
SUBSTITUTE SENATE BILL 5785

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Newhouse, Morton, Haugen and Rasmussen)

Read first time 03/05/97.

1 AN ACT Relating to consolidating ground water rights of exempt
2 wells; and adding a new section to chapter 90.44 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44 RCW
5 to read as follows:

6 Upon the issuance by the department of an amendment to the
7 appropriate permit or certificate of ground water right, the holder of
8 a valid right to withdraw public ground waters may, without affecting
9 the priority of that right, consolidate that right with a ground water
10 right exempt from the permit requirement under RCW 90.44.050. Such a
11 consolidation amendment shall be issued only after publication of
12 notice of the application and a determination made by the department,
13 in lieu of meeting the conditions required for an amendment under RCW
14 90.44.100, that: (1) The exempt well taps the same body of public
15 ground water as the well to which the water right of the exempt well is
16 to be consolidated; (2) use of the exempt well shall be discontinued
17 upon approval of the consolidation amendment to the permit or
18 certificate; (3) legally enforceable agreements have been entered to
19 prohibit the construction of another exempt well to serve the area

1 previously served by the exempt well to be discontinued, and such
2 agreements are binding upon subsequent owners of the land through
3 appropriate binding limitations on the title to the land; (4) the
4 exempt well or wells that are to be abandoned will be properly
5 decommissioned in accordance with chapter 18.104 RCW and the rules of
6 the department; and (5) other existing rights, including ground and
7 surface water rights and minimum stream flows adopted by rule, shall
8 not be impaired. The amount of the water to be added to the holder's
9 permit or certificate upon discontinuance of the exempt well shall be
10 the average withdrawal from the well for the most recent five-year
11 period preceding the date of the application, except that the amount
12 shall not be less than eight hundred gallons per day for each
13 residential connection or such alternative minimum amount as may be
14 established by the department, and shall not exceed five thousand
15 gallons per day. The department shall accord a presumption in favor of
16 the applicant's proposed amount if the applicant's information
17 establishes activities for the five-year period in the area served by
18 the well to be consistent with average water usage for such activities
19 in the general area. The department shall develop a schedule of
20 average household and small-area landscaping water usages in
21 consultation with the department of health to aid in applying the
22 presumption. The presumption may be rebutted by credible evidence of
23 nonusage of the well during the required period or a substantially
24 different use or intensity of use of the land. The department shall
25 also accord a presumption in favor of approval of such consolidation if
26 the requirements of this subsection are met and the discontinuance of
27 the exempt well is consistent with an adopted coordinated water system
28 plan under chapter 70.116 RCW, an adopted comprehensive land use plan
29 under chapter 36.70A RCW, or other comprehensive watershed management
30 plan applicable to the area containing an objective of decreasing the
31 number of existing and newly developed small ground water withdrawal
32 wells. The department shall provide a priority to reviewing and
33 deciding upon applications subject to this subsection, and shall make
34 its decision within sixty days of the end of the comment period
35 following publication of the notice by the applicant or within sixty
36 days of the date on which compliance with the state environmental
37 policy act, chapter 43.21C RCW, is completed, whichever is later. The

1 applicant and the department may by prior mutual agreement extend the
2 time for making a decision.

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