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ENGROSSED SENATE BILL 5647

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Fraser, Honeyford, Rockefeller, Morton, Shin, and Chase;  
by request of Department of Ecology

Read first time 02/03/11. Referred to Committee on Environment,  
Water & Energy.

1 AN ACT Relating to modifying the Columbia river basin management  
2 program to prospectively maximize investment tools; amending RCW  
3 90.90.010 and 90.90.020; reenacting and amending RCW 43.84.092; adding  
4 new sections to chapter 90.90 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 90.90.010 and 2006 c 6 s 2 are each amended to read as  
7 follows:

8 (1) The Columbia river basin water supply development account is  
9 created in the state treasury. The account may receive direct  
10 appropriations from the legislature, receipts of any funds pursuant to  
11 RCW 90.90.020 and 90.90.030, or funds from any other sources. The  
12 account is intended to fund projects using tax exempt bonds.

13 (2)(a) Expenditures from the Columbia river basin water supply  
14 development account may be used to assess, plan, and develop new  
15 storage, improve or alter operations of existing storage facilities,  
16 implement conservation projects, develop pump exchanges, or any other  
17 actions designed to provide access to new water supplies within the  
18 Columbia river basin for both instream and out-of-stream uses. Except  
19 for the development of new storage projects and pump exchanges, there

1 shall be no expenditures from this account for water acquisition or  
2 transfers from one water resource inventory area to another without  
3 specific legislative authority. For purposes of this chapter, "pump  
4 exchanges" means water supply development projects that exchange water  
5 from one source to another or relocate an existing diversion  
6 downstream, with resulting instream benefit.

7 (b) Two-thirds of the funds placed in the account shall be used to  
8 support the development of new storage facilities and pump exchanges;  
9 the remaining one-third shall be used for the other purposes listed in  
10 this section.

11 (3)(a) Funds may not be expended from this account for the  
12 construction of a new storage facility until the department of ecology  
13 evaluates the following:

14 (i) Water uses to be served by the facility;

15 (ii) The quantity of water necessary to meet those uses;

16 (iii) The benefits and costs to the state of meeting those uses,  
17 including short-term and long-term economic, cultural, and  
18 environmental effects; and

19 (iv) Alternative means of supplying water to meet those uses,  
20 including the costs of those alternatives and an analysis of the extent  
21 to which long-term water supply needs can be met using these  
22 alternatives.

23 (b) The department of ecology may rely on studies and information  
24 developed through compliance with other state and federal permit  
25 requirements and other sources. The department shall compile its  
26 findings and conclusions, and provide a summary of the information it  
27 reviewed.

28 (c) Before finalizing its evaluation under the provisions of this  
29 section, the department of ecology shall make the preliminary  
30 evaluation available to the public. Public comment may be made to the  
31 department within thirty days of the date the preliminary evaluation is  
32 made public.

33 (4) Net water savings achieved through conservation measures funded  
34 by the account shall be placed in trust in proportion to the state  
35 funding provided to implement a project.

36 (5) Net water savings achieved through conservation measures funded  
37 by the account developed within the boundaries of the federal Columbia

1 river reclamation project and directed to the Odessa subarea to reduce  
2 the use of groundwater for existing irrigation is exempt from the  
3 provisions of subsection (4) of this section.

4 (6) The department of ecology may enter into water service  
5 contracts with applicants receiving water from the program to recover  
6 all or a portion of the cost of developing the water supply. Costs  
7 recovered under water service contracts does not include staff time  
8 expended by the department on developing the water supply. With the  
9 applicant's concurrence, the department may receive power revenue  
10 generated by the water supply developed by the department through water  
11 service contracts. The department may deny an application if the  
12 applicant does not enter into a water service contract. Revenue  
13 collected from water service contracts must be deposited into the  
14 Columbia river basin water supply revenue recovery account created in  
15 section 3 of this act. The department may adopt rules describing the  
16 methodology as to how charges will be established and direct costs  
17 recovered for water supply developed under the Columbia river basin  
18 water supply program. Water service contracts with federal agencies  
19 under RCW 90.42.150 are not required to be established by rule.

20 (7) Moneys in the Columbia river basin water supply development  
21 account created in this section may be spent only after appropriation.

22 ~~((+7))~~ (8) Interest earned by deposits in the account will be  
23 retained in the account.

