



## Where does the Hirst Fix stand right now?

Shortly before the 2017 legislative session began, the Supreme Court of Washington issued an opinion that has had the effect of diminishing people's property rights across the state. The court case is known as the "Hirst" decision, and it originated as a lawsuit brought under the state Growth Management Act (GMA) in Whatcom County. The Hirst decision interpreted the GMA in a manner that severely restricts the use of household wells - also known as "permit-exempt" wells - so called because they use small amounts of water and are therefore exempt from the state water permitting process. In response to a ballooning crisis created by the court's split decision, Sen. Judy Warnick (R-Moses Lake) introduced Senate Bill 5239.

Senate Bill 5239 is designed to promote the continued use of household wells and to restore a proper balance among county and state authorities over the regulation of water, which the court upended in the Hirst decision. The Senate heard extensive testimony from a broad array of groups and individuals seeking relief through passage of SB 5239, including individual property owners, realtors, builders, farmers, counties and cities, community banks, local utilities, and many others. It was clear from testimony that the Hirst decision was already causing major problems and destroying economic development opportunities, especially in Washington's non-urban areas. The Senate passed the bill as E2SSB 5239 with bipartisan support, including every member of the Senate Majority Coalition Caucus, on February 28.

Unfortunately, the bill was put on the back burner in the House of Representatives and eventually rejected by the committee to which it was referred. On March 29 - the final available day for action on the bill according to required legislative deadlines - the House Agriculture and Natural Resources Committee decided not to take a vote on the bill. E2SSB 5239 now remains in the House committee and is not advancing in the legislative process, while the effects of the Hirst decision continue to put rural Washington in peril.

In a statement following the House's failure to vote on E2SSB 5239, Sen. Warnick said she is "disappointed that the House committee was unable to move my legislation that brings needed relief to residents in rural areas of our state. . . . The bottom line is that we must deliver a reasonable policy that lets property owners have access to water on their property without undue burdens and costs that will make their lives harder."