
SENATE BILL 6028

State of Washington 62nd Legislature 2011 2nd Special Session

By Senators Haugen, Honeyford, Hatfield, Schoesler, Holmquist Newbry, Delvin, Morton, King, Hobbs, Becker, Shin, Sheldon, and Hewitt

1 AN ACT Relating to water resource management on the main stem of
2 the Columbia and Snake rivers to promote the production of biofuel
3 crops and organic crops; and adding a new section to chapter 90.90 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.90 RCW
6 to read as follows:

7 (1) The legislature finds that:

8 (a) There is sufficient water in the Columbia river mainstem and
9 the lower Snake river mainstem to establish an allocation of one
10 hundred thousand acre feet of water annually to be available for
11 appropriation for biofuel crop irrigation and organic crop irrigation
12 without harming instream resources;

13 (b) A program that makes water available for biofuel crop
14 irrigation and organic crop irrigation will provide significant
15 environmental and economic benefits for the state; and

16 (c) As authorized in this section, new water withdrawals for
17 biofuel crop irrigation and organic crop irrigation must reach one
18 hundred thousand acre feet. By 2018, the legislature must review the
19 economic and environmental benefits resulting from this authorization

1 and determine whether there is a need to increase the amount of water
2 allocated under this section, taking into account cumulative
3 withdrawals from water rights issued under this chapter and the broader
4 water code.

5 (2) Notwithstanding any other provision in this chapter, an
6 allocation of an annual aggregate of one hundred thousand acre feet of
7 water from the Columbia river mainstem and the lower Snake river
8 mainstem is established in perpetuity. The waters allocated under this
9 section must be available for appropriation and use for biofuel crop
10 irrigation and organic crop irrigation. The department is authorized
11 and directed to issue new permits and certificates for the
12 uninterrupted appropriation and use of the water allocated under this
13 section, but solely for the purpose of biofuel crop irrigation and
14 organic crop irrigation.

15 (3) For the avoidance of doubt, no application, permit, or
16 certificate to appropriate and use waters pursuant to this section may
17 be denied or conditioned to be interruptible on the grounds that such
18 a denial or condition is necessary to satisfy the instream flow or no
19 net loss requirements, or any other state law or rule. In addition,
20 except as specifically provided in this section, water allocated under
21 the provisions of this section and permits and certificates issued
22 pursuant to this section are deemed as not requiring any further
23 mitigation and the allocation of water under this section and permits
24 and certificates issued pursuant to this section are deemed to satisfy
25 all consultation requirements under state law related to the issuance
26 of new water rights.

27 (4) Any person may apply for a permit to appropriate waters
28 allocated under this section. The following terms and conditions apply
29 to permits and certificates issued pursuant to this section:

30 (a) Water withdrawal locations included in permits and certificates
31 issued pursuant to this section must be within the Columbia river
32 mainstem or the lower Snake river mainstem as defined in RCW
33 90.90.030(12).

34 (b) Waters appropriated under this section must be for biofuel crop
35 irrigation or organic crop irrigation use within the Columbia Basin
36 area.

37 (c) Except as modified and limited by this section, water rights

1 issued under the biofuel or organic crop irrigation designation are
2 subject to existing provisions required under the current water code.

3 (d) Permits for the use of waters for biofuel crop irrigation and
4 organic crop irrigation must include a specific designation of the
5 acreage where the water is to be used and the number of acres to be
6 irrigated. Changes in the place of use must be approved, provided that
7 the number of irrigated acres may not be increased and the change does
8 not impair any existing senior water right. No change to a use other
9 than biofuel crop irrigation or organic crop irrigation may be
10 approved.

11 (e) The total water duty for the biofuel crops and organic crops
12 grown, using an appropriation under this section, is limited to no more
13 than 2.8 acre feet per acre (for a single seasonal crop), unless crop
14 duties can be empirically verified to require a higher level crop duty.

15 (f) The new water rights issued pursuant to this section may be
16 used with other water rights to establish suitable, multiyear crop
17 rotations for long-term production needs.

18 (g) Except as modified and limited by this section, standard
19 provisions included in permits and certificates, such as providing
20 water measuring and fish screens, must be included in permits and
21 certificates issued pursuant to this section.

22 (h) Applicants for a biofuel crop irrigation or organic crop
23 irrigation water right under this section must agree, as a condition of
24 the department issuing the new water right, that the total water duty
25 for all existing water rights owned by the applicant be recalibrated
26 using methodologies that have been jointly agreed upon by the
27 department and the state's water conservancy boards as of the effective
28 date of this section, and consistent with the current water code. This
29 recalibration must be initiated upon issuance of the new biofuel or
30 organic crop irrigation water rights. Data and technical information
31 for recalibration of existing water rights must be submitted to the
32 department by the applicant within one year after the applicant's
33 receipt of the new water right or rights issued pursuant to this
34 section. Recalibrated water rights must be reissued after the existing
35 thirty-day appeal period for department water orders, with existing
36 public/agency notification standards in place.

37 (5) The implementation of this section is not limited to, but may

1 be directly included under, voluntary regional agreements under RCW
2 90.90.030.

3 (6) The definitions in this subsection apply throughout this
4 section unless the context clearly requires otherwise.

5 (a) "Department" means the department of ecology.

6 (b) "Biofuel crop irrigation" means the use of water for the
7 purpose of irrigating crops that are grown as feedstocks for the
8 production of ethanol, biodiesel, or other types of engine, heating, or
9 power generation fuels.

10 (c) "Columbia river mainstem" has the same meaning as defined in
11 RCW 90.90.030(12).

12 (d) "Lower Snake river mainstem" has the same meaning as defined in
13 RCW 90.90.030(12).

14 (e) "Organic crop irrigation" means the use of water for the
15 purpose of irrigating crops that are certified under United States
16 department of agriculture or Washington state department of agriculture
17 standards as "organic products" as defined in chapter 15.86 RCW or 7
18 C.F.R. part 205 (2011).

19 (f) "Person" means any firm, association, water users' association,
20 corporation, limited liability company, irrigation district, municipal
21 corporation, or other legal entity, as well as an individual.

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