
**Agriculture & Natural
Resources Committee**

SSB 5077

Brief Description: Clarifying that certain uses of water are exempt from the requirements of obtaining a permit under the ground water code.

Sponsors: Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Honeyford, Rasmussen, Doumit, Hewitt, Swecker, Morton, Brandland, Hale and Mulliken).

Brief Summary of Substitute Bill

- Clarifies the exemption from water right permit requirements provided for stock-watering and for watering certain lawns and noncommercial gardens.

Hearing Date: 3/28/03

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:

The exemptions from permitting provided for stock-watering and for watering a lawn or noncommercial garden not exceeding one-half acre in area are clarified. These exemptions are not limited to 5,000 gallon per day; they are for any amount of water.

The "stock" that may be watered under this exemption are horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species designated as livestock by other statutes. It does not include free ranging wildlife.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.