
**Agriculture & Natural Resources
Committee**

ESSB 6312

Brief Description: Promoting job creation by ensuring access to domestic water for home construction.

Sponsors: Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Haugen, Hobbs, Honeyford, Hatfield, Hargrove and Shin).

Brief Summary of Engrossed Substitute Bill

- Prohibits the Department of Ecology (Department) from adopting rules applicable to the Skagit River basin that constrains any new groundwater withdrawals for certain domestic use to less than 350 gallons per day per dwelling unit.
- Provides direction to the Department regarding how funds should be prioritized to offset the concerns raised by groundwater withdraws in rural areas.
- Amends the State Building Code to allow groundwater withdraws in the Skagit River Basin to satisfy the requirement for potable water supplies.

Hearing Date: 2/17/12

Staff: Jason Callahan (786-7117).

Background:

Skagit River basin water rules.

The Department of Ecology (Department) has adopted specific rules related to water withdraws in the Skagit River basin. These rules include a determination by the Department that water is not available in the Skagit River basin for year-round consumptive appropriation (WAC 173-503-051). The Department has set aside a limited amount of surface water for future out-of-stream uses in the Skagit River basin; however, with some exception, the basin will be closed to future appropriation once those set asides are allocated.

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

The Department has also limited groundwater withdraws in the Skagit River basin. An administrative determination has been made that the hydrology of the Skagit River basin is such that groundwater withdraws may impact surface water levels. Based on that determination, the Department requires an applicant for new groundwater withdraws, or a change or transfer for an existing right, in the Skagit River basin to show, through scientific studies and analysis, that the action will not cause impairment to the instream flows of the Skagit River (WAC 173-503-060 & 173-503-081).

State Building Code.

The State Building Code requires that all building permit applicants must provide evidence that an adequate supply of potable water will be available for the building being proposed. Adequate evidence of a potable water supply can include possession of a water right or a letter from a water purveyor stating the ability to provide water to the building (RCW 19.27.097). All public water systems must provide an adequate quantity and quality of water in a reliable manner at all times (WAC 246-290-420).

Summary of Bill:

The Department of Ecology (Department) is prohibited from adopting rules applicable to the Skagit River basin that constrains any new groundwater withdrawals for domestic use to less than 350 gallons per day per dwelling unit. This prohibition only applies to rules that would affect domestic dwelling units that cannot be serviced by a public water system and that utilizes an on-site septic system for waste water treatment. Domestic users satisfying this requirement are entitled to withdraw up to 350 gallons per day of public groundwater. If the water is put to beneficial use, then the water user is entitled to a water right for the continued use of the groundwater. The reliance on this entitlement for new domestic development in the Skagit River basin satisfies the State Building Code's potable water requirements if there is a signed declaration of intent to abide by the 350 gallons per day limit and the local jurisdiction is satisfied that water meeting the state's drinking water quality standards is actually available for withdraw.

The Department is provided with the discretionary authority to quantify improvements to instream flows, groundwater recharge, and fish habitat improvements that were made possible by public, tax-supported programs. The Department is also provided with the authority to pursue similar monies to invest in habitat and instream flow improvements to offset concerns raised by its inability to allow domestic groundwater withdraws of less than 350 gallons per day in the Skagit River basin. If funding is obtained for this purpose, or to offset impacts of groundwater withdraw in other rural areas, that money must be used to protect instream flows in rural areas. If new water is developed or acquired, that water must be dedicated to the state's Trust Water Rights Program with preference given to instream flow improvement proposals located in the Skagit River basin.

The Department is provided direction as to how it should recognize the natural interaction of surface and groundwater. This direction includes providing recognition of the aquifer recharge that occurs through the use of home septic systems and the widely varying degrees of potential impacts to surface water from groundwater withdraws that are less than a one-to-one ratio.

Appropriation: None.

Fiscal Note: Available.

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