

# HOUSE BILL REPORT

## SSB 5145

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to withdrawals of public ground waters.

**Brief Description:** Concerning withdrawals of public ground waters.

**Sponsors:** Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Mulliken and T. Sheldon).

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 4/2/03, 4/4/03 [DPA].

**Brief Summary of Substitute Bill**  
**(As Amended by House Committee)**

- States that the use of "exempt wells" for single or group domestic use should be clarified.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Eickmeyer, Grant, Hunt, McDermott and Quall.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Chandler, Orcutt and Sump.

**Staff:** Kenneth Hirst (786-7105).

**Background:**

The Ground Water Code (Code) prohibits a person from withdrawing ground water or constructing wells or other works for such a withdrawal without a water right permit from the Department of Ecology. However, the Code exempts a number of withdrawals from this requirement. One exemption is for single or group domestic uses in an amount

not exceeding 5,000 gallons per day. In a March 2002 decision, the state's Supreme Court found that the exemption provided by the Code for single or group domestic use of water did not allow the developer in the case to provide water for group uses by multiple homes each withdrawing up to 5,000 gallons per day.

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**Summary of Amended Bill:**

The use of public ground water for single or group domestic use under the exemption from water right permit requirements provided by the Ground Water Code should be clarified with regard to the number of residences that may be provided water in a single development under the exemption.

**Amended Bill Compared to Substitute Bill:**

The amendment states that the use of "exempt wells" for single or group domestic use should be clarified (rather than stating that such an exempt well may be used to provide domestic water to home-sites regardless of whether the home-sites are part of larger projects or the means of withdrawal are shared).

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** (Original bill) (1) For many rural residences, exempt wells are the only source of water supply available. Under a recent court decision, the use of such a well is limited to six homes. However, the Growth Management Act requires communities to accommodate development. (2) The quantity of water withdrawn under domestic exempt wells is very small and can still be regulated by the Department of Ecology to protect other water rights. (3) Most of the water withdrawn for this use returns to the ground and system. (4) The court decision leaves much uncertain regarding the use of exempt wells. (5) The use of exempt wells is critical to development in rural areas.

(Comments on original bill): (1) A proposed striking amendment clarifies that exempt wells are to be used for residential use only if the water is not available from a public water system. (2) That striking amendment does not work right in the developing urban fringe. (3) Counties are looking at ways to distinguish between the use of exempt wells in rural areas and their use in critical water supply service areas, where the local government decides if a purveyor can provide the needed water. (4) The passage of legislation on municipal water rights and on wells with existing water rights will address

many of the issues that this bill attempts to address, except in very rural areas.

**Testimony Against:** (Original bill) About 10,000 exempt wells are being drilled each year. This bill would expand the use of un-permitted wells.

**Testified:** (In support) Senator Mulliken, prime sponsor; Larry Stout, Washington Association of Realtors; and Tonia Neal, Building Industry Association of Washington.

(Comments) Steve Lindstrom, Sno-King Water District Coalition; Paul Parker, Washington State Association of Counties; and Jim Waldo, Office of the Governor.

(Opposed) Josh Baldi, Washington Environmental Council.