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**Agriculture & Natural Resources  
Committee**

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**ESSB 6513**

**Brief Description:** Concerning reservations of water in water resource inventory areas 18 and 45.

**Sponsors:** Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Warnick, Hobbs, Parlette, Takko, Hargrove and Honeyford).

**Brief Summary of Engrossed Substitute Bill**

- Requires the Department of Ecology to act on all water rights applications that rely on reservations of water established in rule for the Elwha-Dungeness and Wenatchee watersheds.

**Hearing Date:** 2/24/16

**Staff:** Jason Callahan (786-7117).

**Background:**

Watershed Planning.

The Watershed Planning Act establishes a process through which local groups can develop and implement plans for managing and protecting local water resources and rights. The local groups authorized to develop watershed plans are organized by water resource inventory areas (WRIAs). A WRIA is, generally speaking, an area determined to be a distinct watershed.

There are 64 WRIAs identified by the Department of Ecology (Department). Each WRIA is identified by a number and may contain a local watershed planning group with an identified lead entity. Clallam County is the primary home to WRIA 18, which is the Elwha-Dungeness watershed. This WRIA is centered around to the town on Port Angeles and features the Elwha

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*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.*

River and the Dungeness River as its major drainages. Chelan County houses WRIA 45, which is known as the Wenatchee watershed. The Wenatchee River is the major drainage for WRIA 45.

#### Reservations of Water for Domestic Use.

The Department has the authority to adopt rules establishing a minimum water flow for stream, lakes, or other public water bodies for the purposes of protecting fish, game, birds, and the recreational and aesthetic values of the waterways. These levels, commonly called "instream flows", essentially function as water rights with a priority date set at the adoption date of the corresponding rule.

The establishment of an instream flow cannot affect an existing water right with a senior time priority date. Likewise, the Department may not allow any subsequent water withdrawals with a junior priority date to the instream flow that conflicts with the established flow level unless the withdrawals clearly serves to satisfy an overriding considerations of the public interest. As of today, there is an instream flow rule in place for almost half of the state's 64 identified watersheds.

The Department has used the administrative rulemaking process to identify specific instances when a defined amount of water may be reserved in specific basins for future domestic uses. The water reserved for future uses may be used regardless of that water use's effect on established instream flows. The Department has found, in rule, that the reservation of water for future uses is necessary to satisfy an overriding considerations of the public interest.

Two of the basins with reservations of water established by the Department in rule are WRIA 18 (Elwha-Dungeness) and WRIA 45 (Wenatchee). Reservations of water for both basins are subject to specific limitations identified by the Department. These limitations include maximum withdrawals allowable in the various sub-basins and the allowable purposes of use for the reserved water. The rules also describe the process required to utilize reserved water.

#### **Summary of Bill:**

The Department is required to act on all water rights applications that rely on reservations of water established in rule for WRIA 18 (Elwha-Dungeness) and WRIA 45 (Wenatchee). A declaration is made that the rule-based water reservations for those two WRIs is consistent with legislative intent and are authorized to be maintained and implemented by the Department.

The Department retains the authority to adopt, amend, or repeal any rules relating to water reservations. This authority extends to the rules effecting both WRIA 18 and WRIA 45. The issuance of water rights that rely on reservations of water in WRIA 18 and 45 does not prejudice any other reservations of water in the state.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.