

SSB 5965 - H COMM AMD

By Committee on Agriculture & Natural Resources

1 Beginning on page 1, line 17, strike all of section 2 and insert
2 the following:

3 "NEW SECTION. **Sec. 2.** (1) The department of ecology must
4 produce a report evaluating options for mitigating the effects of
5 permit-exempt groundwater withdrawals on existing water rights,
6 including base flows and minimum instream flows. For the purposes of
7 the report required in this section, the mitigation techniques that
8 the department of ecology must evaluate include, but are not limited
9 to:

10 (a) Demand management strategies, such as household conservation
11 and associated water use metering;

12 (b) Supply side strategies, such as use of rainwater collection,
13 greywater, cisterns, bulk or hauled water, and the extension of water
14 supply pipelines.

15 (2) When preparing the report required under this section, the
16 department of ecology must:

17 (a) Consult with the office of the attorney general;

18 (b) Coordinate with the existing water resources advisory
19 committee formed by the department of ecology to provide feedback on
20 the development of the report and any final recommendations; and

21 (c) Make available a draft of the report on its web site for at
22 least thirty days for public review prior to the completion of the
23 report to allow sufficient opportunity to consider input that may be
24 received.

25 (3) The report required in this section must include:

26 (a) An examination of scientific methods for establishing
27 instream flows, including a discussion of methods regularly used by
28 the department of ecology and the department of fish and wildlife for
29 each element of the instream flows required to be protected under RCW
30 90.54.020(3);

31 (b)(i) An analysis of the impacts, including cumulative impacts,
32 of permit-exempt groundwater withdrawals on instream flows in several
33 representative basins, including the impacts from existing and future
34 withdrawals based on full build out scenarios.

1 (ii) The analysis required under this subsection should include a
2 specific focus on impacts to tributaries that serve as habitat for
3 salmonid spawning and rearing and should include empirical data
4 concerning household water use for each category of use identified in
5 RCW 90.44.050;

6 (c) A description of mitigation techniques, including out-of-kind
7 mitigation, the department of ecology has employed or approved
8 pursuant to RCW 90.03.255 in the previous ten years, or which may be
9 available, to address the impacts of permit-exempt groundwater
10 withdrawals on instream flows, including the location, cost, and
11 legal authority for each type of mitigation technique;

12 (d) A survey of in-kind streamflow enhancement strategies, other
13 than regulation of permit-exempt groundwater withdrawals, that would
14 improve streamflow levels in a cost-effective manner;

15 (e)(i) An assessment of the effectiveness of each type of
16 mitigation technique identified in (c) of this subsection, that may
17 be available to the department of ecology to mitigate the impacts of
18 permit-exempt groundwater withdrawals on instream flows.

19 (ii) The analyses required under this section must include:

20 (A) A scientific analysis of how the technique fully mitigates
21 for harm; and

22 (B) An evaluation of how the mitigation techniques are funded,
23 monitored, enforced, evaluated to determine effectiveness, and
24 modified if mitigation fails;

25 (f) An evaluation of all mitigation options that may be available
26 for permit-exempt groundwater withdrawals in the areas covered under
27 the instream resources protection program for the lower and upper
28 Skagit river basin, water resource inventory areas 3 and 4, and a
29 discussion of the advantages and disadvantages of employing each type
30 of mitigation technique in those areas;

31 (g) An evaluation of how mitigation sequencing approaches may be
32 utilized to encourage avoidance of impacts; and

33 (h) Any recommendations regarding mitigation options that will be
34 available to landowners who are required to mitigate the impacts of
35 permit-exempt groundwater withdrawals on instream flows.

36 (4) By December 1, 2015, the department of ecology must submit
37 the final report to the legislature consistent with RCW 43.01.036.

38 NEW SECTION. **Sec. 3.** This act expires June 30, 2016."

1 Renumber the remaining section consecutively and correct the
2 title.

EFFECT: Specifically includes demand side and supply side management strategies in the mitigation options that must be included in the report, requires coordination with the water resources advisory committee on the production of the report, changes the examination of scientific "methodologies" to scientific "methods," changes references to "base flow and instream flows" to "instream flows" throughout, adds the department of fish and wildlife into the section discussing the scientific methods of setting instream flows, removes specific references to the meaning of the term "out-of-kind" mitigation and the specific direction to report on the location, cost, and authority for out-of-kind mitigation projects, changes the analyses of whether mitigation for groundwater withdrawals affect instream flows to the effect on instream flows of groundwater withdrawals, requires an evaluation of how mitigation sequencing approaches may be utilized to encourage avoidance of impacts, requires specific details regarding the analyses around specific mitigation techniques, changes the report due date from November 1st to December 1st, and provides an expiration date.

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