

SSB 5200 - S AMD 176
By Senator Hatfield

ADOPTED 03/11/2013

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

3 "**Sec. 1.** RCW 90.44.105 and 1997 c 446 s 1 are each amended to read
4 as follows:

5 (1)(a) Upon the issuance by the department of an amendment to the
6 appropriate permit or certificate of groundwater right, the holder of
7 a valid right to withdraw public groundwaters may consolidate that
8 right with a groundwater right exempt from the permit requirement under
9 RCW 90.44.050, without affecting the priority of either of the water
10 rights being consolidated. Such a consolidation amendment shall be
11 issued only after publication of a notice of the application, a comment
12 period, and a determination made by the department, in lieu of meeting
13 the conditions required for an amendment under RCW 90.44.100, that:

14 ~~((+1))~~ (i) The exempt well taps the same body of public
15 groundwater as the well to which the water right of the exempt well is
16 to be consolidated;

17 ~~((+2))~~ (ii) Use of the exempt well shall be discontinued upon
18 approval of the consolidation amendment to the permit or certificate;

19 ~~((+3))~~ (iii) Legally enforceable agreements have been entered to
20 prohibit the construction of another exempt well to serve the area
21 previously served by the exempt well to be discontinued, and such
22 agreements are binding upon subsequent owners of the land through
23 appropriate binding limitations on the title to the land;

24 ~~((+4))~~ (iv) The exempt well or wells the use of which is to be
25 discontinued will be properly decommissioned in accordance with chapter
26 18.104 RCW and the rules of the department; and

27 ~~((+5))~~ (v) Other existing rights, including ground and surface
28 water rights and minimum stream flows adopted by rule, shall not be
29 impaired.

1 **(b)** The notice required by this section shall be published by the
2 applicant in a newspaper of general circulation in the county or
3 counties in which the wells for the rights to be consolidated are
4 located once a week for two consecutive weeks. The applicant shall
5 provide evidence of the publication of the notice to the department.
6 The comment period shall be for thirty days beginning on the date the
7 second notice is published.

8 **(2)** The amount of the water to be added to the holder's permit or
9 certificate upon discontinuance of the exempt well or approval of a
10 consolidation under subsection (3) of this section shall be the average
11 withdrawal from the well, in gallons per day, for the most recent five-
12 year period preceding the date of the application, except that the
13 amount shall not be less than eight hundred gallons per day for each
14 residential connection or such alternative minimum amount as may be
15 established by the department in consultation with the department of
16 health, and shall not exceed five thousand gallons per day. The
17 department shall presume that an amount identified by the applicant as
18 being the average withdrawal from the well during the most recent five-
19 year period is accurate if the applicant establishes that the amount
20 identified for the use or uses of water from the exempt well is
21 consistent with the average amount of water used for similar use or
22 uses in the general area in which the exempt well is located. The
23 department shall develop, in consultation with the department of
24 health, a schedule of average household and small-area landscaping
25 water usages in various regions of the state to aid the department and
26 applicants in identifying average amounts used for these purposes. The
27 presumption does not apply if the department finds credible evidence of
28 nonuse of the well during the required period or credible evidence that
29 the use of water from the exempt well or the intensity of the use of
30 the land supported by water from the exempt well is substantially
31 different than such uses in the general area in which the exempt well
32 is located. The department shall also accord a presumption in favor of
33 approval of such consolidation if the requirements of this subsection
34 are met and the discontinuance of the exempt well is consistent with an
35 adopted coordinated water system plan under chapter 70.116 RCW, an
36 adopted comprehensive land use plan under chapter 36.70A RCW, or other
37 comprehensive watershed management plan applicable to the area
38 containing an objective of decreasing the number of existing and newly

1 developed small groundwater withdrawal wells. The department shall
2 provide a priority to reviewing and deciding upon applications subject
3 to this subsection, and shall make its decision within sixty days of
4 the end of the comment period following publication of the notice by
5 the applicant or within sixty days of the date on which compliance with
6 the state environmental policy act, chapter 43.21C RCW, is completed,
7 whichever is later. The applicant and the department may by prior
8 mutual agreement extend the time for making a decision.

9 (3) An existing publicly owned and operated group A or group B
10 water system, as those terms are defined in RCW 70.119A.020, may serve
11 a proposed new development with a quantity of water that otherwise
12 would be withdrawn for beneficial use under the permit exemption in RCW
13 90.44.050. However, not more than five thousand gallons per day may be
14 provided in this manner by any water system. The existing water rights
15 for a water system will be increased by the amount of water
16 beneficially used for that purpose if the following conditions are met:

17 (a) A determination is made under RCW 58.17.110 or 19.27.097 that
18 potable water is legally available for single or group domestic use
19 under the permit exemption in RCW 90.44.050 and that provision of this
20 water by the existing water system would comply with water resource
21 rules adopted by the department under chapter 90.54 RCW;

22 (b) The existing water system does not have water rights in
23 sufficient quantities to serve the proposed new development and
24 withdraws water from the same body of public groundwater as would a new
25 well constructed to serve the proposed new development;

26 (c) The water system is in compliance with the water use efficiency
27 requirements of RCW 70.119A.180(4), drinking water rules adopted by the
28 department of health under RCW 43.70.040, and rules adopted by the
29 state board of health under RCW 43.20.050(2)(a); and

30 (d) Within five years of providing a water supply under this
31 subsection, the water system complies with the applicable requirements
32 of subsections (1) and (2) of this section and, at such time, provides
33 the department with metered water use information for the new
34 development to serve as the basis for quantifying the consolidation."

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1 On page 1, beginning on line 2 of the title, after "system;" strike
2 the remainder of the title and insert "and amending RCW 90.44.105."

EFFECT: Adds a specific condition that the public water system has to be in compliance with water use efficiency rules adopted by the department of health under RCW 70.119A.180(4).

Requires the public water system provide to the department of ecology metered water use information for the new development to serve as the basis for quantification of the consolidation.

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