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**SENATE BILL 5129**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Pearson and Honeyford

AN ACT Relating to overriding considerations of the public interest in management of the waters of the state; amending RCW 90.54.020; and creating a new section.

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

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

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

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

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

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

(a) Perennial rivers and streams of the state shall be retained with base flows necessary to provide for preservation of wildlife, fish, scenic, aesthetic and other environmental values, and navigational values. Lakes and ponds shall be retained substantially in their natural condition. Withdrawals of water which would conflict therewith shall be authorized only in those situations where it is clear that overriding considerations of the public interest will be served. Making available uninterruptible water supplies for domestic uses through the establishment of reservations of water clearly will serve overriding considerations of the public interest. When establishing levels and flows pursuant to this chapter and chapter 90.22 RCW, the department shall reserve a reasonable amount of water for domestic uses whether or not adopted levels or flows will be met. The amount of water reserved shall be consistent with the requirement that adequate supplies of water shall be preserved and protected to satisfy human domestic needs. The department may limit the quantity of reservation water available to new domestic uses, but the department shall not make available less water than is necessary to meet reasonable drinking, cooking, sanitation, and domestic property maintenance demands. The department may consider relevant population growth projections when determining the appropriate quantity of water to reserve for domestic uses.

(b) Waters of the state shall be of high quality. Regardless of the quality of the waters of the state, all wastes and other materials and substances proposed for entry into said waters shall be provided with all known, available, and reasonable methods of treatment prior to entry. Notwithstanding that standards of quality established for the waters of the state would not be violated, wastes and other materials and substances shall not be allowed to enter such waters which will reduce the existing quality thereof, except in those situations where it is clear that overriding considerations of the public interest will be served. Technology-based effluent limitations or standards for discharges for municipal water treatment plants located on the Chehalis, Columbia, Cowlitz, Lewis, or Skagit river shall be adjusted to reflect credit for substances removed from the plant intake water if:

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

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

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

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

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

(7) Federal, state, and local governments, individuals, corporations, groups and other entities shall be encouraged to carry out practices of conservation as they relate to the use of the waters of the state. In addition to traditional development approaches, improved water use efficiency, conservation, and use of reclaimed water shall be emphasized in the management of the state's water resources and in some cases will be a potential new source of water with which to meet future needs throughout the state. Use of reclaimed water shall be encouraged through state and local planning and programs with incentives for state financial assistance recognizing programs and plans that encourage the use of conservation and reclaimed water use, and state agencies shall continue to review and reduce regulatory barriers and streamline permitting for the use of reclaimed water where appropriate.

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

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

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

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

NEW SECTION. **Sec.**  Within two years from the effective date of this section, the department of ecology shall review all existing rules that establish levels or flows pursuant to chapter 90.54 or 90.22 RCW to determine whether sufficient water has been set aside in reservations in adequate amounts to satisfy human domestic needs. Where the department's review demonstrates that adequate reserves have not been made in areas covered by existing rules that establish levels and flows, the department shall take appropriate action to amend such rules, consistent with the requirements of RCW 90.54.020(3)(a). The amendment of rules described in this section shall take priority over the adoption of new rules establishing levels and flows in areas not currently covered by such rules. The priority date for rules amended pursuant to this section shall not relate back to the priority date of the original rule, but the amended rule shall have a priority date that is no earlier than the date of the final adoption of the amended rule by the department of ecology.

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