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SENATE BILL 6313

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State of Washington

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

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

1 AN ACT Relating to providing consistency in water resource  
2 terminology and policy; amending RCW 90.22.010, 90.22.020, 90.54.020,  
3 and 90.82.020; and creating a new section.

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

5 **Sec. 1.** RCW 90.22.010 and 1997 c 32 s 4 are each amended to read  
6 as follows:

7 (1) The department of ecology may establish minimum water flows or  
8 levels for perennial rivers and streams, lakes or other public waters  
9 for the purposes of protecting fish, game, birds or other wildlife  
10 resources, or recreational or aesthetic values of said public waters  
11 whenever it appears to be in the public interest to establish the same.  
12 In addition, the department of ecology shall, when requested by the  
13 department of fish and wildlife to protect fish, game, or other  
14 wildlife resources under the jurisdiction of the requesting state  
15 agency, or if the department of ecology finds it necessary to preserve  
16 water quality, establish such minimum flows or levels as are required  
17 to protect the resource or preserve the water quality described in the  
18 request or determination. Any request submitted by the department of  
19 fish and wildlife shall include a statement setting forth the need for

1 establishing a minimum flow or level. When the department acts to  
2 preserve water quality, it shall include a similar statement with the  
3 proposed rule filed with the code reviser. This section shall not  
4 apply to waters artificially stored in reservoirs, provided that in the  
5 granting of storage permits by the department of ecology in the future,  
6 full recognition shall be given to downstream minimum flows, if any  
7 there may be, which have theretofore been established hereunder.

8 (2) The terms "minimum flows," "minimum flows and levels," or  
9 "minimum instream flows" used under this chapter and chapters 90.03 and  
10 90.82 RCW have the same meaning as the term "base flows" defined in RCW  
11 90.54.020.

12 **Sec. 2.** RCW 90.22.020 and 1994 c 264 s 87 are each amended to read  
13 as follows:

14 Flows or levels authorized for establishment under RCW 90.22.010,  
15 or subsequent modification thereof by the department shall be provided  
16 for through the adoption of rules. Any rules adopted under this  
17 chapter after the effective date of the water resources act of 1971,  
18 chapter 90.54 RCW, must conform with the provisions of the water  
19 resources act of 1971, chapter 90.54 RCW. To the extent that there is  
20 conflict between the policies and procedures contained in the water  
21 resources act of 1971, chapter 90.54 RCW, and the earlier enacted 1969  
22 minimum water flows and levels act, codified under this chapter, the  
23 provisions of the water resources act of 1971 apply. Before the  
24 establishment or modification of a water flow or level for any stream  
25 or lake or other public water, the department shall hold a public  
26 hearing in the county in which the stream, lake, or other public water  
27 is located. If it is located in more than one county the department  
28 shall determine the location or locations therein and the number of  
29 hearings to be conducted. Notice of the hearings shall be given by  
30 publication in a newspaper of general circulation in the county or  
31 counties in which the stream, lake, or other public waters is located,  
32 once a week for two consecutive weeks before the hearing. The notice  
33 shall include the following:

34 (1) The name of each stream, lake, or other water source under  
35 consideration;

36 (2) The place and time of the hearing;

1 (3) A statement that any person, including any private citizen or  
2 public official, may present his or her views either orally or in  
3 writing.

4 Notice of the hearing shall also be served upon the administrators  
5 of the departments of social and health services, natural resources,  
6 fish and wildlife, and transportation.

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

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

11 (1) Uses of water for domestic, stock watering, industrial,  
12 commercial, agricultural, irrigation, hydroelectric power production,  
13 mining, fish and wildlife maintenance and enhancement, recreational,  
14 and thermal power production purposes, and preservation of  
15 environmental and aesthetic values, and all other uses compatible with  
16 the enjoyment of the public waters of the state, are declared to be  
17 beneficial.

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

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

24 (a) Perennial rivers and streams of the state shall be retained  
25 with base flows necessary to provide for preservation of wildlife,  
26 fish, scenic, aesthetic and other environmental values, and  
27 navigational values. Lakes and ponds shall be retained substantially  
28 in their natural condition. Withdrawals of water which would conflict  
29 therewith shall be authorized only in those situations where it is  
30 clear that overriding considerations of the public interest will be  
31 served. The term "base flows" used under this chapter has the same  
32 meaning as the terms "minimum flows," "minimum flows and levels," or  
33 "minimum instream flows" used in chapters 90.03, 90.22, and 90.82 RCW.