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

26 (1) The Columbia river basin taxable bond water supply development  
27 account is created in the state treasury. All receipts from direct  
28 appropriations from the legislature, moneys directed to the account  
29 pursuant to RCW 90.90.020 and 90.90.030, or moneys directed to the  
30 account from any other sources must be deposited in the account.  
31 Moneys in the account may be spent only after appropriation. The  
32 account is intended to fund projects using taxable bonds. Expenditures  
33 from the account may be used only as provided in this section.

34 (2)(a) Expenditures from the Columbia river basin taxable bond  
35 water supply development account may be used to assess, plan, and  
36 develop new storage, improve or alter operations of existing storage  
37 facilities, implement conservation projects, develop pump exchanges, or

1 any other actions designed to provide access to new water supplies  
2 within the Columbia river basin for both instream and out-of-stream  
3 uses. Except for the development of new storage projects and pump  
4 exchanges, there may be no expenditures from the account for water  
5 acquisition or transfers from one water resource inventory area to  
6 another without specific legislative authority. For the purposes of  
7 this section, the term "pump exchanges" means water supply development  
8 projects that exchange water from one source to another or relocate an  
9 existing diversion downstream, with resulting instream benefit.

10 (b) Two-thirds of the moneys placed in the account must be used to  
11 support the development of new storage facilities and pump exchanges;  
12 the remaining one-third of the moneys must be used for the other  
13 purposes listed in this section.

14 (3)(a) Funds may not be expended from the account for the  
15 construction of a new storage facility until the department of ecology  
16 evaluates the following:

17 (i) Water uses to be served by the facility;

18 (ii) The quantity of water necessary to meet those uses;

19 (iii) The benefits and costs to the state of meeting those uses,  
20 including short-term and long-term economic, cultural, and  
21 environmental effects; and

22 (iv) Alternative means of supplying water to meet those uses,  
23 including the costs of those alternatives and an analysis of the extent  
24 to which long-term water supply needs can be met using these  
25 alternatives.

26 (b) The department of ecology may rely on studies and information  
27 developed through compliance with other state and federal permit  
28 requirements and other sources. The department shall compile its  
29 findings and conclusions, and provide a summary of the information it  
30 reviewed.

31 (c) Before finalizing its evaluation under the provisions of this  
32 section, the department of ecology shall make the preliminary  
33 evaluation available to the public. Public comment may be made to the  
34 department within thirty days of the date the preliminary evaluation is  
35 made public.

36 (4) Net water savings achieved through conservation measures funded  
37 by the account shall be placed in trust in proportion to the state  
38 funding provided to implement a project.

1 (5) Net water savings achieved through conservation measures funded  
2 by the account developed within the boundaries of the federal Columbia  
3 river reclamation project and directed to the Odessa subarea to reduce  
4 the use of groundwater for existing irrigation is exempt from the  
5 provisions of subsection (4) of this section.

6 (6) The department of ecology may enter into water service  
7 contracts with applicants receiving water from the program to recover  
8 all or a portion of the cost of developing the water supply. Costs  
9 recovered under water service contracts does not include staff time  
10 expended by the department on developing the water supply. With the  
11 applicant's concurrence, the department may receive power revenue  
12 generated by the water supply developed by the department through water  
13 service contracts. The department may deny an application if the  
14 applicant does not enter into a water service contract. Revenue  
15 collected from water service contracts must be deposited into the  
16 Columbia river basin water supply revenue recovery account created in  
17 section 3 of this act. The department may adopt rules describing the  
18 methodology as to how charges will be established and direct costs  
19 recovered for water supply developed under the Columbia river basin  
20 water supply program. Water service contracts with federal agencies  
21 under RCW 90.42.150 are not required to be established by rule.

22 (7) Interest earned by deposits in the account will be retained in  
23 the account.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.90 RCW  
25 to read as follows:

26 (1) The Columbia river basin water supply revenue recovery account  
27 is created in the state treasury. All receipts from direct  
28 appropriations from the legislature, moneys directed to the account  
29 pursuant to RCW 90.90.020 and 90.90.030, revenue from water service  
30 contracts described in this chapter, or moneys directed into the  
31 account from any other sources must be deposited in the account.  
32 Moneys in the account may be spent only after appropriation.  
33 Expenditures from the account may be used only as provided in this  
34 section.

