050  
10 plan and not to individual projects within the plan and includes  
11 funding for projects that have been completed prior to the effective  
12 date of this section.

13          (12) Nothing in this section prevents the department of ecology  
14 from regulating water users consistent with existing adjudications to  
15 ensure that water use by holders of adjudicated surface water right  
16 certificates are not impaired by use under junior groundwater right  
17 certificates, claims, and permits.

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