
**Rural Development, Agriculture, &
Natural Resources Committee**

HB 1979

Brief Description: Concerning the establishment of reasonable surface water flow levels.

Sponsors: Representatives Maycumber, Dent, Walsh and Eslick.

Brief Summary of Bill

- Provides that minimum instream flows adopted by the Department of Ecology may not exceed the highest nonflood documented flow during the same month that has occurred at any time during the previous 50 years as reported by the United States Geological Survey.
- Directs the Director of the Department of Ecology to immediately repeal any instream flow rule where the minimum flows exceed the highest nonflood documented flow during the same month that has occurred at any time during the previous 50 years as reported by the United States Geological Survey.

Hearing Date: 1/21/20

Staff: Robert Hatfield (786-7117).

Background:

Instream Flow Rules.

The Department of Ecology (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

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set in 27 Water Resource Inventory Areas. The instream flow cannot affect an existing water right with a senior priority date.

Summary of Bill:

Minimum water flows or levels adopted by the Department of Ecology may not exceed the highest nonflood documented flow during the same month that has occurred at any time during the previous 50 years as reported by the United States Geological Survey.

The Director of the Department of Ecology must immediately repeal any instream flow rule where the minimum flows exceed the highest nonflood documented flow during the same month that has occurred at any time during the previous 50 years as reported by the United States Geological Survey.

Prior to the repeal of any instream flow rule, the Department of Ecology must hold a public hearing in Thurston County. The Department of Ecology is not required to hold a hearing in the county where the affected body of water is located. The Department of Ecology must notify, by electronic mail, the county commissioners of any county impacted by the rule repeal.

Appropriation: None.

Fiscal Note: Requested on January 14, 2020.

Effective Date: The bill contains an emergency clause and takes effect immediately.