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**SUBSTITUTE HOUSE BILL 2800**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representatives Cairnes, Cooke, Chandler, Pennington and Robertson)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to temporary water rights for cities with  
2 populations no greater than five thousand; adding new sections to  
3 chapter 90.44 RCW; creating a new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout sections 1 through 3 of this act unless the context clearly  
7 requires otherwise.

8 (1) "Firm," if used to describe water supply, means a source or  
9 supply of water that is continuously available and is not subject to  
10 interruption or curtailment under a contract or the terms and  
11 conditions of an intertie.

12 (2) "Intertie" has the same meaning as in RCW 90.03.383(2).

13 NEW SECTION. **Sec. 2.** The legislature finds that an application to  
14 withdraw ground water filed with the department serves overriding  
15 considerations of the public interest when all of the following  
16 criteria are met:

1 (1) The application is either filed or held, through assignment or  
2 otherwise, by a city with a population no greater than five thousand at  
3 the time the application is filed;

4 (2) The city has a sole source of firm water supply and that source  
5 might be at risk of failure due to contamination or to source location  
6 factors including but not limited to steep slope and other geologic  
7 hazards;

8 (3) The city has a comprehensive plan approved under chapter 36.70A  
9 RCW and the plan includes an urban growth area that the city will be  
10 required to serve;

11 (4) The city's current water supply is insufficient to meet the  
12 future demand forecasted in the plan throughout the ten-year period  
13 beginning with the adoption by the city of the plan;

14 (5) The city has no currently available reasonable alternative  
15 source or supplier of water to meet the demand; and

16 (6) The city has identified a permanent alternative firm supply of  
17 water to meet the forecasted demand that the city reasonably expects to  
18 become available within ten years of the date of the adoption by the  
19 city of the plan.

20 NEW SECTION. **Sec. 3.** The department shall approve an application  
21 to withdraw ground water that meets the conditions of section 1 of this  
22 act within one hundred twenty days of a city's request to have the  
23 city's application considered under sections 1 through 3 of this act.

24 (1) The department may issue a permit to the city for such amounts  
25 as requested in the application as are reasonably necessary to meet the  
26 city's future demand forecasted in the city's approved plan; or

27 (2) The department shall issue a temporary permit for an amount  
28 sufficient to enable the city to safely and reliably meet the city's  
29 future demand forecasted in the city's approved plan throughout the  
30 ten-year period beginning with the date of application. A temporary  
31 permit issued under this subsection may have a duration of no more than  
32 ten years, and the department shall cancel a permit so issued earlier  
33 if the city obtains a permanent alternative firm supply of water  
34 sufficient to meet the demand forecasted in the city's plan during the  
35 referenced ten-year period. If a city that holds a temporary permit  
36 issued under this subsection files, before the permit's expiration, a  
37 verified report demonstrating continued need for the temporary permit  
38 and describing the specific steps taken by the city to obtain a

1 sufficient permanent alternative firm supply of water, then the  
2 temporary permit must be extended for one or more additional five-year  
3 periods if reasonable progress is being made toward securing a  
4 permanent firm supply. A temporary permit issued under this subsection  
5 is not an appropriation capable of perfection and RCW 90.03.330 does  
6 not apply to the temporary permit. When a temporary water permit is  
7 issued to a city under this section, and the permanent alternative firm  
8 supply of water identified by the city under section 2 of this act is  
9 water which will be delivered through an intertie as a primary or  
10 secondary supply of water, any of this water delivered through the  
11 intertie to the city is attributed to the water right of the public  
12 water system delivering the water.

13 (3) A permit issued under this section may not be used to provide  
14 water to any golf course.

15 NEW SECTION. **Sec. 4.** This act applies to applications for permits  
16 to withdraw ground water, regardless of when the permits are filed with  
17 the department of ecology. To the extent that an application was filed  
18 before the effective date of this section, this act applies  
19 retroactively, but in all other instances it applies prospectively.

20 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act are each  
21 added to chapter 90.44 RCW.

22 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 immediately.

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