

2 **SSB 5785 - H COMM AMD NOT ADOPTED 4-10-97**
3 By Committee on Appropriations

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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 NEW SECTION. **Sec. 2.** If specific funding for the purposes of this
2 act, referencing this act by bill or chapter number, is not provided by
3 June 30, 1997, in the omnibus appropriations act, this act is null and
4 void."

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