**5491 AMS PARL S3305.1 - NOT FOR FLOOR USE**

**SB 5491** - S AMD **481**

By Senator Parlette

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  A new section is added to chapter 90.54 RCW to read as follows:

(1) Reservations of water for certain future uses included in rules establishing minimum levels and flows that were adopted or amended pursuant to this chapter or chapter 90.03 or 90.22 RCW are consistent with legislative intent and are specifically authorized to be maintained and implemented by the department if the following conditions are satisfied:

(a) The rule was adopted or amended prior to the supreme court of Washington's October 3, 2013, opinion in *Swinomish Indian Tribal Community v. Washington State Department of Ecology*; and

(b) The rule applies to a water resource inventory area in which a plan, as defined in RCW 90.82.020, was adopted as of the effective date of this section.

(2) This section does not apply to the amended rule at issue in the supreme court of Washington's October 3, 2013, opinion in *Swinomish Indian Tribal Community v. Washington State Department of Ecology*.

(3) Nothing in this section shall be construed to affect or alter the department's authority to adopt, amend, or repeal rules establishing minimum instream levels and flows.

(4) Nothing in this section shall be construed to affect or alter the department's authority to authorize withdrawals of water in those situations where it is clear that overriding considerations of the public interest will be served under RCW 90.54.020.

(5) Nothing in this section shall be construed to prejudice any reservations of water included in any rule that does not satisfy the conditions listed in subsection (1) of this section."

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On page 1, line 2 of the title, after "uses;" strike the remainder of the title and insert "and adding a new section to chapter 90.54 RCW."

EFFECT: (1) Preserves water reservations for certain future uses included in rules establishing minimum levels and flows if the reservations (a) were adopted prior to October 3, 2013; and (b) apply to a water resource inventory area with a plan adopted by the date of the act.

(2) Clarifies that this act does not apply to the amended rule considered in the October 2013 *Swinomish* opinion; or affect or alter the department's rule-making authority as to instream levels and flows and water withdrawals in situations of overriding considerations of the public interest.