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SENATE BILL 6312

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Haugen, Hobbs, Honeyford, Hatfield, Hargrove, and Shin

Read first time 01/17/12. Referred to Committee on Agriculture, Water & Rural Economic Development.

1 AN ACT Relating to promoting job creation by ensuring access to  
2 human domestic water for home construction; amending RCW 90.54.120,  
3 90.54.020, and 19.27.097; reenacting and amending RCW 90.54.050; and  
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that the water  
7 resources act of 1971, chapter 90.54 RCW, contains a list of water  
8 policy fundamentals that are to guide the state's water management  
9 agency in adopting basin rules to allocate the water resources of the  
10 state. In effect since 1971, the unprioritized list of water policy  
11 fundamentals include: (a) The allocation of water among potential uses  
12 and users is to be based on securing the maximum net benefits to the  
13 state; and (b) that adequate supplies of water are to be preserved and  
14 protected to satisfy human domestic needs. The legislature finds that  
15 ready access to sufficient water to fulfill human domestic needs has  
16 been and continues to be a fundamental public value.

17 (2) Further, the legislature finds that state and local governments  
18 have established and fund a vast array of environmental and habitat  
19 improvement and acquisition programs that provide environmental

1 benefits that far exceed any impact from de minimis uses of groundwater  
2 in rural areas for essential human domestic needs. The legislature  
3 acknowledges that the availability of state and local funding for these  
4 environmental and habitat programs is dependent on the tax revenues  
5 generated by the home construction industry and that available funding  
6 has dropped as home construction has declined dramatically in recent  
7 years.

8 (3) The purpose of this legislation is to reaffirm statutory policy  
9 that in rural areas not served by a public water system, water for  
10 homes be readily available and thereby encourage jobs in, and stimulus  
11 to, the home construction industry, which produces revenues to support  
12 state and local governmental programs and services, including  
13 environmental and habitat improvements funded by state and local  
14 governments.

15 **Sec. 2.** RCW 90.54.120 and 1971 ex.s. c 225 s 13 are each amended  
16 to read as follows:

17 For the purposes of this chapter, unless the context is clearly to  
18 the contrary, the following definitions shall be used:

19 (1) "Department" means department of ecology.

20 (2) "Human domestic water use" means potable water to satisfy the  
21 needs of a household, including water used for drinking, bathing,  
22 sanitary purposes, cooking, laundering, maintenance of vegetation, care  
23 of household pets and incidental livestock, and other incidental uses.

24 (3) "Utilize" or "utilization" shall not only mean use of water for  
25 such long recognized consumptive or nonconsumptive beneficial purposes  
26 as domestic, stock watering, industrial, commercial, agricultural,  
27 irrigation, hydroelectric power production, thermal power production,  
28 mining, recreational, maintenance of wildlife and fishlife purposes,  
29 but includes the retention of water in lakes and streams for the  
30 protection of environmental, scenic, aesthetic and related purposes,  
31 upon which economic values have not been placed historically and are  
32 difficult to quantify.

33 **Sec. 3.** RCW 90.54.020 and 2007 c 445 s 8 are each amended to read  
34 as follows:

35 Utilization and management of the waters of the state shall be  
36 guided by the following general declaration of fundamentals:

1 (1) Uses of water for domestic, stock watering, industrial,  
2 commercial, agricultural, irrigation, hydroelectric power production,  
3 mining, fish and wildlife maintenance and enhancement, recreational,  
4 and thermal power production purposes, and preservation of  
5 environmental and aesthetic values, and all other uses compatible with  
6 the enjoyment of the public waters of the state, are declared to be  
7 beneficial.

8 (2) Allocation of waters among potential uses and users shall be  
9 based generally on the securing of the maximum net benefits for the  
10 people of the state. Maximum net benefits shall constitute total  
11 benefits less costs including opportunities lost.

12 (3) The quality of the natural environment shall be protected and,  
13 where possible, enhanced as follows:

14 (a) Perennial rivers and streams of the state shall be retained  
15 with base flows necessary to provide for preservation of wildlife,  
16 fish, scenic, aesthetic and other environmental values, and  
17 navigational values. Lakes and ponds shall be retained substantially  
18 in their natural condition. Withdrawals of water which would conflict  
19 therewith shall be authorized only in those situations where it is  
20 clear that overriding considerations of the public interest will be  
21 served.

