

SSB 5965 - H COMM AMD

By Committee on General Government & Information Technology

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that rural economic
4 development requires access to uninterrupted water supplies.
5 However, water supplies are not unlimited due to senior water rights
6 and regulations that establish base flows and minimum instream flows.
7 When senior water rights and flow regulations limit additional out-
8 of-stream uses, mitigation options may provide a viable option if
9 they are readily available and well-understood. The legislature
10 recognizes the importance of providing clarity regarding the range of
11 available mitigation options to help provide economic opportunities
12 in rural areas.

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

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

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

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

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

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

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

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

2 (a) An examination of scientific methods for establishing
3 instream flows, including a discussion of methods regularly used by
4 the department of ecology and the department of fish and wildlife for
5 each element of the instream flows required to be protected under RCW
6 90.54.020(3);

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

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

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

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

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

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

30 (A) A scientific analysis of how the technique fully mitigates
31 for harm; and

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

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

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

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

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

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

9 NEW SECTION. **Sec. 4.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 2015, in the omnibus appropriations act, this
12 act is null and void.

13 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of
15 the state government and its existing public institutions, and takes
16 effect immediately."

17 Correct the title.

EFFECT: Changes the effect section to remove language related to rural economic development being threatened by a lack of access to uninterrupted water, removes language related to state agencies failing to provide mitigation options, removes language related to it not being acceptable policy to inhibit rural economic development, and adds language recognizing that senior water rights and instream rules make access to water not unlimited and that clarity regarding available mitigation would be helpful.

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.

Makes the bill null and void if funding for the bill is not provided in the operating budget.

--- END ---