

SB 5491 - H COMM AMD

By Committee on Agriculture & Natural Resources

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.54
4 RCW to read as follows:

5 (1) Except as otherwise provided in this section, all
6 reservations of water for certain future uses included in rules
7 establishing minimum levels and flows that were adopted and amended
8 pursuant to this chapter or chapter 90.22 RCW after the year 2001 and
9 prior to the supreme court of Washington's October 3, 2013, opinion
10 in *Swinomish Indian Tribal Community v. Washington State Department*
11 *of Ecology* are consistent with legislative intent and specifically
12 authorized to be maintained and implemented by the department.

13 (2) This section does not:

14 (a) Apply to the amended rule at issue in the supreme court of
15 Washington's October 3, 2013, opinion in *Swinomish Indian Tribal*
16 *Community v. Washington State Department of Ecology*; or

17 (b) Alter or affect the department's authority to adopt, amend,
18 or repeal rules establishing minimum instream levels and flows.
19 However, the department may not amend a rule affected by this section
20 to increase the reservations of water for certain future uses."

21 Correct the title.

EFFECT: Specifically authorizes the department of ecology to maintain and implement certain minimum instream flow rules not affected by the Supreme Court decision in *Swinomish Indian Tribal Community v. Washington State Department of Ecology* (as opposed to declaring those rules to be in the overriding consideration of public interest), specifies that the department of ecology may not increase reservations of water for future use that are included in any existing rules, and excludes any rules from the scope of the bill if they were not adopted and amended by the department of ecology after the year 2001.

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