
**Agriculture & Natural Resources
Committee**

HB 1348

Brief Description: Concerning the priority in the state water code assigned to various beneficial uses.

Sponsors: Representatives Taylor, Shea, Buys, Short and Koster.

Brief Summary of Bill

- Provides that regardless of the priority date established for minimum instream flows, such flows have an inferior priority relative to water rights applied to beneficial use for potable water supply, water for agriculture and irrigation, and water for commercial and industrial purposes.

Hearing Date: 2/8/17

Staff: Robert Hatfield (786-7117).

Background:

Water Rights.

Washington operates under a water right permit system. With certain exceptions, new rights to use surface or ground water must be established according to the permit system. Exemptions include any withdrawal of public groundwater for stock watering purposes, for watering a lawn, or for a noncommercial garden less than one half an acre. Single or group domestic uses or industrial purposes not exceeding 5,000 gallons per day are also exempt.

The Department of Ecology (Ecology) must consider a four-part test when deciding whether to issue a new water right, specifically whether: (1) water is available, (2) a beneficial use of water would be made, (3) granting the right would impair existing rights, and (4) the proposed use would detrimentally affect the public welfare. If an application passes this test, Ecology issues a permit which establishes a time table for constructing the infrastructure to access the water and

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for putting water to beneficial use. When the conditions of the permit are satisfied, Ecology issues a water right certificate.

Beneficial Use.

A beneficial use of water includes, but is not limited to, use for domestic water, irrigation, fish, shellfish, game and other aquatic life, municipal, recreation, industrial water, generation of electric power, and navigation.

Instream Flow Rules.

Ecology has the authority to adopt rules establishing a minimum water flow for streams, lakes, or other public water bodies for the purposes of protecting fish, game, birds, and the recreational and aesthetic values of the waterways. Ecology must set minimum water flows to protect fish, game, or wildlife resources, when requested by the Department of Fish and Wildlife, or if Ecology finds it necessary to protect water quality.

These minimum water flow levels, commonly called instream flows, function as water rights with a priority date set at the adoption date of the corresponding rule. Instream flows have been set in 29 watersheds plus the mainstem of the Columbia River. The instream flow cannot affect an existing water right with a senior priority date. Withdrawals of water that would impair senior instream flows are authorized only where the withdrawals clearly serve to satisfy an overriding consideration of the public interest.

Summary of Bill:

Priority Dates for Minimum Instream Flows.

Regardless of the priority date established for minimum instream flows, such flows have an inferior priority relative to water rights applied to beneficial use for potable water supply, water for agriculture and irrigation, and water for commercial and industrial purposes.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.