

# FINAL BILL REPORT

## ESHB 2013

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C 316 L 97

Synopsis as Enacted

**Brief Description:** Developing an existing ground water right.

**Sponsors:** By House Committee on Agriculture & Ecology (originally sponsored by Representatives Chandler, Regala, Schoesler, Linville, Johnson, Bush, McDonald, Mastin, Talcott, Delvin, Carrell, Smith, Koster, Sullivan, Kastama, Fisher, Conway, Cooper and Honeyford).

**House Committee on Agriculture & Ecology**  
**Senate Committee on Agriculture & Environment**

**Background:** Permits and Certificates. With the adoption of the surface water code in 1917 and the groundwater code in 1945, new rights to the use of water are established under a permit system. However, certain uses of groundwater not exceeding 5,000 gallons per day have been exempted from this permit requirement. The permit system is based on the prior appropriation doctrine that "first in time is first in right." Once water is put to beneficial use in accordance with the conditions of such a permit, the permit holder is issued a water right certificate.

Transfers and Changes. The water right may be transferred to other uses or places of use through a transfer or change of a surface water right or an amendment to a groundwater right. A substitute or supplementary well may also be provided at a new location under such an amendment for a groundwater right. These transfers, changes, amendments, and substitute wells do not change the priority date of the original water right. However, they cannot be approved if they would interfere with existing rights, including junior rights.

**Summary:** The construction of replacement or additional wells under existing rights to groundwater is now statutorily divided into two categories and the categories are expressly treated differently. The categorization is based on whether the replacement or additional wells are to be constructed at a new location or at the location of the original well.

The construction of a replacement or additional well at a new location continues to require the approval of an application for an amendment to the right. The total withdrawal of groundwater from the original well and an additional well may not enlarge the right conveyed by the original permit or certificate. If a replacement well

is approved, use of the original well must be discontinued and the original well must be properly decommissioned.

The construction of a replacement or additional well at the location of the original well is expressly allowed without application for an amendment to the right. However, the Department of Ecology (DOE) must require a showing of compliance with the conditions that apply to replacement or additional wells and may specify an approved manner of construction. The construction of a replacement well or additional well at the location of the original well is no longer prohibited from impairing any existing rights, junior or senior. It now must not impair senior rights.

**Votes on Final Passage:**

House 95 1  
Senate 45 0 (Senate amended)  
House 94 0 (House concurred)

**Effective:** July 27, 1997