35 (2)(a) Expenditures from the Columbia river basin water supply  
36 revenue recovery account may be used to assess, plan, and develop new  
37 storage, improve or alter operations of existing storage facilities,

1 implement conservation projects, develop pump exchanges, or any other  
2 actions designed to provide access to new water supplies within the  
3 Columbia river basin for both instream and out-of-stream uses. Except  
4 for the development of new storage projects and pump exchanges, there  
5 may be no expenditures from the account for water acquisition or  
6 transfers from one water resource inventory area to another without  
7 specific legislative authority. For the purposes of this section, the  
8 term "pump exchanges" means water supply development projects that  
9 exchange water from one source to another or relocate an existing  
10 diversion downstream, with resulting instream benefit.

11 (b) Two-thirds of the moneys placed in the account must be used to  
12 support the development of new storage facilities and pump exchanges;  
13 the remaining one-third of the moneys must be used for the other  
14 purposes listed in this section.

15 (3)(a) Funds may not be expended from the account for the  
16 construction of a new storage facility until the department of ecology  
17 evaluates the following:

18 (i) Water uses to be served by the facility;

19 (ii) The quantity of water necessary to meet those uses;

20 (iii) The benefits and costs to the state of meeting those uses,  
21 including short-term and long-term economic, cultural, and  
22 environmental effects; and

23 (iv) Alternative means of supplying water to meet those uses,  
24 including the costs of those alternatives and an analysis of the extent  
25 to which long-term water supply needs can be met using these  
26 alternatives.

27 (b) The department of ecology may rely on studies and information  
28 developed through compliance with other state and federal permit  
29 requirements and other sources. The department shall compile its  
30 findings and conclusions, and provide a summary of the information it  
31 reviewed.

32 (c) Before finalizing its evaluation under the provisions of this  
33 section, the department of ecology shall make the preliminary  
34 evaluation available to the public. Public comment may be made to the  
35 department within thirty days of the date the preliminary evaluation is  
36 made public.

37 (4) Net water savings achieved through conservation measures funded

1 by the account shall be placed in trust in proportion to the state  
2 funding provided to implement a project.

3 (5) Net water savings achieved through conservation measures funded  
4 by the account developed within the boundaries of the federal Columbia  
5 river reclamation project and directed to the Odessa subarea to reduce  
6 the use of groundwater for existing irrigation is exempt from the  
7 provisions of subsection (4) of this section.

8 (6) The department of ecology may enter into water service  
9 contracts with applicants receiving water from the program to recover  
10 all or a portion of the cost of developing the water supply. Costs  
11 recovered under water service contracts does not include staff time  
12 expended by the department on developing the water supply. With the  
13 applicant's concurrence, the department may receive power revenue  
14 generated by the water supply developed by the department through water  
15 service contracts. The department may deny an application if the  
16 applicant does not enter into a water service contract. Revenue  
17 collected from water service contracts must be deposited into the  
18 Columbia river basin water supply revenue recovery account created in  
19 this section. The department may adopt rules describing the  
20 methodology as to how charges will be established and direct costs  
21 recovered for water supply developed under the Columbia river basin  
22 water supply program. Water service contracts with federal agencies  
23 under RCW 90.42.150 are not required to be established by rule.

24 (7) Interest earned by deposits in the account will be retained in  
25 the account.

26 **Sec. 4.** RCW 90.90.020 and 2006 c 6 s 3 are each amended to read as  
27 follows:

28 (1)(a) Water supplies secured through the development of new  
29 storage facilities made possible with funding from the Columbia river  
30 basin water supply development account, the Columbia river basin  
31 taxable bond water supply development account, and the Columbia river  
32 basin water supply revenue recovery account shall be allocated as  
33 follows:

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

36 (ii) One-third of active storage shall be available to augment  
37 instream flows and shall be managed by the department of ecology. The

1 timing of releases of this water shall be determined by the department  
2 of ecology, in cooperation with the department of fish and wildlife and  
3 fisheries comanagers, to maximize benefits to salmon and steelhead  
4 populations.

5 (b) Water available for appropriation under (a)(i) of this  
6 subsection but not yet appropriated shall be temporarily available to  
7 augment instream flows to the extent that it does not impair existing  
8 water rights.

9 (2) Water developed under the provisions of this section to offset  
10 out-of-stream uses and for instream flows is deemed adequate mitigation  
11 for the issuance of new water rights provided for in subsection (1)(a)  
12 of this section and satisfies all consultation requirements under state  
13 law related to the issuance of new water rights.

