

ESHB 1337 - S COMM AMD

By Committee on Natural Resources, Energy & Water

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 90.44.100 and 1997 c 316 s 2 are each amended to read
4 as follows:

5 (1) After an application to, and upon the issuance by the
6 department of an amendment to the appropriate permit or certificate of
7 ground water right, the holder of a valid right to withdraw public
8 ground waters may, without losing the holder's priority of right, add
9 existing wells or construct wells or other means of withdrawal at a new
10 location in substitution for or in addition to those at the original
11 location, or the holder may change the (~~manner~~) purpose or the place
12 of use of the water.

13 (2) Except as provided in subsections (3) and (5) of this section,
14 an amendment to add an existing well or wells or construct replacement
15 or a new additional well or wells at a location outside of the location
16 of the original well or wells or to change the (~~manner~~) purpose or
17 place of use of the water shall be issued only after publication of
18 notice of the application and findings as prescribed in the case of an
19 original application. Such amendment shall be issued by the department
20 only on the conditions that: (a) The additional or replacement well or
21 wells shall (~~tap the same body of public ground water~~) be located
22 within the same water resource inventory area, as defined in chapter
23 173-500 WAC, or an adjoining water resource inventory area as the
24 original well or wells; (b) where a replacement well or wells is
25 approved, the use of the original well or wells shall be discontinued
26 and the original well or wells shall be properly decommissioned as
27 required under chapter 18.104 RCW; (c) where an additional well or
28 wells is added or constructed, the original well or wells may continue
29 to be used, but the combined total withdrawal from the original and
30 additional well or wells shall not (~~enlarge the right~~) increase the

1 annual or instantaneous quantity conveyed by the original permit or
2 certificate; and (d) other existing rights shall not be impaired. The
3 department may specify an approved manner of construction and shall
4 require a showing of compliance with the terms of the amendment, as
5 provided in RCW 90.44.080 in the case of an original permit.

6 (3) The addition or construction of a replacement or new additional
7 well or wells at the location of the original well or wells shall be
8 allowed without application to the department for an amendment.
9 However, the following apply to such a replacement or new additional
10 well: (a) The well shall tap the same body of public ground water as
11 the original well or wells; (b) if a replacement well is constructed,
12 the use of the original well or wells shall be discontinued and the
13 original well or wells shall be properly decommissioned as required
14 under chapter 18.104 RCW; (c) if a new additional well is added or
15 constructed, the original well or wells may continue to be used, but
16 the combined total withdrawal from the original and additional well or
17 wells shall not (~~enlarge the right~~) increase the annual or
18 instantaneous quantity conveyed by the original water use permit or
19 certificate; (d) the addition or construction and use of the well shall
20 not interfere with or impair water rights with an earlier date of
21 priority than the water right or rights for the original well or wells;
22 (e) (~~the replacement or additional well shall be located no closer~~
23 ~~than the original well to a well it might interfere with; (f)~~) the
24 department may specify an approved manner of construction of the well;
25 (f) the addition or construction and use of the well shall be
26 consistent with any ground water area or subarea management program
27 created under RCW 90.44.400 through 90.44.445 as it exists on the
28 effective date of this section; and (g) the department shall require a
29 showing of compliance with the conditions of this subsection (3).

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

35 (5) A water right holder may add or construct a replacement or new
36 additional well or wells at a location outside the location of the

1 original well or wells but not more than two miles from the current
2 well or wells without application to the department for an amendment
3 under the following conditions:

4 (a) The provisions of subsection (3)(a) through (g) of this section
5 are met;

6 (b) The water right holder shall publish a legal notice describing
7 the intention to add or construct the replacement or additional well or
8 wells, the location of the proposed well or wells, and the amount or
9 amounts of water to be withdrawn;

10 (c) The notice must be published once a week for two consecutive
11 weeks in a newspaper of general circulation in the area in which the
12 well or wells would be located;

13 (d) The notice shall further state as follows: A water right
14 holder wishing to assert a claim of potential quantity impairment may
15 do so by filing a claim with the department of ecology within twenty
16 days of the second publication date of the notice. The claim must
17 describe how the addition or construction of a replacement or new
18 additional well will cause potential quantity impairment to the water
19 right holder's right;

20 (e) Upon receipt of a claim under (d) of this subsection, the
21 department shall investigate the claim and issue in writing a technical
22 opinion limited to whether or not the quantity of the claimant's water
23 right is likely to be impaired. The opinion is advisory only, is not
24 binding, and is not appealable;

25 (f) Within ten calendar days following the completion of a claim
26 investigation by the department in accordance with (e) of this
27 subsection, the person filing the claim shall be responsible for
28 contacting the water right holder and initiating efforts to resolve any
29 potential impairment issues raised in the claim. The water right
30 holder may also initiate discussions with a party asserting a claim of
31 impairment within the time period cited in this subsection (5)(f);

32 (g) After a claimant has contacted the water right holder and
33 attempted to resolve any potential impairment issues in accordance with
34 (f) of this subsection, the claimant may bring an action before the
35 superior court in the county where the proposed new or additional well
36 is to be located; and

1 (h) The addition or construction of a replacement or new additional
2 well or wells may begin sixty days after the publication date of the
3 first notice under (c) of this subsection."

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4 On page 1, line 2 of the title, after "wells;" strike the remainder
5 of the title and insert "and amending RCW 90.44.100."

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