
SENATE BILL 5384

State of Washington

68th Legislature

2023 Regular Session

By Senators Dozier and Stanford; by request of Department of Ecology

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 and seek to provide concurrent benefits
38 to both instream and out-of-stream uses and address a variety of
39 water resource and ecosystem challenges affecting fish passage,

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

4 (3) Any increase in the quantity of water supply due to a project
5 being implemented under the Walla Walla water 2050 plan must be
6 considered water supply developed under this section.

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

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

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

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

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

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

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

1 (11) In financing projects to implement the Walla Walla water
2 2050 plan authorized under this section, the department of ecology
3 shall obtain no more than 50 percent of the total project costs from
4 state funding sources, with the remaining costs funded through local,
5 federal, and private funding sources from entities that benefit from
6 projects. The condition on state funding applies to the total of all
7 costs toward implementation of the Walla Walla water 2050 plan and
8 not to individual projects funded under this section.

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

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