

**SENATE BILL REPORT**

**ESHB 2629**

**AS REPORTED BY COMMITTEE ON AGRICULTURE & WATER RESOURCES,  
FEBRUARY 28, 1992**

**Brief Description:** Conserving water to halt the decline in wild stocks of salmonids.

**SPONSORS:** House Committee on Fisheries & Wildlife (originally sponsored by Representatives R. King, Orr, G. Cole, Belcher, May, Rust, Fraser, Morris, R. Meyers, Basich, Leonard, Zellinsky, Nelson and Jacobsen)

**HOUSE COMMITTEE ON FISHERIES & WILDLIFE**

**HOUSE COMMITTEE ON APPROPRIATIONS**

**SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES**

**Majority Report:** Do pass as amended.

Signed by Senators Barr, Chairman; Bailey, Gaspard, Newhouse, and W. Hansen.

**Staff:** Bob Lee (786-7404)

**Hearing Dates:** February 25, 1992; February 28, 1992

**BACKGROUND:**

The Northwest Power Planning Council has adopted a proposed recovery plan to respond to petitions to list species of salmon on the Snake and Columbia Rivers. The recovery plan includes a number of elements that are to improve survival of fish which include recommendations for protection of habitat and reduction of harvest of fish. The proposed recovery plan will be considered by the National Marine Fisheries Service as it develops a recovery plan for the specific species of salmon that are listed as either threatened or endangered.

The American Fisheries Society has developed a list of other river systems in which there are weak stocks of fish that have not been petitioned for listing.

During the 1989 and 1991 legislative sessions, legislation was enacted which covered a number of water conservation topics.

In 1989, three major bills were enacted. The water use efficiency legislation included a number of items such as establishing requirements for low volume plumbing fixtures for new construction, conducting a demonstration water conservation program for irrigated agriculture, modifying state policy regarding water conservation in the 1971 Water Resources Act which also included storage as one means of conserving water, and requiring metering as a condition for

all new water rights. The legislation also required, contingent on the availability of funds, the Department of Health to adopt criteria for the reuse of water, and the development of model rate structures for public water utilities.

The second major bill enacted in 1989 authorized publicly owned utilities to engage in water conservation programs similar to those that electrical utilities are engaged in for electrical conservation programs.

The third major bill in 1989 authorized the establishment of a trust water rights program for the Yakima Basin whereby net saved water from irrigation projects improvements could be transferred for use as instream flows or other beneficial uses.

In 1991, legislation was enacted to expand the use of the trust water rights concept in eight additional water resource inventory areas, allowed the state to purchase all or a portion of an existing water right for placement into the trust water account, expanded the authority to establish water conserving rate structures to additional types of water purveyors, modified the state plumbing code to require labeling of plumbing fixtures, and established that regional planning be tested in two pilot project areas. The two pilot project areas that have been selected are the Methow River and the Dungeness River.

The Department of Ecology presently has authority to develop basin water management plans which include minimum instream flows. The department has established instream flows for a number of basins in the state.

**SUMMARY:**

The exemption in current law for water diversions in existence prior to 1947 from the fish screening requirement of the Department of Wildlife in RCW 77.16.220 is removed. Previously exempt diverters must provide adequate screening within four years of the effective date of the act.

The Department of Ecology is directed to determine whether water systems with a capacity to withdraw or divert one or more cubic feet per second of water from the portions of the Columbia or Snake Rivers or their tributaries that contain salmon and steelhead should be equipped with devices to measure instantaneous and seasonal water flows. The director is to base this decision on whether such water withdrawals or diversions are potentially harmful to declining stocks of wild salmonids. The director is to ensure compliance by December 31, 1993, and shall make every effort to seek federal funding to assist in implementation.

The Department of Ecology shall require that agricultural water purveyors completing a conservation plan as part of an application for proceeds from the sale from Referendum 38

bonds identify whether and how rate structures could provide an incentive to water users to conserve water.

