
**Agriculture & Natural Resources
Committee**

HB 2604

Brief Description: Exempting certain diversions of surface waters for agricultural purposes from the permit process.

Sponsors: Representatives Smith, Morris, Bailey, Quall, Blake, Chandler and Pearson.

Brief Summary of Bill

- Exempts water diversions from the Skagit River for agricultural purposes from state application and permit requirements if the diversion is made within the tidally influenced portion of the Skagit River.
- Requires the Department of Ecology to evaluate the effects and effectiveness of diversions at the tidally influenced portion of the Skagit River and report its findings to the Legislature by January 1, 2014.

Hearing Date: 1/22/10

Staff: Jaclyn Ford (786-7339).

Background:

The Skagit River is more than 160 miles long and the third largest river on the West Coast of the contiguous United States, after the Columbia and Sacramento rivers. It provides about 20 percent of the fresh water flowing into Puget Sound. The river originates in Canada then flows south and west through the North Cascade Range. The Skagit is the only river system in Washington which supports all five species of salmon.

In 2001, the Department of Ecology (DOE) adopted a minimum instream flow rule for the Skagit River Basin. In 2006, the DOE amended the rule to reserve a limited amount of water for future

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out-of-stream uses. The amended instream flow rule is currently being litigated (*Swinomish Indian Tribal Community vs. Washington State Department of Ecology*).

Under the amended instream flow rule, there are three types of water uses under the reservation: stock watering, agricultural irrigation, and domestic, municipal, and commercial/industrial uses. Users must comply with certain conditions of use to access water from the reservations.

Under the amended instream flow rule, the DOE has reserved 3,564 acre feet per year from surface and groundwater for agricultural uses in the Skagit River Basin. The conditions of use are:

- A person must obtain a water right permit from the DOE. The DOE will assess whether an existing or an “interruptible” water right is appropriate.
- Water use is only allowed in the Upper, Middle, or Lower Skagit River sub-basins.
- Water use must be metered and reported to the DOE.
- The effects on stream flows must be minimal. This may be done through irrigation and conveyance efficiency, water metering, and/or irrigation scheduling.

Summary of Bill:

Diverting water from the Skagit River for agricultural purposes is exempt from state application and permit requirements if the diversion is made within the tidally influenced portion of the Skagit River. The tidally influenced portion of the Skagit River is the confluence point of the river with marine water upstream to the permanent U.S. Geological Survey stream flow measurement station number 12-2005-00.

Before diverting water for agricultural purposes, the person requesting the diversion must notify the DOE in writing of the intent to divert water, the location of the point of diversion, and the annual and instantaneous amount of water to be diverted. Upon receipt of the notification, the DOE must confirm the legality of the diversion in writing to the person proposing the diversion. If a response is not provided by the DOE within seven working days, the diversion is deemed authorized. The right for the diversion is equal to that established by a permit.

The total amount of water diverted for agricultural purposes cannot be more than one-tenth of one percent of the minimum instantaneous flow or river level established by preexisting rule. All diversions must also comply with preexisting instream flow levels and other water levels.

The DOE must compile all information relating to diversions made within the tidally influenced portion of the Skagit River and make that information available upon request.

The DOE must evaluate the effects and effectiveness of diversions at the tidally influenced portion of the Skagit River and report its findings to the Legislature by January 1, 2014.

Appropriation: None.

Fiscal Note: Not requested.

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