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## Environment & Energy Committee

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### HB 2235

**Brief Description:** Improving publicly available data on Washington state's water quality to improve salmon recovery and the prioritization of salmon recovery projects.

**Sponsors:** Representatives Dye and Couture.

#### Brief Summary of Bill

- Requires the Department of Ecology (Ecology) to submit an annual inventory of polluted waters of Washington to the committees of the Legislature with jurisdiction over fisheries and water quality.
- Specifies elements that must be included in the inventory of polluted waters, including a statement concerning Ecology's on-time compliance with the biennial reporting obligations of the Clean Water Act.
- Requires Ecology to establish a baseline of water quality prior to proposing a water body for designation as an outstanding resource water.

**Hearing Date:** 1/16/24

**Staff:** Robert Hatfield (786-7117).

#### **Background:**

##### Clean Water Act.

The federal Clean Water Act sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The Department of Ecology (Ecology) has received delegated authority from the United States Environmental Protection Agency (EPA) to carry out the Clean Water Act in Washington.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

### Total Maximum Daily Loads.

One of Ecology's duties under its delegated Clean Water Act authority is to develop total maximum daily load assessments and allocations (TMDLs) for water bodies that violate water quality standards. The objective of a TMDL is to allocate allowable loads among different pollutant sources so that the appropriate control actions can be taken and water quality standards achieved. Total maximum daily load assessments and allocations are submitted to the EPA for approval.

### Clean Water Act—List of Impaired Water Bodies.

Section 303(d) of the Clean Water Act requires states to prepare a list for EPA approval every two years of the specific water bodies or water body segments that do not meet state water quality standards, also known as the 303(d) list. Ecology collected data on water quality in 2022 and plans to evaluate the data and release a draft list of impaired waters for review in early 2024. A water body can be removed from the 303(d) list when the state develops a TMDL for the water body and the TMDL is approved by the EPA.

### Outstanding Resource Waters.

Outstanding resource waters are defined in Ecology regulations as high quality waters designated by the state due to their exceptional water quality, ecological or recreational significance, unique habitat, or cold water refuge. Outstanding resource waters are given the highest level of protection under the state antidegradation policy.

### **Summary of Bill:**

#### Inventory of Polluted Waters.

The Department of Ecology (Ecology) must submit an inventory of polluted waters of Washington by December 1 of each year to the committees of the Legislature with jurisdiction over fisheries and water quality. The purpose of the report is to describe and visually depict the extent of existing pollution and relative improvement or deterioration of conditions, and to provide accountability for any failure of the state to meet federal Clean Water Act reporting obligations.

#### Inventory of Polluted Waters—Elements.

The inventory of polluted waters must include, at a minimum, the following elements:

- a clear statement concerning Ecology's on-time compliance with the biennial reporting obligations of the Clean Water Act. The statement must apprise the Legislature whether the reporting obligation can be and will be fulfilled based on current staffing and funding levels for data collection. If Ecology has reason to anticipate noncompliance with federal

biennial reporting obligations, Ecology must include in the report an assessment of the funding and staffing levels and programmatic changes that would be necessary to achieve not only minimum levels of federal compliance but also to produce a comprehensive assessment of water quality for all water bodies and water body segments that are feasible to assess;

- an accounting of the number of water bodies and water body segments successfully cleaned up over the preceding year to the point of removal from the list of water bodies listed as impaired under the federal Clean Water Act, and the number of newly added water bodies and water body segments over the same interval. The report must contain the currently known number of water bodies and water body segments that are listed as impaired for one or more pollutants, an identification of the number of water bodies and water body segments that are impaired for each type of pollutant for which recordkeeping is federally required, and the approximate percentage of total water bodies and water body segments for which data were gathered;
- a comparative description of state funding and Ecology staffing levels for water quality monitoring, assessment, and improvement, a description of trends in those staffing and funding levels, and a reference comparison to state funding and staffing levels for air quality monitoring, assessment, and improvement over the same time period; and
- a description of available scientific knowledge on the relationship between existing water pollution levels and types in Washington waters and salmon mortality, including any known quantitative assessment of the salmon population levels Washington would have if its water bodies met federal and state water quality levels. In each subsequent report, this description must be updated to reflect any newly published peer-reviewed research that is specific to Washington waters and Washington salmon.

#### Designation of Outstanding Waters.

The scope of actions for which Ecology must use credible data is expanded to include designating outstanding resource waters and establishing a baseline of water quality prior to proposing a water body for designation as an outstanding resource water.

**Appropriation:** None.

**Fiscal Note:** Requested on January 10, 2024.

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