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**SUBSTITUTE HOUSE BILL 1844**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Natural Resources & Parks (originally sponsored by Representatives Horn, Rust, Van Luven, Appelwick, Wineberry, Edmondson, Forner, Brumsickle, Long, Foreman, Chandler, Dyer, Ballard, Cooke, Miller, Vance, Finkbeiner, Reams and Silver)

Read first time 03/03/93.

1 AN ACT Relating to the appropriation of water from lakes and  
2 reservoirs for single-family residential noncommercial garden and  
3 landscape irrigation; adding a new section to chapter 90.03 RCW; and  
4 creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that as demands on  
7 water resources increase, water must be used in a manner that is most  
8 beneficial to the natural resources of the state, while avoiding  
9 unnecessary capital costs and public infrastructure expenditures. The  
10 legislature also finds that in appropriate circumstances, use of water  
11 from lakes and reservoirs by shoreland owners will allow more water to  
12 remain in rivers and streams for fish, wildlife, municipal drinking  
13 water, and recreation. The legislature also finds that use of  
14 municipally treated drinking water for garden and landscape irrigation  
15 may in some cases be an unnecessary use of the public infrastructure,  
16 creating the need for additional public facilities to meet the demands  
17 of growing populations in the greater Puget Sound and other regions.  
18 The legislature also finds that by simplifying the process for  
19 appropriating water for some small volume uses, water users are more

1 likely to comply with requirements to use the water in appropriate  
2 circumstances and do so efficiently. The legislature also finds that  
3 establishing an overall quantity of water that may be appropriated for  
4 single-family residential noncommercial garden and landscape irrigation  
5 will assure protection of the state's water resources and not burden  
6 the department of ecology with a large number of water right  
7 applications.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW  
9 to read as follows:

10 (1) On its own initiative or on petition of at least ten percent of  
11 the owners of single-family residences abutting a lake or reservoir of  
12 four thousand acres or larger surface area, the department shall  
13 determine whether there is sufficient water in the lake or reservoir of  
14 four thousand acres or larger surface area to allow owners of single-  
15 family residences that abut the lake or reservoir to use water for  
16 noncommercial garden and landscape irrigation.

17 (2) In making the determination provided for in subsection (1) of  
18 this section, the department shall consider at least the following  
19 factors:

20 (a) Whether there is water available to be appropriated;

21 (b) Whether allowing additional appropriation from the lake or  
22 reservoir will have a significant adverse impact on existing water  
23 right holders and instream resources;

24 (c) The existing and future potential uses of water from the lake  
25 or reservoir;

26 (d) The adverse impact on upstream instream resources of not  
27 allowing withdrawal from the lake or reservoir;

28 (e) Climatic conditions affecting the lake or reservoir; and

29 (f) The lake's or reservoir's physical characteristics, including  
30 depth, volume, surface area, and surface level control features.

31 (3) If the department determines that there may be sufficient water  
32 in the lake or reservoir to allow use of water for single-family  
33 residential noncommercial garden and landscape irrigation, it shall  
34 hold one or more public hearings in the area affected by the proposal.  
35 At the public hearing, the department shall report on the factors  
36 described in subsection (2) of this section, any additional factors it  
37 has used to evaluate the proposal, and options for use of the available  
38 water that will satisfy requirements for efficiency.

1 (4) After reviewing comments received at the public hearing, the  
2 department shall make a final determination whether there is sufficient  
3 water available for single-family residential noncommercial garden and  
4 landscape irrigation purposes. If the department determines there is  
5 sufficient water it shall, by rule:

6 (a) Establish the maximum quantity of water that may be withdrawn  
7 from the lake or reservoir on a yearly basis for single-family  
8 noncommercial garden and landscape irrigation under this section; and

9 (b) Establish conditions and limitations on withdrawal by  
10 individual property owners. The conditions and limitations may  
11 include, but are not limited to: Time of day and year, maximum area  
12 that may irrigated, maximum flow and annual water usage allowed, and  
13 conservation and efficiency measures to be used.

14 (5) A person withdrawing water under a rule adopted under  
15 subsection (4) of this section may, but shall not be required to, apply  
16 for a water right permit as otherwise provided by this chapter. The  
17 right to withdraw water under this section shall have a priority date  
18 of the effective date of the rule adopted pursuant to this section.

19 (6) The department may suspend temporarily the authority to  
20 withdraw water granted under this section if the department determines:

21 (a) Under chapter 43.83B RCW that drought conditions exist in the  
22 geographical area including a lake or reservoir for which the  
23 department has established water withdrawal standards under subsection  
24 (4) of this section; or

25 (b) By rule that continued withdrawal of water under this section  
26 will have a significant adverse impact on flows or levels below  
27 essential minimums necessary to assure the maintenance of fisheries  
28 requirements, or to protect federal or state interests including, but  
29 not limited to, power generation, navigation, and existing water  
30 rights.

31 (7) Before considering any other lake or reservoir under this  
32 section, the department shall conduct the analysis required by this  
33 section for Lake Washington and Lake Sammamish. The department shall  
34 complete its review and, if it determines water is available, adopt the  
35 rule required by subsection (4) of this section not later than June 1,  
36 1994.

37 (8) No person shall use water on any land under a rule adopted  
38 under subsection (4) of this section unless a fee of one hundred  
39 dollars has been paid to the department for the authorization to use

1 water on such land. Within two years after the effective date of this  
2 act, the department shall issue a report to the appropriate committees  
3 of the legislature on whether this fee is adequate to pay for the  
4 department's costs in implementing this section.

5 NEW SECTION. **Sec. 3.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

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