22 (b) Waters of the state shall be of high quality. Regardless of  
23 the quality of the waters of the state, all wastes and other materials  
24 and substances proposed for entry into said waters shall be provided  
25 with all known, available, and reasonable methods of treatment prior to  
26 entry. Notwithstanding that standards of quality established for the  
27 waters of the state would not be violated, wastes and other materials  
28 and substances shall not be allowed to enter such waters which will  
29 reduce the existing quality thereof, except in those situations where  
30 it is clear that overriding considerations of the public interest will  
31 be served. Technology-based effluent limitations or standards for  
32 discharges for municipal water treatment plants located on the  
33 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted  
34 to reflect credit for substances removed from the plant intake water  
35 if:

36 (i) The municipality demonstrates that the intake water is drawn  
37 from the same body of water into which the discharge is made; and

1 (ii) The municipality demonstrates that no violation of receiving  
2 water quality standards or appreciable environmental degradation will  
3 result.

4 (4) The development of multipurpose water storage facilities shall  
5 be a high priority for programs of water allocation, planning,  
6 management, and efficiency. The department, other state agencies, and  
7 local governments(~~(, and planning units formed under section 107 or 108~~  
8 ~~of this act)~~) shall evaluate the potential for the development of new  
9 storage projects and the benefits and effects of storage in reducing  
10 damage to stream banks and property, increasing the use of land,  
11 providing water for municipal, industrial, agricultural, power  
12 generation, and other beneficial uses, and improving stream flow  
13 regimes for fisheries and other instream uses.

14 (5) Adequate and safe supplies of water shall be preserved and  
15 protected in potable condition to satisfy human domestic needs.  
16 Regulations for water resource inventory areas established under RCW  
17 90.54.040 that receive an average of greater than thirty inches of  
18 precipitation annually may not constrain groundwater usage per day per  
19 dwelling unit to less than three hundred fifty gallons to satisfy human  
20 domestic water needs in areas not currently served by existing wells or  
21 by a public water system.

22 (6) Multiple-purpose impoundment structures are to be preferred  
23 over single-purpose structures. Due regard shall be given to means and  
24 methods for protection of fishery resources in the planning for and  
25 construction of water impoundment structures and other artificial  
26 obstructions.

27 (7) Federal, state, and local governments, individuals,  
28 corporations, groups, and other entities shall be encouraged to carry  
29 out practices of conservation as they relate to the use of the waters  
30 of the state. The department shall quantify in each water resource  
31 inventory area the environmental benefits that result from investments  
32 by federal, state, and local governments in tax-supported  
33 environmental, water use efficiency, and habitat programs. In addition  
34 to traditional development approaches, improved water use efficiency,  
35 conservation, and use of reclaimed water shall be emphasized in the  
36 management of the state's water resources and in some cases will be a  
37 potential new source of water with which to meet future needs  
38 throughout the state. Use of reclaimed water shall be encouraged

1 through state and local planning and programs with incentives for state  
2 financial assistance recognizing programs and plans that encourage the  
3 use of conservation and reclaimed water use, and state agencies shall  
4 continue to review and reduce regulatory barriers and streamline  
5 permitting for the use of reclaimed water where appropriate.

6 (8) Development of water supply systems, whether publicly or  
7 privately owned, which provide water to the public generally in  
8 regional areas within the state shall be encouraged. Development of  
9 water supply systems for multiple domestic use which will not serve the  
10 public generally shall be discouraged where water supplies are  
11 available from water systems serving the public.

