

SHB 1337 - H AMD TO H AMD (H-2466.2/03) 275  
By Representative Chandler

FAILED 03/18/2003

1 On page 1, beginning on line 8 of the amendment, strike the  
2 remainder of the amendment and insert the following:

3 "ground waters may, without losing the holder's priority of right,  
4 construct wells or other means of withdrawal at a new location in  
5 substitution for or in addition to those at the original location, or  
6 the holder may change the (~~manner~~) purpose or the place of use of the  
7 water.

8 (2) Except as provided in subsection (5) of this section, an  
9 amendment to construct replacement or a new additional well or wells at  
10 a location outside of the location of the original well or wells or to  
11 change the (~~manner~~) purpose or place of use of the water shall be  
12 issued only after publication of notice of the application and findings  
13 as prescribed in the case of an original application. Such amendment  
14 shall be issued by the department only on the conditions that: (a) The  
15 additional or replacement well or wells shall (~~tap the same body of~~  
16 ~~public ground water~~) be located within the same water resource  
17 inventory area, as defined in chapter 173-500 WAC as it exists on the  
18 effective date of this act, or an adjoining water resource inventory  
19 area as the original well or wells; (b) where a replacement well or  
20 wells is approved, the use of the original well or wells shall be  
21 discontinued and the original well or wells shall be properly  
22 decommissioned as required under chapter 18.104 RCW; (c) where an  
23 additional well or wells is constructed, the original well or wells may  
24 continue to be used, but the combined total withdrawal from the  
25 original and additional well or wells shall not (~~enlarge the right~~)  
26 increase the annual or instantaneous quantity conveyed by the original  
27 permit or certificate; and (d) other existing rights shall not be  
28 impaired. The department may specify an approved manner of  
29 construction and shall require a showing of compliance with the terms  
30 of the amendment, as provided in RCW 90.44.080 in the case of an  
31 original permit.

1 (3) The construction of a replacement or new additional well or  
2 wells at the location of the original well or wells shall be allowed  
3 without application to the department for an amendment. However, the  
4 following apply to such a replacement or new additional well: (a) The  
5 well shall tap the same body of public ground water as the original  
6 well or wells; (b) if a replacement well is constructed, the use of the  
7 original well or wells shall be discontinued and the original well or  
8 wells shall be properly decommissioned as required under chapter 18.104  
9 RCW; (c) if a new additional well is constructed, the original well or  
10 wells may continue to be used, but the combined total withdrawal from  
11 the original and additional well or wells shall not (~~enlarge the~~  
12 ~~right~~) increase the annual or instantaneous quantity conveyed by the  
13 original water use permit or certificate; (d) the construction and use  
14 of the well shall not interfere with or impair water rights with an  
15 earlier date of priority than the water right or rights for the  
16 original well or wells; (e) the replacement or additional well shall be  
17 located no closer than the original well to a well it might interfere  
18 with; (f) the department may specify an approved manner of construction  
19 of the well; and (g) the department shall require a showing of  
20 compliance with the conditions of this subsection (3).

21 (4) As used in this section, the "location of the original well or  
22 wells" is the larger of: (a) The area described as the point of  
23 withdrawal in the original public notice published for the application  
24 for the water right for the well; or (b) the area up to one-quarter  
25 mile radius from the current well or wells.

26 (5)(a) A water right holder may construct a replacement or new  
27 additional well or wells at a location outside the location of the  
28 original well or wells but not more than two miles from the current  
29 well or wells without obtaining approval from the department under the  
30 following conditions:

31 (i) That, at least sixty days before starting construction of the  
32 well or wells, the water right holder provides written notice to the  
33 department of the intention to construct the replacement or additional  
34 well or wells and publishes a legal notice prescribed by the department  
35 describing the location of the proposed well or wells, the amounts of  
36 water to be withdrawn, and other details deemed necessary by the  
37 department. The notice must state that a person wishing to assert a  
38 claim of impairment of another water right may do so by filing the

1 claim with the department and the deadline for doing so. The notice  
2 must be published once a week for two consecutive weeks in a newspaper  
3 of general circulation in the area in which the well or wells would be  
4 located;

5 (ii) That, within thirty days of the last date of publication of  
6 the legal notice, no claims of impairment are filed with the department  
7 relating to the proposed replacement or additional well or wells; and

8 (iii) That the conditions of subsection (3)(a) through (g) of this  
9 section are met.

10 (b) If any claims of impairment are filed with the department, the  
11 department shall make a determination regarding the impairment claim or  
12 claims and shall issue its determination in writing, stating either  
13 that it finds that there will be impairment (a "finding of impairment")  
14 or that it finds there will not be impairment (a "finding of no  
15 impairment"). The department's written determination may be appealed  
16 to the pollution control hearings board as provided in chapter 43.21B  
17 RCW.

18 (c) Where an impairment claim has been filed, a replacement well  
19 may only be constructed under this subsection (5) after a final  
20 resolution of the impairment claim results in a finding of no  
21 impairment. Final resolution of an impairment claim occurs at the  
22 expiration of the appeal period following a final determination by the  
23 department, the pollution control hearings board, and any reviewing  
24 court."

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