
SUBSTITUTE SENATE BILL 5407

State of Washington 64th Legislature 2015 Regular Session

By Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Pearson, Bailey, and Benton)

READ FIRST TIME 02/13/15.

1 AN ACT Relating to the effects of instream flow rules on water
2 use; and amending RCW 90.22.030 and 90.54.020.

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

4 **Sec. 1.** RCW 90.22.030 and 1988 c 127 s 81 are each amended to
5 read as follows:

6 (1) The establishment of levels and flows pursuant to RCW
7 90.22.010 shall in no way affect existing water and storage rights
8 and the use thereof, including but not limited to rights relating to
9 the operation of any hydroelectric or water storage reservoir or
10 related facility. No right to divert or store public waters shall be
11 granted by the department of ecology which shall conflict with
12 regulations adopted pursuant to RCW 90.22.010 and 90.22.020
13 establishing flows or levels.

14 (2)(a) Except as provided in (b) of this subsection, levels and
15 flows established pursuant to this chapter or chapter 90.54 RCW do
16 not in any way affect any groundwater withdrawal exempt from the
17 permit requirement in RCW 90.44.050 on any lot of record lawfully
18 established as of the effective date of this section.

19 (b) Levels and flows established pursuant to this chapter or
20 chapter 90.54 RCW may limit a groundwater withdrawal from permit
21 exempt wells meeting the requirements of (a) of this subsection only

1 if the department demonstrates that the particular groundwater
2 withdrawal from the specific permit exempt well at issue, by itself
3 and not when considered as part of the aggregate of groundwater
4 withdrawals, will in fact cause impairment to levels and flows.

5 (3) All regulations establishing flows or levels shall be filed
6 in a "Minimum Water Level and Flow Register" of the department of
7 ecology.

8 **Sec. 2.** RCW 90.54.020 and 2007 c 445 s 8 are each amended to
9 read as follows:

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

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

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

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

25 (a) Perennial rivers and streams of the state shall be retained
26 with base flows necessary to provide for preservation of wildlife,
27 fish, scenic, aesthetic and other environmental values, and
28 navigational values. Lakes and ponds shall be retained substantially
29 in their natural condition. Withdrawals of water which would conflict
30 therewith shall be authorized only in those situations where it is
31 clear that overriding considerations of the public interest will be
32 served. Making available uninterrupted water supplies for domestic
33 uses through the establishment of reservations of water serves
34 overriding considerations of the public interest.

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

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

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

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

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

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

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

32 (7) Federal, state, and local governments, individuals,
33 corporations, groups and other entities shall be encouraged to carry
34 out practices of conservation as they relate to the use of the waters
35 of the state. In addition to traditional development approaches,
36 improved water use efficiency, conservation, and use of reclaimed
37 water shall be emphasized in the management of the state's water
38 resources and in some cases will be a potential new source of water
39 with which to meet future needs throughout the state. Use of
40 reclaimed water shall be encouraged through state and local planning

1 and programs with incentives for state financial assistance
2 recognizing programs and plans that encourage the use of conservation
3 and reclaimed water use, and state agencies shall continue to review
4 and reduce regulatory barriers and streamline permitting for the use
5 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
10 the public generally shall be discouraged where water supplies are
11 available from water systems serving the public.

12 (9) Full recognition shall be given in the administration of
13 water allocation and use programs to the natural interrelationships
14 of surface and groundwaters.

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

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

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