12 (9) (~~Full~~) Proper and pragmatic recognition shall be given in the  
13 administration of water allocation and use programs to the natural  
14 interrelationships of surface and groundwaters including: (a)  
15 Providing credit for the recharge of groundwaters by home septic  
16 systems for indoor water uses based upon national studies that quantify  
17 the amount of recharge provided by home septic systems; (b) providing  
18 recognition that there are widely varying degrees of potential impact  
19 to surface water from groundwater withdrawals that are generally less  
20 than a one-to-one ratio depending on a number of factors including, but  
21 not limited to, the geology and porosity of underground formations,  
22 well depth, distance of the well from surface water bodies, season of  
23 use, rainfall, and temperature; and (c) authorizing the reestablishment  
24 of the management policy of de minimis impact to limit excessive costs  
25 to the state and its citizens and to allow reasonable use by the public  
26 of the public's water.

27 (10) Expressions of the public interest will be sought at all  
28 stages of water planning and allocation discussions.

29 (11) Water management programs, including but not limited to, water  
30 quality, flood control, drainage, erosion control and storm runoff are  
31 deemed to be in the public interest.

32 **Sec. 4.** RCW 90.54.050 and 1997 c 439 s 2 and 1997 c 32 s 3 are  
33 each reenacted and amended to read as follows:

34 In conjunction with the programs provided for in RCW 90.54.040(1),  
35 whenever it appears necessary to the director in carrying out the  
36 policy of this chapter, the department may by rule adopted pursuant to  
37 chapter 34.05 RCW:

1 (1) Reserve and set aside waters for beneficial utilization in the  
2 future, and

3 (2) When sufficient information and data are lacking to allow for  
4 the making of sound decisions, withdraw various waters of the state  
5 from additional appropriations until such data and information are  
6 available. In withdrawing water of the state from additional  
7 appropriation under this title in water resource inventory areas that  
8 receive an average of greater than thirty inches of precipitation  
9 annually, the department shall not constrain access to groundwater  
10 sufficient to satisfy human domestic water needs in areas not currently  
11 served by a public water system to less than three hundred fifty  
12 gallons per day per dwelling unit. Before proposing the adoption of  
13 rules to withdraw waters of the state from additional appropriation,  
14 the department shall consult with the standing committees of the house  
15 of representatives and the senate having jurisdiction over water  
16 resource management issues.

17 Prior to the adoption of a rule under this section, the department  
18 shall conduct a public hearing in each county in which waters relating  
19 to the rule are located. The public hearing shall be preceded by a  
20 notice placed in a newspaper of general circulation published within  
21 each of said counties. Rules adopted hereunder shall be subject to  
22 review in accordance with the provisions of RCW 34.05.240.

23 **Sec. 5.** RCW 19.27.097 and 2010 c 271 s 302 are each amended to  
24 read as follows:

25 (1) Each applicant for a building permit of a building  
26 necessitating potable water shall provide evidence of an adequate water  
27 supply for the intended use of the building. Evidence may be in the  
28 form of a water right permit from the department of ecology, a letter  
29 from an approved water purveyor stating the ability to provide water,  
30 or another form sufficient to verify the existence of an adequate water  
31 supply. In addition to other authorities, the county or city may  
32 impose conditions on building permits requiring connection to an  
33 existing public water system where the existing system is willing and  
34 able to provide safe and reliable potable water to the applicant with  
35 reasonable economy and efficiency. For building permits for single-  
36 family dwellings not served by an existing public water system that  
37 will utilize on-site septic systems, the applicant satisfies the

1 requirements of this section by submitting a signed declaration of  
2 intent to comply with RCW 90.54.020(5). For other building permits  
3 that require a water right permit, an application for a water right  
4 shall not be sufficient proof of an adequate water supply.

5 (2) Within counties not required or not choosing to plan pursuant  
6 to RCW 36.70A.040, the county and the state may mutually determine  
7 those areas in the county in which the requirements of subsection (1)  
8 of this section shall not apply. The departments of health and ecology  
9 shall coordinate on the implementation of this section. Should the  
10 county and the state fail to mutually determine those areas to be  
11 designated pursuant to this subsection, the county may petition the  
12 department of (~~general administration~~) enterprise services to mediate  
13 or, if necessary, make the determination.

14 (3) Buildings that do not need potable water facilities are exempt  
15 from the provisions of this section. The department of ecology, after  
16 consultation with local governments, may adopt rules to implement this  
17 section, which may recognize differences between high-growth and low-  
18 growth counties.

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