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

16 (a) Alternatives to groundwater for agricultural users in the  
17 Odessa subarea aquifer;

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

19 (c) A new uninterruptible supply of water for the holders of  
20 interruptible water rights on the Columbia river mainstem that are  
21 subject to instream flows or other mitigation conditions to protect  
22 stream flows; and

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

25 (4) The one-third/two-thirds allocation of water resources between  
26 instream and out-of-stream uses established in this section does not  
27 apply to applications for changes or transfers of existing water rights  
28 in the Columbia river basin.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.90 RCW  
30 to read as follows:

31 Two-thirds of the water made available through reoperation of  
32 Sullivan lake funded from the Columbia river basin water supply  
33 development account created in RCW 90.90.010 must be used to supply or  
34 offset out-of-stream uses described in RCW 90.90.020(3) in Pend  
35 Oreille, Stevens, Ferry, Douglas, Lincoln, and Okanogan counties. At  
36 least one-half of this quantity must be made available for municipal,  
37 domestic, and industrial uses.

1       **Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s.  
2 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145  
3 s 11 are each reenacted and amended to read as follows:

4       (1) All earnings of investments of surplus balances in the state  
5 treasury shall be deposited to the treasury income account, which  
6 account is hereby established in the state treasury.

7       (2) The treasury income account shall be utilized to pay or receive  
8 funds associated with federal programs as required by the federal cash  
9 management improvement act of 1990. The treasury income account is  
10 subject in all respects to chapter 43.88 RCW, but no appropriation is  
11 required for refunds or allocations of interest earnings required by  
12 the cash management improvement act. Refunds of interest to the  
13 federal treasury required under the cash management improvement act  
14 fall under RCW 43.88.180 and shall not require appropriation. The  
15 office of financial management shall determine the amounts due to or  
16 from the federal government pursuant to the cash management improvement  
17 act. The office of financial management may direct transfers of funds  
18 between accounts as deemed necessary to implement the provisions of the  
19 cash management improvement act, and this subsection. Refunds or  
20 allocations shall occur prior to the distributions of earnings set  
21 forth in subsection (4) of this section.

22       (3) Except for the provisions of RCW 43.84.160, the treasury income  
23 account may be utilized for the payment of purchased banking services  
24 on behalf of treasury funds including, but not limited to, depository,  
25 safekeeping, and disbursement functions for the state treasury and  
26 affected state agencies. The treasury income account is subject in all  
27 respects to chapter 43.88 RCW, but no appropriation is required for  
28 payments to financial institutions. Payments shall occur prior to  
29 distribution of earnings set forth in subsection (4) of this section.

30       (4) Monthly, the state treasurer shall distribute the earnings  
31 credited to the treasury income account. The state treasurer shall  
32 credit the general fund with all the earnings credited to the treasury  
33 income account except:

34       (a) The following accounts and funds shall receive their  
35 proportionate share of earnings based upon each account's and fund's  
36 average daily balance for the period: The aeronautics account, the  
37 aircraft search and rescue account, the budget stabilization account,  
38 the capitol building construction account, the Cedar River channel

1 construction and operation account, the Central Washington University  
2 capital projects account, the charitable, educational, penal and  
3 reformatory institutions account, the cleanup settlement account, the  
4 Columbia river basin water supply development account, the Columbia  
5 river basin taxable bond water supply development account, the Columbia  
6 river basin water supply revenue recovery account, the common school  
7 construction fund, the county arterial preservation account, the county  
8 criminal justice assistance account, the county sales and use tax  
9 equalization account, the deferred compensation administrative account,  
10 the deferred compensation principal account, the department of  
11 licensing services account, the department of retirement systems  
12 expense account, the developmental disabilities community trust  
13 account, the drinking water assistance account, the drinking water  
14 assistance administrative account, the drinking water assistance  
15 repayment account, the Eastern Washington University capital projects  
16 account, the education construction fund, the education legacy trust  
17 account, the election account, the energy freedom account, the energy  
18 recovery act account, the essential rail assistance account, The  
19 Evergreen State College capital projects account, the federal forest  
20 revolving account, the ferry bond retirement fund, the freight  
21 congestion relief account, the freight mobility investment account, the  
22 freight mobility multimodal account, the grade crossing protective  
23 fund, the public health services account, the health system capacity  
24 account, the high capacity transportation account, the state higher  
25 education construction account, the higher education construction  
26 account, the highway bond retirement fund, the highway infrastructure  
27 account, the highway safety account, the high occupancy toll lanes  
28 operations account, the hospital safety net assessment fund, the  
29 industrial insurance premium refund account, the judges' retirement  
30 account, the judicial retirement administrative account, the judicial  
31 retirement principal account, the local leasehold excise tax account,  
32 the local real estate excise tax account, the local sales and use tax  
33 account, the marine resources stewardship trust account, the medical  
34 aid account, the mobile home park relocation fund, the motor vehicle  
35 fund, the motorcycle safety education account, the multiagency  
36 permitting team account, the multimodal transportation account, the  
37 municipal criminal justice assistance account, the municipal sales and  
38 use tax equalization account, the natural resources deposit account,

