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**SENATE BILL 6292**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Salomon, Nguyen, Wilson, C., Van De Wege, Rolfes, Lovelett, and Carlyle

1 AN ACT Relating to water rights sales; amending RCW 90.42.100;  
2 and adding a new section to chapter 90.03 RCW.

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

4 **Sec. 1.** RCW 90.42.100 and 2009 c 283 s 2 are each amended to  
5 read as follows:

6 (1) The department is hereby authorized to use the trust water  
7 rights program for water banking purposes statewide.

8 (2) Water banking may be used for one or more of the following  
9 purposes:

10 (a) To authorize the use of trust water rights to mitigate for  
11 water resource impacts, future water supply needs, or any beneficial  
12 use under chapter 90.03, 90.44, or 90.54 RCW, consistent with any  
13 terms and conditions established by the transferor, except that  
14 within the Yakima river basin return flows from water rights  
15 authorized in whole or in part for any purpose shall remain available  
16 as part of the Yakima basin's total water supply available and to  
17 satisfy existing rights for other downstream uses and users;

18 (b) To document transfers of water rights to and from the trust  
19 water rights program; and

1 (c) To provide a source of water rights the department can make  
2 available to third parties on a temporary or permanent basis for any  
3 beneficial use under chapter 90.03, 90.44, or 90.54 RCW.

4 (3) The department shall not use water banking to:

5 (a) Cause detriment or injury to existing rights;

6 (b) Issue temporary water rights or portions thereof for new  
7 potable uses requiring an adequate and reliable water supply under  
8 RCW 19.27.097;

9 (c) Administer federal project water rights, including federal  
10 storage rights; (~~(e)~~)

11 (d) Allow carryover of stored water in the Yakima basin from one  
12 water year to another water year if it would negatively impact the  
13 total water supply available; or

14 (e) Allow a person who has not previously made beneficial use of  
15 the water to transfer a water right or portion of a water right into  
16 a water bank unless the water bank is created for the purpose of  
17 mitigating for water resource impacts, creating a source of supply  
18 for third parties, or enhancing streamflows, all of which must be  
19 within the watershed that is the source of the water right.

20 (4) The department shall provide electronic notice and  
21 opportunity for comment to affected local governments and affected  
22 federally recognized tribal governments prior to initiating use of  
23 the trust water rights program for water banking purposes for the  
24 first time in each water resource inventory area.

25 (5) Nothing in this section may be interpreted or administered in  
26 a manner that precludes the use of the department's existing  
27 authority to process trust water rights applications under this  
28 chapter or to process water right applications under chapter 90.03 or  
29 90.44 RCW.

30 (6) For purposes of this section and RCW 90.42.135, "total water  
31 supply available" shall be defined as provided in the 1945 consent  
32 decree between the United States and water users in the Yakima river  
33 basin, and consistent with later interpretation by state and federal  
34 courts.

35 NEW SECTION. Sec. 2. A new section is added to chapter 90.03  
36 RCW to read as follows:

37 A person who purchases a water right acquired separate from the  
38 purchase of real property must file a copy of the purchase and sale

1 agreement with the department within ninety days of the execution of  
2 the agreement.

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