

FINAL BILL REPORT

ESSB 6513

C 117 L 16
Synopsis as Enacted

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).

Senate Committee on Agriculture, Water & Rural Economic Development
House Committee on Agriculture & Natural Resources

Background: Approximately a year after a Washington State Supreme Court decision in 2013, the Department of Ecology (DOE) issued a letter notifying Chelan County that DOE would no longer issue permits that rely on water reserved by Washington Administrative Code (WAC) governing Water Resource Inventory Area 45 (WRIA 45). The reason stated is that DOE believes these permits would not provide uninterruptible water rights under the 2013 decision.

WRIA 45 includes territory in the Wenatchee River Basin. WRIA 18 includes territory in the Elwha-Dungeness River basin.

In WRIA 45 and WRIA 18, DOE reserved water for new domestic, irrigation, and stock watering uses, well after instream flows were set that made no such provision. The legal authority DOE used to amend WRIA 18 and WRIA 45 to provide for these reservations of water was the legal theory of overriding consideration of the public interest. It is DOE's use of this legal principal that invalidated its reservations in the Skagit WRIA according to the 2013 Supreme Court decision. The setting of instream flows that include no reservations, prior to the amendment to make the reservations, are facts the Skagit Supreme Court case and the administrative history of WRIA 18 and WRIA 45 share.

Summary: The Legislature declares its intent to authorize DOE to maintain and implement its current rule establishing reservations for WRIA 18 and WRIA 45. DOE must act on all water right applications relying on these reservations in WRIA 18 and WRIA 45 as the WAC governing WRIA 18 and WRIA 45 exists as of the effective date of the legislation.

Votes on Final Passage:

Senate 48 0

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.

House 93 4

Effective: March 31, 2016