
**Agriculture & Natural
Resources Committee**

HB 1535

Brief Description: Exempting certain withdrawals of water from the provisions of RCW 90.44.050.

Sponsors: Representatives Holmquist, Grant, Schoesler, Chandler, Clements, Newhouse, Armstrong, Delvin, Hinkle, Condotta and Skinner.

Brief Summary of Bill

- Clarifies that the exemptions from water right permit requirements provided for stockwatering and for watering a lawn or non-commercial garden not exceeding one-half acre are not limited to 5,000 gallons per day.

Hearing Date: 2/12/03

Staff: Kenneth Hirst (786-7105).

Background:

The Ground Water Code was enacted in 1945. In general, it requires a water right permit for any new withdrawal of ground water after June 6, 1945. However, in addition to "grandfathering" ground water rights in existence before its enactment, the 1945 code also exempted certain new withdrawals from this permit requirement. The code states the exemption as follows:

" . . . any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or for an industrial purpose in an amount not exceeding five thousand gallons a day, is and shall be exempt. . . . " (RCW 90.44.050.)

Recently, the state's Court of Appeals (Division II) decided a case involving the application of the exemptions provided by the 1945 code. In its decision, the court found that a commercial nursery, as part of the nursery industry, falls within the exemption provided for industrial uses of ground water not exceeding 5,000 gallons per day. In reaching this

conclusion, the court interpreted the exemptions from permit requirements provided by the statute as follows:

"The overall scheme of this statute [1945 code] is to require a permit except for certain 'small withdrawals.' The 1945 legislature defined a 'small withdrawal' as (1) any amount of water for livestock; (2) any amount of water for a lawn or for a noncommercial garden of a half acre or less; (3) not more than five thousand gallons per day for domestic use; and (4) not more than five thousand gallons per day 'for an industrial purpose.'" (*Joo Il and Keum Ja Kim v. Pollution Control Hearings Board*, Docket No. 27804-9-II, dated January 24, 2003.)

Summary of Bill:

It is clarified that the exemptions from water right permit requirements provided by the ground water code for stockwatering and for watering a lawn or non-commercial garden not exceeding one-half acre are not limited to 5,000 gallons per day.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.