
**Agriculture & Natural Resources
Committee**

HB 1349

Brief Description: Declaring any minimal cumulative impacts of permit-exempt groundwater wells on water levels to be overwhelmingly offset by state investments in fish habitat improvement projects.

Sponsors: Representatives Taylor, Shea, Buys, Chandler, Short, Haler and Koster.

Brief Summary of Bill

- Considers de minimis impacts from permit-exempt withdrawals of groundwater to be forever fully mitigated in light of the beneficial impacts on fish habitat that accrue from investments in state water resource improvement.
- Specifies that permit-exempt withdrawals of groundwater do not require water rights and do not impair senior water rights.

Hearing Date: 2/8/17

Staff: Rebecca Lewis (786-7339).

Background:

Groundwater withdrawals.

Most groundwater withdrawals require both an application and water right permit from the Department of Ecology (Ecology). Each water right permit has a priority date. Use of water under any water right permit may not impair the water of rights with senior priority dates. However, there is a class of lawful, unpermitted wells, often referred to as "permit-exempt wells," which may be constructed and used without first obtaining a permit from Ecology.

Types of permit-exempt well include any withdrawal of public groundwater for stock-watering purposes, or for watering a lawn or a noncommercial garden less than one-half acre. Single or group domestic uses or industrial purposes in an amount not exceeding 5,000 gallons per day are

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also included in the class of permit-exempt wells. Ecology has exercised authority in certain regions of the state to limit the availability of new permit-exempt wells. This includes agency rules applicable to portions of Skagit, Kittitas, Clallam, and Jefferson counties.

Ecology has the authority to adopt rules establishing a minimum water flow for streams, 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. There is an instream flow rule in place for almost half of the state's identified watersheds.

Per statute, the instream flow may not affect an existing water right with a senior time priority date. Ecology 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 serve to satisfy an overriding consideration of the public interest.

Salmon Recovery.

Several species of salmon are listed as either threatened or endangered under the federal Endangered Species Act. Washington has engaged in, and made investments in, a variety of activities intended to aid in salmon recovery, at least in part, including land acquisition, irrigation efficiencies, watershed planning, drought response, and the purchase of water rights. Some of these efforts have been in the form of grant funding for actions such as fish passage barrier removal and salmon and habitat restoration in various parts of the state.

The Bonneville Power Administration (BPA) is a federal nonprofit agency that markets wholesale electrical power from 31 federal hydroelectric projects in the Columbia River Basin, one nonfederal nuclear plant, and several other small nonfederal power plants. The BPA engages in the Columbia Basin Fish and Wildlife Program which focuses on salmon and steelhead recovery, but includes recovery of other fish species and wildlife. The BPA also manages its dam operations to meet various responsibilities under federal environment and energy laws including by intentionally spilling water for fish passage purposes.

Summary of Bill:

The Legislature finds that the state has made significant investments in salmon recovery through grant funding for restoration, land acquisition, and a variety of other means.

De minimis impacts from permit-exempt withdrawals of groundwater are considered to be forever fully mitigated in light of the beneficial impacts on fish habitat that accrue from investments in state water resource improvement. Permit-exempt withdrawals of groundwater do not require water rights and are deemed to not impair senior water rights.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.