

SENATE BILL REPORT

HB 2203

As of February 20, 1996

Title: An act relating to the hydraulic continuity of ground and surface waters.

Brief Description: Establishing criteria to determine hydraulic continuity.

Sponsors: Representatives Mastin, Chandler, Honeyford and Robertson.

Brief History:

Committee Activity: Ecology & Parks: 2/21/96.

SENATE COMMITTEE ON ECOLOGY & PARKS

Staff: Susan Ridgley (786-7444)

Background: The 1917 surface water code grants certain persons the right to beneficially use surface water under permit, based on the prior appropriation doctrine, through which junior water right holders may not interfere with the ability of senior water right holders to exercise their right. In 1945, the ground water code extended this doctrine to apply to ground water. However, the code states that, to the extent to which any ground water is part of the source of any surface water, the right of a surface water appropriator is superior to any subsequent right granted for ground water.

The physical connection between surface water and ground water is referred to as hydraulic continuity. The hydraulic continuity in a particular water basin affects the extent to which ground water can be withdrawn without adversely affecting either surface water rights or the maintenance of a designated minimum instream flow level.

The Department of Ecology has denied a number of water right permit applications based on concerns about the cumulative effect of new wells on the hydraulic continuity in the affected basins. Because hydraulic continuity is complex, and comprehensive studies are lacking, there is frequently controversy about the accuracy of these decisions.

Summary of Bill: Rules are established by statute for determining whether pumping ground water from a well is likely to cause substantial interference with surface water.

If the water comes from a confined aquifer (i.e. under hydrostatic pressure) then the Department of Ecology must determine that there is a clear and direct relationship between surface and ground water, based on field tests.

If the water comes from an unconfined aquifer, then Ecology assumes that any well within 1/4 mile of a surface water source is hydraulically continuous with it, unless the applicant can demonstrate otherwise. If the well is more than 1/4 mile distant, then Ecology must again determine hydraulic continuity based on field tests.

Once it is determined or assumed that hydraulic continuity exists, Ecology must evaluate whether or not the well substantially interferes with surface water. This may be done either based on an assumption or by considering a number of indicator factors.

Appropriation: None.

Fiscal Note: Requested on February 12, 1996.

Effective Date: Ninety days after adjournment of session in which bill is passed.