

**(4) Any moneys appropriated by the legislature from the water quality account for protection of sole-source aquifers shall be provided in the form of a fifty percent matching grant.**

\*Sec. 1 was partially vetoed, see message at end of chapter.

Passed the House April 23, 1987.

Passed the Senate April 17, 1987.

Approved by the Governor May 19, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 19, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1(4), House Bill No. 1205 entitled:

"AN ACT Relating to authorizing the department of ecology to distribute funds from the water quality account for water pollution facilities, using extended grant payments."

House Bill No. 1205 authorizes the Department of Ecology to enter into contracts with local jurisdictions allowing the state to pay its share of project costs over an extended period up to a maximum of twenty years. The purpose of this authorization is to reduce the state's initial assistance to a local jurisdiction constructing a major water pollution control facility, thereby maintaining adequate funds in the water quality account to assist other local jurisdictions.

Section 1(4) was added as a Senate floor amendment. It requires the state share for one category of water pollution control, sole source aquifer protection, to be in the form of a fifty percent matching grant. The designation of a sole source aquifer is determined by the federal Environmental Protection Agency under the Safe Drinking Water Act. Currently, three such aquifers have been designated in our state and several more are under federal review.

The Department of Ecology is developing by rule a comprehensive and consistent program for use of funds from the water quality account, including the appropriate level of cost sharing with local jurisdictions for eligible water pollution control facilities and activities in accordance with Chapter 70.146 RCW.

I concur that the protection of sole source aquifers is of high priority, and projects for such protection should receive a fair level of state aid. However, the appropriate level of state assistance for any project funded by the water quality account should be made in the context of overall state priorities for water pollution control assistance.

With the exception of section 1(4), which I have vetoed, House Bill No. 1205 is approved."

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## CHAPTER 517

[Substitute House Bill No. 978]

### YAKIMA ENHANCEMENT PROJECT

AN ACT Relating to water projects in the Yakima river basin; amending section 3, chapter 316, Laws of 1986 (uncodified); and adding a new section to chapter 43.21A RCW.

Be it enacted by the Legislature of the State of Washington:

\*Sec. 1. Section 3, chapter 316, Laws of 1986 (uncodified) is amended to read as follows:

**(1)** The director of the department of ecology shall:

~~((1))~~ (a) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

~~((2))~~ (b) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

~~((3))~~ (c) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance, subject to the limitations in subsection (2) of this section, for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

~~((4))~~ (d) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

(2) In the interest of promoting cooperation between all interested parties and to effectuate the efficient and satisfactory implementation of the Yakima enhancement project, the state requests that Congress authorize the construction of a pipeline between Keechelus Lake and Kachess Lake as one of the elements of early implementation of the Yakima enhancement project for the purpose of supplying the water which is demanded for and caused by the operation of the fish passage facilities at the Easton Dam. The department, in concert with other state agencies, shall work diligently to assure that the pipeline element is included in the federal legislation.

(3) While the state and federal governments develop and implement the various phases of the Yakima enhancement project, the policy of the state shall be to require that any new water project or modification of an existing water project that creates a new demand for surface water from the Yakima river system include as a part of that project or modification a supply of water to meet the demand created. Any permit or other authorization required for the project that must be issued by an agency of the state shall include this requirement for water as one of its conditions. For the purposes of this subsection, water supplied by proposals to raise the reservoir elevation of Lake Cle Elum by three feet shall not be considered such a supply of water. For the purposes of this section, the phrase "water projects" includes, but is not limited to, fish passage or protective facilities.

(4) Nothing contained in subsection (3) of this section shall limit any individual or entity from entering into any interim operating agreement, including but not limited to those that may be permitted by chapter 90.54 RCW, for the construction of any new water project or modification of an existing water project pending the completion of facilities which create the water required for the operation of such new or modified water project.

**(5) The provisions of this section, including but not limited to the interim operating agreements recognized under subsection (4) of this section, shall not interfere with or impact the availability of water necessary to fulfill existing water rights, and the specific elements, uses, or methods of acquisition of those rights recognized under state water right laws.**

\*Sec. 1 was partially vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 2. Section 1 of this act is added to chapter 43-21A RCW.

Passed the House April 22, 1987.

Passed the Senate April 15, 1987.

Approved by the Governor May 19, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 19, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1(3), 1(4) and 1(5), Substitute House Bill No. 978, entitled:

"AN ACT Relating to water projects in the Yakima river basin."

Since the passage of Substitute House Bill No. 978, I have been contacted by many having interests in the waters of the Yakima River system. Through review of letters, by personal contacts at all levels of government, and based upon information provided by my agency directors, I am well aware of the circumstances which prompted this legislation, the divisiveness which has resulted and the significance of my action in a partial veto.

I support and endorse the policy of water neutrality contained in this legislation. Simply stated, any water project in the Yakima Basin that creates a new demand for water must provide a source of supply or an operating agreement to meet that demand. Unfortunately, I believe the bill is flawed and does not achieve the intended result of promoting water neutrality. The provisions of these subsections are ambiguous and may not achieve the protection of existing rights.

Sections 1(3), 1(4) and 1(5) are intended to create a state process for assuring water neutrality. To date, issues related to new water projects, including fish passage facilities within the Yakima River basin, have been cooperatively resolved. I encourage this approach. I have directed the Departments of Ecology, Agriculture and Fisheries to seek negotiated construction and operation agreements for facilities that may require additional water. If such agreements are not reached in a reasonable time, I have instructed the Department of Ecology to utilize the water rights permit process for resolving these issues.

In approving sections 1(1) and 1(2), I affirm my continued support for the Yakima Enhancement Project. Within these sections is the message that the state wishes to see early Congressional action on the next phase of the project and that a final and successful conclusion of the project is an absolute necessity. The momentum to achieve these goals was present before the disputes that arose surrounding Substitute House Bill No. 978 became an issue. I encourage all parties to now cooperatively direct their efforts toward regaining that momentum. Should such cooperation not exist and similar legislation come to me at the conclusion of the next session, I may take a different action.

With the exception of sections 1(3), 1(4) and 1(5) Substitute House Bill No. 978 is approved."