

FINAL BILL REPORT

ESB 6589

C 227 L 16
Synopsis as Enacted

Brief Description: Concerning a feasibility study to examine whether water storage would provide noninterruptible water resources to users of permit exempt wells.

Sponsors: Senators Bailey, Pearson and Warnick.

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

Background: Generally, the Department of Ecology (Ecology) must base water allocation among potential uses and users on the principle of securing maximum net benefits for the people of the state. Ecology must also set minimum instream flows to protect fish and wildlife habitat, and water quality instream resources.

Ecology establishes instream flow rules for the state's major river basins and typically bases rules on the stream flows needed to support healthy fish populations. Ecology may authorize withdrawals of water conflicting with base flows necessary to preserve instream values only in situations where it is clear that overriding considerations of the public interest will be served.

In April 2001, the Skagit River Basin Instream Resources Protection Program Rule, WAC 173-503, established minimum instream flows throughout the basin in water resource inventory areas (WRIA) 3 and 4. Eight businesses and 475 homes have relied on these Skagit reservations, which set aside finite water amounts set aside for specific future uses, for their water supplies since 2001.

In 2006, Ecology found that limited reservations would not substantially harm fish populations and amended the rule to establish reservations of surface and groundwater for future out-of-stream uses. The reservations provided uninterruptible, or year-round, water supplies for new agricultural, residential, commercial or industrial, and livestock uses across 25 sub-basins.

In October 2013, the Washington Supreme Court invalidated the 2006 amendments, holding that Ecology could not set aside water reservations through water management rules where it had previously set aside water to support stream flows for instream resources. Since the court decision, Ecology has exercised its enforcement discretion not to curtail water use of homes and businesses that have relied on the 2006 reservations.

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: Ecology, in cooperation with the state Department of Health, Skagit county, Tribes, and non-municipally owned public water systems in Skagit county, must study whether use of effectively sized water storage to recharge the Skagit river basin is feasible for providing year-round water to users of permit exempt wells.

Ecology must report the study's findings to the Legislature by December 1, 2016.

Votes on Final Passage:

Senate	49	0
House	96	1

Effective: June 9, 2016