34 (b) Waters of the state shall be of high quality. Regardless of  
35 the quality of the waters of the state, all wastes and other materials  
36 and substances proposed for entry into said waters shall be provided  
37 with all known, available, and reasonable methods of treatment prior to

1 entry. Notwithstanding that standards of quality established for the  
2 waters of the state would not be violated, wastes and other materials  
3 and substances shall not be allowed to enter such waters which will  
4 reduce the existing quality thereof, except in those situations where  
5 it is clear that overriding considerations of the public interest will  
6 be served. Technology-based effluent limitations or standards for  
7 discharges for municipal water treatment plants located on the  
8 Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted  
9 to reflect credit for substances removed from the plant intake water  
10 if:

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

13 (ii) The municipality demonstrates that no violation of receiving  
14 water quality standards or appreciable environmental degradation will  
15 result.

16 (4) The development of multipurpose water storage facilities shall  
17 be a high priority for programs of water allocation, planning,  
18 management, and efficiency. The department, other state agencies,  
19 local governments, and planning units formed under section 107 or 108  
20 of this act shall evaluate the potential for the development of new  
21 storage projects and the benefits and effects of storage in reducing  
22 damage to stream banks and property, increasing the use of land,  
23 providing water for municipal, industrial, agricultural, power  
24 generation, and other beneficial uses, and improving stream flow  
25 regimes for fisheries and other instream uses.

26 (5) Adequate and safe supplies of water shall be preserved and  
27 protected in potable condition to satisfy human domestic needs.

28 (6) Multiple-purpose impoundment structures are to be preferred  
29 over single-purpose structures. Due regard shall be given to means and  
30 methods for protection of fishery resources in the planning for and  
31 construction of water impoundment structures and other artificial  
32 obstructions.

33 (7) Federal, state, and local governments, individuals,  
34 corporations, groups and other entities shall be encouraged to carry  
35 out practices of conservation as they relate to the use of the waters  
36 of the state. In addition to traditional development approaches,  
37 improved water use efficiency, conservation, and use of reclaimed water  
38 shall be emphasized in the management of the state's water resources

1 and in some cases will be a potential new source of water with which to  
2 meet future needs throughout the state. Use of reclaimed water shall  
3 be encouraged through state and local planning and programs with  
4 incentives for state financial assistance recognizing programs and  
5 plans that encourage the use of conservation and reclaimed water use,  
6 and state agencies shall continue to review and reduce regulatory  
7 barriers and streamline permitting for the use of reclaimed water where  
8 appropriate.

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

15 (9) Full recognition shall be given in the administration of water  
16 allocation and use programs to the natural interrelationships of  
17 surface and groundwaters.

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

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

23 **Sec. 4.** RCW 90.82.020 and 1997 c 442 s 103 are each amended to  
24 read as follows:

25 (~~Unless the context clearly requires otherwise,~~) The definitions  
26 in this section apply throughout this chapter unless the context  
27 clearly requires otherwise.

28 (1) "Department" means the department of ecology.

29 (2) "Implementing rules" for a WRIA plan are the rules needed to  
30 give force and effect to the parts of the plan that create rights or  
31 obligations for any party including a state agency or that establish  
32 water management policy.

33 (3) "Minimum instream flow" (~~means a~~) has the same meaning as  
34 "minimum flows" or "minimum flows and levels" under chapter 90.03 or  
35 90.22 RCW or ((a)) "base flows" under chapter 90.54 RCW.

36 (4) "WRIA" means a water resource inventory area established in  
37 chapter 173-500 WAC as it existed on January 1, 1997.

1           (5) "Water supply utility" means a water, combined water-sewer,  
2 irrigation, reclamation, or public utility district that provides water  
3 to persons or other water users within the district or a division or  
4 unit responsible for administering a publicly governed water supply  
5 system on behalf of a county.

6           (6) "WRIA plan" or "plan" means the product of the planning unit  
7 including any rules adopted in conjunction with the product of the  
8 planning unit.

9           NEW SECTION.   **Sec. 5.** The amendments in sections 1 through 4 of  
10 this act are solely intended to clarify existing law. No other  
11 substantive interpretation is intended or implied.

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