

HOUSE BILL REPORT

HB 2032

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to the work plan for instream flow setting through 2010.

Brief Description: Adopting a schedule for establishing instream flows by rule.

Sponsors: Representative Linville.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/25/03, 2/28/03 [DP].

Brief Summary of Bill

- Adopts, as a recommended schedule, the schedule contained in the work plan for establishing instream flows by rule in a December 12, 2002 report.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 7 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Eickmeyer, Grant, Hunt, McDermott and Quall.

Minority Report: Do not pass. Signed by 6 members: Representatives Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Orcutt and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

The Department of Ecology (DOE) may establish instream flow requirements by rule. It may do so on its own, or as part of watershed planning. Once established, the instream flow constitutes an appropriation (a water right) with a priority date that is the effective date of the rule establishing the instream flow.

In a December 12, 2002 document entitled "Work Plan for Instream Flow Setting Through 2010," the DOE divided the state's water resource inventory areas (WRIAs) into

four tiers. It identified a schedule for adopting instream flows for the 23 WRIsAs in tiers 1 and 2 before 2010 and for making recommendations for instream flows for the 11 WRIsAs in tier 3 by 2010.

Summary of Bill:

The schedule for establishing instream flows by rule contained in the December 12, 2002 document of the DOE is adopted as the state's recommended schedule for establishing those flows.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: 1) The bill will give direction to the DOE to set instream flows. It provides shape for the DOE's program. 2) The schedule is an aggressive one that is funded by state and federal monies for the current biennium. More state monies may be needed in later biennia, depending of the availability of federal funding. 3) The plan referred to was published in cooperation with the Department of Fish and Wildlife. Under its schedule, instream flows will be set in tier 1 WRIsAs in 2003 and in tier 2 WRIsAs in 2005. It builds on state and local processes. 4) Certainty for the use of water out-of-stream is pinned on setting instream flows; a lack of definition of what those flows should be hinders water management.

(Comments) 1) More than just the schedule from the DOE plan should be adopted. 2) The schedule should be adopted, not just adopted as a recommended schedule. 3) This is just for setting flows, not for satisfying instream flow requirements.

Testimony Against: The work plan may be too optimistic; too many things could go wrong to keep on schedule. Provisions should be added to prevent third party lawsuits if the schedule is not kept. The plan should be adopted as it may be amended in the future.

Testified: (In support) Dave Monthie, King County; Dick Wallace, Department of Ecology; Carl Samuelson, Department of Fish and Wildlife; and Josh Baldi, Washington Environmental Council.

(Opposed) Kathleen Collins, Washington Water Policy Alliance.