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**HOUSE BILL 1338**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Buys, Blake, and Van Werven

AN ACT Relating to the diversion of certain municipal waters; and amending RCW 90.03.397.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 90.03.397 and 2011 c 117 s 1 are each amended to read as follows:

(1) The department may approve a change of the point of diversion prescribed in a permit to appropriate surface water for a beneficial use if the ownership, purpose of use, season of use, and place of use of the permit remain the same to an approved intake structure with capacity to transport the additional diversion to either: (a) A point of diversion that is located downstream; or (b) a point of diversion located between Columbia river miles 215.6 and 292, if the existing point of diversion is contained therein.

(2)(a) A municipal owner of foreign water discharged to the Nooksack river between river miles seventeen and nineteen must be allowed to claim and divert up to an equal quantity of water annually from the Nooksack river without satisfying laws governing water appropriation if all of the following conditions are met:

(i) The diversion occurs at a municipally owned intake structure located on the Nooksack river not more than one mile upstream from the foreign water discharge identified in this subsection; and

(ii) The increased Nooksack river diversion authorized by this subsection is not, on a daily basis, greater than the amount of foreign water discharged by the municipal owner to the Nooksack river at the location identified in this subsection.

(b) For the purposes of this subsection, "foreign water" means water that, prior to the work of the developer of the water, was not part of a source of water supply that would reach the river, river basin, or groundwater associated with the location of the municipally owned intake structure.

(3) This section may not be construed as limiting in any manner whatsoever other authorities of the department under RCW 90.03.380 or other changes that may be approved under RCW 90.03.380 under authorities existing before July 25, 1999.

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