

SENATE BILL REPORT

SB 6313

As Reported by Senate Committee On:
Agriculture, Water & Rural Economic Development, February 2, 2012

Title: An act relating to providing consistency in water resource terminology and policy.

Brief Description: Providing consistency in water resource terminology and policy.

Sponsors: Senators Haugen, Hobbs, Honeyford, Hatfield and Hargrove.

Brief History:

Committee Activity: Agriculture, Water & Rural Economic Development: 1/19/12, 2/02/12 [DP].

SENATE COMMITTEE ON AGRICULTURE, WATER & RURAL ECONOMIC DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Hatfield, Chair; Shin, Vice Chair; Honeyford, Ranking Minority Member; Becker, Delvin, Haugen, Hobbs and Schoesler.

Staff: Bob Lee (786-7404)

Background: In 1969 authority was provided to the Department of Ecology (DOE) to establish minimum water flows or levels for protecting fish, game, birds, other wildlife resources, or recreational or aesthetic values in public waters. Two years later, the Water Resources Act of 1971 was enacted and established a list of policy fundamentals for utilization of the state water resources.

Under the 1971 act, waters are to be allocated among potential uses and users based on securing the maximum net benefits for the people of the state. The fundamentals contain a list of potential uses including establishment of base flows in perennial rivers and streams, development of multipurpose water storage facilities, and providing adequate supplies to satisfy domestic use. Authority was provided to develop the program in segments. Washington is currently divided into 62 water resource inventory areas (WRIA).

In 1979 the Legislature granted instream flows the status of a water right with a priority date as of the date the instream flow is adopted by rule. In 1997 legislation was enacted to create WRIA planning units. Each of these acts use similar but different terminology.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The statutory terms minimum flows, minimum flows and levels, minimum instream flows, and base flows have the same meaning.

Any rules adopted under the 1969 Minimum Instream Flows Act after the effective date of the Water Resources Act of 1971 must conform with the provisions of the 1971 Water Resources Act. To the extent that there is conflict between the policies and procedures contained in the 1969 and the 1971 acts, the provisions of the Water Resources Act of 1971 shall apply.

Clarification is provided in the 1969 Minimum Instream Flows Act that the DOE is authorized to establish instream flows on perennial rivers and streams consistent with the Water Resources Act of 1971.

Clarifies existing law. No other substantive interpretation is intended or implied.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: None.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Because agricultural lands and industrial forest lands have been protected from urban encroachment, and because of the constrains on cities that are all located in the flood plain, there is not much place left to grow in Skagit County. The water restrictions in the rural areas have stopped growth there. People wanting to build are citizens like you and me. There are several homes ready to start construction that can't because state water restrictions prevent it. Water is a basic human right. In a basin that has plenty of water, it is hard to understand why people can't access it to build their homes. The argument is that small withdrawals will harm fish, but these fish are the only endangered species that you can buy in the grocery store. Bills are important and timely, since state population has increased by 350 percent from 1945 to 2010. It is important to provide water for human use, and access to water should be considered as a human right.

CON: The concern is about unintended consequences, particularly with intermittent streams and cumulative impacts. Concerns center on the 350 gallons. The legislation is overbroad and opens up other problems in areas outside the Skagit.

OTHER: Bills will start the conversation and are committed to finding a path forward.

Note: SB 6311, SB 6312 and SB 6313 were taken as a package.

Persons Testifying: PRO: Senator Haugen, prime sponsor; Paul Pearce, Josh Weiss, WA State Assn.of Counties; Bill Clark, WA Realtors Assn.; Glen Smith, WA State Groundwater Assn.; Art Castle, Building Industry Assn. of WA; Jim Halstrom, WA State Horticultural Assn.

CON: Bruce Wishart, Center for Environmental Policy, Sierra Club; Dave Mastin, Muckleshoot Tribe.

OTHER: Evan Sheffels, DOE; Dawn Vyvyan, Yakama Nation; Jack Field, WA Cattlemen's Assn.