

# ANALYSIS OF SSB 5526

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*House Agriculture & Ecology Committee*

*March 27, 1997*

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## **BACKGROUND:**

***Water Resource Management - General.*** With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. (RCW 90.03.250 and 90.44.050.) However, certain uses of groundwater not exceeding 5,000 gallons per day are exempted from this permit requirement. (RCW 90.44.050.) The permit system is based on the prior appropriation doctrine that "first in time is first in right." Other laws authorize the state to establish minimum flows and levels for streams and lakes. (Chapters 90.22 and 90.54 RCW.) The permit system and the state's laws for managing water resources are administered by the Department of Ecology (DOE).

## **SUMMARY:**

***Municipal Diversions Near Saltwater.*** A water use permit is not required for a diversion of water for municipal purposes from:

- a river with an instantaneous minimum flow of at least 50 cubic feet per second at the point of diversion; or
- a freshwater body impounded behind an outlet control facility

*if the diversion (in the former case) and the waterway below the facility (in the latter case) are within one mile upstream of the point at which freshwater begins to mix with saltwater. (Section 3(1).)*

*These diversions of a single diverter may not put to beneficial use more than 10 percent of the instantaneous flow of the river in the area of the diversion nor more than 10 percent of the annual average inflow to the impoundment. The combined total of these diversions may not exceed 30 percent of the instantaneous flow of the river in that area nor 30 percent of the annual average inflow to the impoundment. (Section 3(2)&(3).)*

*A person seeking to divert water in this manner must notify the DOE in writing of the intent to divert water and identify the location of the point of diversion, and the amount of water to be diverted. (Section 3(4).) Such a diversion is entitled to a right equal to that established by a water use permit and is subject to minimum water flows or levels established by rule. (Section 3(1).) The date of priority of such a water right is the date appropriation for municipal uses commences. (Section 2.)*