
**Agriculture & Natural Resources
Committee**

HB 1338

Brief Description: Concerning the diversion of certain municipal waters.

Sponsors: Representatives Buys, Blake and Van Werven.

Brief Summary of Bill

- Allows a municipality that discharges foreign water into the Nooksack River to claim and divert an equal amount of water from the Nooksack River at a municipality-owned diversion point located no more than 1 mile upstream from the discharge point of the foreign water.

Hearing Date: 2/3/15

Staff: Jason Callahan (786-7117).

Background:

In general, a water right permit is issued for the purpose of developing the beneficial use for a water right. Once that use has been developed in accordance with the provisions of the permit, a water right certificate is issued for the use. Both the surface water code and the groundwater code allow for "transfers" of rights through the approval of transfers, changes, or amendments regarding water rights.

A change in the place of use, point of diversion, or purpose of use of a water right to allow the irrigation of additional acreage or the addition of new uses may be permitted if the change results in no increase in the annual consumptive quantity of water used under the water right. The "annual consumptive quantity" is the estimated or actual annual amount of water diverted under the water right as that amount is reduced by the estimated annual amount of return flows, averaged over the most recent five-year period of continuous beneficial use of the water right.

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.

All change applications must be filed with, and approved by, the Department of Ecology (Department). The Department may approve the application, after providing public notice, if the change appears to not injure or serve as a detriment to any other water rights.

Under the surface water code, the Department may approve a change in the point of diversion for an undeveloped portion of an existing water right permit in certain circumstances without an applicant following the standard change application route. This authority applies to changing an existing authorized point of diversion downstream from the existing point of diversion to a second existing intake structure with the available capacity to transport the additional diversion. It applies only if there is no change in the ownership of the permit and if the original purpose and place of use of the water under the permit are not changed. Additionally, and under the same conditions, the Department may change the point of diversion on the Columbia River for any water permit located between river mile 215.6 and river mile 292.

Summary of Bill:

The Department must allow a municipality that owns foreign water to claim and divert a certain amount of water from the Nooksack River. Foreign water is developed water that was not part of a river basin's source water supply prior to the work of the entity that developed the water.

A municipality that wishes to divert water from the Nooksack River must satisfy two conditions. First, the claimed diversion of foreign water must occur at an intake structure owned by the municipality that is located not more than 1 mile upstream from where the foreign water is being discharged into the Nooksack River. Second, the amount of water diverted out of the Nooksack River by the municipality is no greater on a daily basis than the amount of foreign water being discharged into the river by the municipality.

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.