

# HOUSE BILL REPORT

## HB 1467

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

**Title:** An act relating to the definition of a well.

**Brief Description:** Modifying the definition of a well for the purposes of chapter 18.104 RCW.

**Sponsors:** Representatives Buys, Blake, Chandler, Pearson, Fagan, Overstreet, Harris, Wilcox, Johnson, Haler, Warnick, McCune and Kelley.

#### **Brief History:**

##### **Committee Activity:**

Agriculture & Natural Resources: 2/1/11, 2/11/11 [DPS].

#### **Brief Summary of Substitute Bill**

- Modifies the definition of a well under the Washington Well Construction Act.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dunshee, Hinkle, Kretz, Lytton, Orcutt, Pettigrew and Van De Wege.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Rolfes.

**Staff:** Courtney Barnes (786-7194).

#### **Background:**

The Washington Well Construction Act (WWCA) governs the design, construction, alteration, and decommissioning of wells in this state. The Department of Ecology regulates well design, construction, and maintenance. Wells are defined in the WWCA.

Wells are water wells, resource protection wells, dewatering wells, and geotechnical soil borings. A well is not an excavation made for the purpose of obtaining or prospecting for oil,

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natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to re-pressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products.

A water well is any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of groundwater. Water wells include ground source heat pump borings and grounding wells.

A resource protection well is a cased boring intended or used to collect subsurface information or to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, remediation wells, environmental investigation wells, vapor extraction wells, ground source heat pump boring, grounding wells, and instrumentation wells.

A dewatering well is a cased or lined excavation or boring that is intended to withdraw or divert groundwater for the purpose of facilitating construction, stabilizing a landslide, or protecting an aquifer.

A geotechnical soil boring is a well drilled for the purpose of obtaining soil samples or information to ascertain structural properties of the subsurface.

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**Summary of Substitute Bill:**

The definition of a well, as defined in the WWCA, is modified to exempt certain activities. Inserting any device or instrument into the soil for the sole purpose of performing soil or water testing or analysis, or establishing soil moisture analysis content, is not a well, as long as there is no withdrawal of water in any quantity other than necessary to perform the intended testing or analysis and any testing or analysis is less than 10 feet in depth.

**Substitute Bill Compared to Original Bill:**

The substitute bill removes the changes made by the original bill and modifies the definition of a well by identifying activities that do not constitute a well. The substitute bill also creates a depth limitation for testing and analysis that does not constitute a well.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 11, 2011.

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

**Staff Summary of Public Testimony:**

(In support) The bill removes the requirement for certain soil samplings to be considered a resource protection well. The bill is needed for clarity because routine agricultural practices are now being treated as resource protection wells. This practice is contrary to the stated intent of the WWCA. Many soil samplings and water sensors are shallow or hollow and should not be treated or licensed as a well. All of the definitions in the WWCA should be reviewed and clarified and other activities should be exempted. Without the bill, statutory requirements and fees relating to wells would apply to agricultural monitoring activities that are clearly not wells. The bill may need to be amended to include a depth limitation or make it clear that shallow sampling cannot be conducted on contaminated sites.

(With concerns) There is a need for a better definition of a well under the current law. The intent of the bill is good, but the current language needs refinement. The intent of the WWCA is to protect groundwater, and the current language may be overly broad. A narrow definition should be crafted to meet the objectives of the bill's proponents.

(Opposed) None.

**Persons Testifying:** (In support) Representative Buys, prime sponsor; George Boggs, Whatcom Conservation District; Jim Halstrom, Washington State Horticultural Association; Jack Field, Washington Cattlemen's Association; Glen Smith, Washington State Groundwater Association; Jay Gordon, Washington State Dairy Federation; and Scott Dahlman, Washington Farm Bureau.

(With concerns) Jaclyn Ford, Washington State Department of Agriculture; and Ken Slattery, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.