

---

SENATE BILL 5407

---

State of Washington

64th Legislature

2015 Regular Session

By Senators Pearson, Bailey, and Benton

Read first time 01/21/15. Referred to Committee on Agriculture,  
Water & Rural Economic Development.

1 AN ACT Relating to existing lots and the Skagit instream flow  
2 rule; 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 pursuant to this chapter or chapter 90.54 RCW do not affect any  
16 groundwater withdrawal exempt from the permit requirement in RCW  
17 90.44.050 on any lot of record lawfully established as of the  
18 effective date of this section.

19 (b) Levels and flows pursuant to this chapter or chapter 90.54  
20 RCW may limit groundwater withdrawals exempt from the permit  
21 requirement in RCW 90.44.050 on a lot of record lawfully established

1 as of the effective date of this section only if the department of  
2 ecology demonstrates that groundwater withdrawal from the specific  
3 permit exempt well will actually impair instream flows.

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

7 **Sec. 2.** RCW 90.54.020 and 2007 c 445 s 8 are each amended to  
8 read 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  
16 with the enjoyment of the public waters of the state, are declared to  
17 be 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  
23 and, 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. Making available uninterrupted water supplies for domestic  
32 uses through the establishment of reservations of water serves  
33 overriding considerations of the public interest.

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  
36 materials and substances proposed for entry into said waters shall be  
37 provided with all known, available, and reasonable methods of  
38 treatment prior to entry. Notwithstanding that standards of quality  
39 established for the waters of the state would not be violated, wastes

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

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

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

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

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

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

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

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

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

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

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

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

--- END ---