1 the oyster reserve land account, the pension funding stabilization  
2 account, the perpetual surveillance and maintenance account, the public  
3 employees' retirement system plan 1 account, the public employees'  
4 retirement system combined plan 2 and plan 3 account, the public  
5 facilities construction loan revolving account beginning July 1, 2004,  
6 the public health supplemental account, the public transportation  
7 systems account, the public works assistance account, the Puget Sound  
8 capital construction account, the Puget Sound ferry operations account,  
9 the Puyallup tribal settlement account, the real estate appraiser  
10 commission account, the recreational vehicle account, the regional  
11 mobility grant program account, the resource management cost account,  
12 the rural arterial trust account, the rural Washington loan fund, the  
13 site closure account, the small city pavement and sidewalk account, the  
14 special category C account, the special wildlife account, the state  
15 employees' insurance account, the state employees' insurance reserve  
16 account, the state investment board expense account, the state  
17 investment board commingled trust fund accounts, the state patrol  
18 highway account, the state route number 520 civil penalties account,  
19 the state route number 520 corridor account, the supplemental pension  
20 account, the Tacoma Narrows toll bridge account, the teachers'  
21 retirement system plan 1 account, the teachers' retirement system  
22 combined plan 2 and plan 3 account, the tobacco prevention and control  
23 account, the tobacco settlement account, the transportation 2003  
24 account (nickel account), the transportation equipment fund, the  
25 transportation fund, the transportation improvement account, the  
26 transportation improvement board bond retirement account, the  
27 transportation infrastructure account, the transportation partnership  
28 account, the traumatic brain injury account, the tuition recovery trust  
29 fund, the University of Washington bond retirement fund, the University  
30 of Washington building account, the urban arterial trust account, the  
31 volunteer firefighters' and reserve officers' relief and pension  
32 principal fund, the volunteer firefighters' and reserve officers'  
33 administrative fund, the Washington judicial retirement system account,  
34 the Washington law enforcement officers' and firefighters' system plan  
35 1 retirement account, the Washington law enforcement officers' and  
36 firefighters' system plan 2 retirement account, the Washington public  
37 safety employees' plan 2 retirement account, the Washington school  
38 employees' retirement system combined plan 2 and 3 account, the

1 Washington state health insurance pool account, the Washington state  
2 patrol retirement account, the Washington State University building  
3 account, the Washington State University bond retirement fund, the  
4 water pollution control revolving fund, and the Western Washington  
5 University capital projects account. Earnings derived from investing  
6 balances of the agricultural permanent fund, the normal school  
7 permanent fund, the permanent common school fund, the scientific  
8 permanent fund, and the state university permanent fund shall be  
9 allocated to their respective beneficiary accounts.

10 (b) Any state agency that has independent authority over accounts  
11 or funds not statutorily required to be held in the state treasury that  
12 deposits funds into a fund or account in the state treasury pursuant to  
13 an agreement with the office of the state treasurer shall receive its  
14 proportionate share of earnings based upon each account's or fund's  
15 average daily balance for the period.

16 (5) In conformance with Article II, section 37 of the state  
17 Constitution, no treasury accounts or funds shall be allocated earnings  
18 without the specific affirmative directive of this section.

19 NEW SECTION. **Sec. 7.** The department of ecology shall, within  
20 existing resources and in consultation with stakeholders, evaluate  
21 options for aggregating projects to achieve the instream and  
22 out-of-stream allocation under RCW 90.90.020. The department shall  
23 report its findings to the legislature, consistent with RCW 43.01.035,  
24 by September 15, 2011.

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