The Departments of Health and Ecology shall develop alternative model rate-setting formulas for water conservation and provide these to public water purveyors and irrigation districts.

By October 1, 1993, the following types of water purveyors are to evaluate whether it is appropriate to adopt and implement water delivery rate structures that encourage water conservation, and submit these recommendations to the Departments of Ecology and Health and the appropriate legislative committees: municipal water systems, public utility districts, water districts, public water companies, counties, and irrigation districts.

By December 31, 1992, the Department of Ecology is directed to, in cooperation with the Departments of Fisheries and Wildlife and other parties, establish a list of priorities for evaluation and implementation of minimum flows in basins with declining stocks of wild salmonids. In establishing these priorities, the department is to consider the recovery of anadromous wild salmonids as its primary goal. The department is to consider as possible priorities the rivers identified by the American Fisheries Society as containing declining stocks of wild salmonids due to low flows. These rivers are the Tahuya, Dewatto, Dungeness, Cowlitz, Wenatchee, Methow, Okanogan, and Entiat. The department is to present these priorities to the appropriate legislative committees and to the Water Resources Forum. The Department of Ecology is to recommend to the Legislature methods of applying water savings from water rights transfers to achieve minimum flows.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

The requirement to install fish screens on water diversions constructed prior to 1947 is deleted. The requirement to install water measuring devices that measure instantaneous and seasonal water flows on all water diversions over one cubic foot per second from tributaries to the Snake and Columbia Rivers is deleted.

Retained is the requirement that the Department of Health is to develop water conserving rate structures. However, the striking amendment requires representatives of public water systems to be involved in the development of the model rate structures. Additionally, it is clarified that the adoption of water rate structure is voluntary. Only public water systems with over 1,000 service connections would be required to conduct an evaluation and report back to the Department of

Health the conclusions of their evaluation on adoption of water rate structures.

The requirement that the Department of Ecology develop model water conserving rate structures for irrigation districts is retained. The striking amendment clarifies that adoption of model rate structures would be voluntary and that development of such model structures would include involvement by irrigation districts. In addition to considering only the opportunities of water rate structures in conserving water is a requirement that the limitations and other considerations be also discussed. Irrigation districts with over 500 connections would have to evaluate whether to adopt a rate structure and report to the Department of Ecology.

The Department of Ecology shall establish a list of recommended priorities for evaluation of minimum flows and shall establish fishery harvest escapement goals in basins with declining stocks of wild salmon. The recommendations shall be presented to the Joint Select Committee on Water Resource Policy.

Retained is the provision that provides for the Department of Ecology to make recommendations regarding the geographic areas that the transfer of saved water provisions may apply.

Included is an interim study on fish harvest management. A committee composed of legislators and interest groups is to develop policy on how to protect weak stock fisheries while maintaining harvest on abundant stocks. The committee would be staffed by existing legislative staff and is to report to the Legislature by December 31, 1992. Provisions are added for the Departments of Fisheries and Wildlife to regulate the harvest of fish in such a way as to protect and strengthen weak stocks while maintaining harvest of abundant stocks.

**TESTIMONY FOR:**

Additional protection of weak stock fish is needed. Additional efforts are needed to conserve water for instream flows.

**TESTIMONY AGAINST:**

Fish screens are very expensive and several agreements with fishery agencies recognize that there are other measures that are more beneficial than fish screens that cost less. Requiring the installation of water measuring devices that are costly and do not operate reliably. Many small water systems do not have adequate staff to conduct an evaluation of water conserving rate structures and to report back as required in the bill. There are a number of contractual and legal limitations to establishment of incremental rate structures for irrigation districts. In a number of cases, irrigation water systems have been designed with reuse of water as an integral part which could be disrupted if water use patterns are significantly altered.

**TESTIFIED:** Dave Pflug, Seattle City Light (con); Marlyta Deck, Washington Cattlemen's Association (con); Jerry Kaufman (con); Roger Sparks, Kittitas County Irrigation Association (con); Richard Erickson, Washington Water Resources Association (con); Pam Madsen, WDW (pro)