
**Agriculture & Natural
Resources Committee**

HB 2116

Brief Description: Allowing a withdrawal of water for stock-watering purposes without a permit issued under RCW 90.44.050.

Sponsors: Representatives Grant and Linville.

Brief Summary of Bill

- Expressly limits the stock-watering exemption from ground water permit requirements to 5,000 gallons per day for new rights for stock-watering.
- Exempts an existing withdrawal of ground water for stock-watering from this limitation to the maximum extent of the withdrawal before the effective date of the bill.

Hearing Date: 3/4/03

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 exemption from ground water right permit requirements for stock-watering is expressly subject, for a new right to water stock, to a 5,000 gallon per day limitation. A withdrawal of ground water for stock-watering that was begun before the effective date of the bill continues to be exempt from the permit requirements up to the maximum extent that water was withdrawn for stock-watering under the right before the effective date of the bill.

Appropriation: None.

Fiscal Note: Not Requested.

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