

2 **SSB 5785 - H COMM AMD ADOPTED 4-10-97**  
3 By Committee on Agriculture & Ecology

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44 RCW  
8 to read as follows:

9 Upon the issuance by the department of an amendment to the  
10 appropriate permit or certificate of ground water right, the holder of  
11 a valid right to withdraw public ground waters may consolidate that  
12 right with a ground water right exempt from the permit requirement  
13 under RCW 90.44.050, without affecting the priority of either of the  
14 water rights being consolidated. Such a consolidation amendment shall  
15 be issued only after publication of a notice of the application, a  
16 comment period, and a determination made by the department, in lieu of  
17 meeting the conditions required for an amendment under RCW 90.44.100,  
18 that: (1) The exempt well taps the same body of public ground water as  
19 the well to which the water right of the exempt well is to be  
20 consolidated; (2) use of the exempt well shall be discontinued upon  
21 approval of the consolidation amendment to the permit or certificate;  
22 (3) legally enforceable agreements have been entered to prohibit the  
23 construction of another exempt well to serve the area previously served  
24 by the exempt well to be discontinued, and such agreements are binding  
25 upon subsequent owners of the land through appropriate binding  
26 limitations on the title to the land; (4) the exempt well or wells the  
27 use of which is to be discontinued will be properly decommissioned in  
28 accordance with chapter 18.104 RCW and the rules of the department; and  
29 (5) other existing rights, including ground and surface water rights  
30 and minimum stream flows adopted by rule, shall not be impaired. The  
31 notice shall be published by the applicant in a newspaper of general  
32 circulation in the county or counties in which the wells for the rights  
33 to be consolidated are located once a week for two consecutive weeks.  
34 The applicant shall provide evidence of the publication of the notice  
35 to the department. The comment period shall be for thirty days  
36 beginning on the date the second notice is published.

1       The amount of the water to be added to the holder's permit or  
2 certificate upon discontinuance of the exempt well shall be the average  
3 withdrawal from the well, in gallons per day, for the most recent five-  
4 year period preceding the date of the application, except that the  
5 amount shall not be less than eight hundred gallons per day for each  
6 residential connection or such alternative minimum amount as may be  
7 established by the department in consultation with the department of  
8 health, and shall not exceed five thousand gallons per day. The  
9 department shall presume that an amount identified by the applicant as  
10 being the average withdrawal from the well during the most recent five-  
11 year period is accurate if the applicant establishes that the amount  
12 identified for the use or uses of water from the exempt well is  
13 consistent with the average amount of water used for similar use or  
14 uses in the general area in which the exempt well is located. The  
15 department shall develop, in consultation with the department of  
16 health, a schedule of average household and small-area landscaping  
17 water usages in various regions of the state to aid the department and  
18 applicants in identifying average amounts used for these purposes. The  
19 presumption does not apply if the department finds credible evidence of  
20 nonuse of the well during the required period or credible evidence that  
21 the use of water from the exempt well or the intensity of the use of  
22 the land supported by water from the exempt well is substantially  
23 different than such uses in the general area in which the exempt well  
24 is located. The department shall also accord a presumption in favor of  
25 approval of such consolidation if the requirements of this subsection  
26 are met and the discontinuance of the exempt well is consistent with an  
27 adopted coordinated water system plan under chapter 70.116 RCW, an  
28 adopted comprehensive land use plan under chapter 36.70A RCW, or other  
29 comprehensive watershed management plan applicable to the area  
30 containing an objective of decreasing the number of existing and newly  
31 developed small ground water withdrawal wells. The department shall  
32 provide a priority to reviewing and deciding upon applications subject  
33 to this subsection, and shall make its decision within sixty days of  
34 the end of the comment period following publication of the notice by  
35 the applicant or within sixty days of the date on which compliance with  
36 the state environmental policy act, chapter 43.21C RCW, is completed,  
37 whichever is later. The applicant and the department may by prior  
38 mutual agreement extend the time for making a decision."

1        EFFECT: The amendment: (1) Specifies that the consolidation is  
2 not to alter the priority of either of the rights being consolidated  
3 (not just the permitted or certificated right); (2) establishes a  
4 notice publication requirement that is the same as the publication  
5 required for an application for a water right; (3) states that the  
6 comment period referred to in the underlying bill is a 30 day period;  
7 (4) requires any alternative developed by the DOE to the 800  
8 gallons/day/residence standard be developed in consultation with the  
9 Department of Health; and (5) rewords the presumption language of the  
10 underlying bill.

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