

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5785**

Chapter 446, Laws of 1997

55th Legislature  
1997 Regular Session

CONSOLIDATION OF GROUND WATER RIGHTS FOR EXEMPT WELLS

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 22, 1997  
YEAS 45 NAYS 0

BRAD OWEN

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**President of the Senate**

Passed by the House April 10, 1997  
YEAS 98 NAYS 0

CLYDE BALLARD

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**Speaker of the  
House of Representatives**

Approved May 20, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5785** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

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**Secretary**

FILED

May 20, 1997 - 4:29 p.m.

GARY LOCKE

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**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5785**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

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

1 construction of another exempt well to serve the area previously served  
2 by the exempt well to be discontinued, and such agreements are binding  
3 upon subsequent owners of the land through appropriate binding  
4 limitations on the title to the land; (4) the exempt well or wells the  
5 use of which is to be discontinued will be properly decommissioned in  
6 accordance with chapter 18.104 RCW and the rules of the department; and  
7 (5) other existing rights, including ground and surface water rights  
8 and minimum stream flows adopted by rule, shall not be impaired. The  
9 notice shall be published by the applicant in a newspaper of general  
10 circulation in the county or counties in which the wells for the rights  
11 to be consolidated are located once a week for two consecutive weeks.  
12 The applicant shall provide evidence of the publication of the notice  
13 to the department. The comment period shall be for thirty days  
14 beginning on the date the second notice is published.

15 The amount of the water to be added to the holder's permit or  
16 certificate upon discontinuance of the exempt well shall be the average  
17 withdrawal from the well, in gallons per day, for the most recent five-  
18 year period preceding the date of the application, except that the  
19 amount shall not be less than eight hundred gallons per day for each  
20 residential connection or such alternative minimum amount as may be  
21 established by the department in consultation with the department of  
22 health, and shall not exceed five thousand gallons per day. The  
23 department shall presume that an amount identified by the applicant as  
24 being the average withdrawal from the well during the most recent five-  
25 year period is accurate if the applicant establishes that the amount  
26 identified for the use or uses of water from the exempt well is  
27 consistent with the average amount of water used for similar use or  
28 uses in the general area in which the exempt well is located. The  
29 department shall develop, in consultation with the department of  
30 health, a schedule of average household and small-area landscaping  
31 water usages in various regions of the state to aid the department and  
32 applicants in identifying average amounts used for these purposes. The  
33 presumption does not apply if the department finds credible evidence of  
34 nonuse of the well during the required period or credible evidence that  
35 the use of water from the exempt well or the intensity of the use of  
36 the land supported by water from the exempt well is substantially  
37 different than such uses in the general area in which the exempt well  
38 is located. The department shall also accord a presumption in favor of  
39 approval of such consolidation if the requirements of this subsection

1 are met and the discontinuance of the exempt well is consistent with an  
2 adopted coordinated water system plan under chapter 70.116 RCW, an  
3 adopted comprehensive land use plan under chapter 36.70A RCW, or other  
4 comprehensive watershed management plan applicable to the area  
5 containing an objective of decreasing the number of existing and newly  
6 developed small ground water withdrawal wells. The department shall  
7 provide a priority to reviewing and deciding upon applications subject  
8 to this subsection, and shall make its decision within sixty days of  
9 the end of the comment period following publication of the notice by  
10 the applicant or within sixty days of the date on which compliance with  
11 the state environmental policy act, chapter 43.21C RCW, is completed,  
12 whichever is later. The applicant and the department may by prior  
13 mutual agreement extend the time for making a decision.

Passed the Senate April 22, 1997.

Passed the House April 10, 1997.

Approved by the Governor May 20, 1997.

Filed in Office of Secretary of State May 20, 1997.