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SENATE BILL 5965

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Warnick, Hatfield, Pearson, Hobbs, and Bailey

Read first time 02/13/15. Referred to Committee on Agriculture,  
Water & Rural Economic Development.

1            AN ACT Relating to evaluating mitigation options for impacts to  
2 base flows and minimum instream flows; creating new sections; and  
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** The legislature finds that rural economic  
6 development is threatened when access to uninterrupted water  
7 supplies is restricted as a result of rules that establish base flows  
8 and minimum instream flows. The problem is acute when state agencies  
9 fail to provide reasonable mitigation options for landowners who rely  
10 on permit-exempt groundwater withdrawals as a source of water. The  
11 legislature recognizes that inhibiting economic opportunities in  
12 rural areas is not an acceptable policy for the people of Washington  
13 and that options may exist whereby a broader range of mitigation  
14 choices could be made available to landowners whose ability to access  
15 water has been curtailed by rules that establish base flows and  
16 minimum instream flows.

17            NEW SECTION.    **Sec. 2.** (1) The department of ecology must produce  
18 a report evaluating options for mitigating the effects of permit-  
19 exempt groundwater withdrawals on base flows and minimum instream  
20 flows. The department of ecology must prepare the report using

1 existing resources. The department of ecology must consult with the  
2 office of the attorney general when preparing the report. The report  
3 must include:

4 (a) A description of the range of mitigation techniques the  
5 department of ecology has employed in the last ten years to mitigate  
6 the impacts of permit-exempt groundwater withdrawals on base flows  
7 and minimum instream flows, including the location, cost, and legal  
8 authority for each type of mitigation technique;

9 (b) A discussion of out-of-kind mitigation techniques the  
10 department of ecology has employed in the last ten years, or may seek  
11 to employ, to mitigate the impacts of permit-exempt groundwater  
12 withdrawals on base flows and minimum instream flows, including the  
13 location, cost, and legal authority for each type of out-of-kind  
14 mitigation technique. For purposes of this section, out-of-kind  
15 mitigation techniques are mitigation techniques that seek to manage  
16 broader hydrologic effects that may be associated with rural  
17 development rather than focusing on regulating the consumptive impact  
18 of new groundwater withdrawals. Out-of-kind mitigation techniques may  
19 include, but are not limited to, land development practices, habitat  
20 restoration, and best management practices;

21 (c) An assessment of the effectiveness of each type of mitigation  
22 technique, including out-of-kind mitigation techniques, that may be  
23 available to the department of ecology to mitigate the impacts of  
24 permit-exempt groundwater withdrawals on base flows and minimum  
25 instream flows;

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

32 (e) Recommendations for legislative action that should be taken  
33 to ensure that reasonable mitigation options, including out-of-kind  
34 mitigation techniques, will be available to landowners who are  
35 required to mitigate the impacts of permit-exempt groundwater  
36 withdrawals on base flows and minimum instream flows.

37 (2) By November 1, 2015, the department of ecology must submit  
38 the finished report to the appropriate committees of the legislature  
39 having oversight over water resource issues.

1        NEW SECTION.    **Sec. 3.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect immediately.

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