
HOUSE BILL 2396

State of Washington

55th Legislature

1998 Regular Session

By Representatives Romero, Wolfe and Lantz

Read first time 01/13/98. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to ground water; and amending RCW 90.44.050,
2 19.27.097, and 58.17.110.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 90.44.050 and 1987 c 109 s 108 are each amended to
5 read as follows:

6 (1) After June 6, 1945, no withdrawal of public ground waters of
7 the state shall be begun, nor shall any well or other works for such
8 withdrawal be constructed, unless an application to appropriate such
9 waters has been made to the department and a permit has been granted by
10 it (~~(as herein provided: EXCEPT, HOWEVER, That any)~~) under the
11 provisions of this chapter. However, except as provided in subsection
12 (2) of this section, a withdrawal of public ground waters for stock-
13 watering purposes, or for the watering of a lawn or of a noncommercial
14 garden not exceeding one-half acre in area, or for single or group
15 domestic uses in an amount not exceeding five thousand gallons a day,
16 or for an industrial purpose in an amount not exceeding five thousand
17 gallons a day, is and shall be exempt from the provisions of this
18 subsection, but, to the extent that it is regularly used beneficially,
19 shall be entitled to a right equal to that established by a permit

1 issued under the provisions of this chapter(~~(:—PROVIDED, HOWEVER,~~
2 ~~That))~~). The department from time to time may require the person or
3 agency making any such small withdrawal to furnish information as to
4 the means for and the quantity of that withdrawal(~~(:—PROVIDED,~~
5 ~~FURTHER, That))~~). At the option of the party making such withdrawals of
6 ground waters of the state not exceeding five thousand gallons per day,
7 applications under this subsection or declarations under RCW 90.44.090
8 may be filed and permits and certificates obtained in the same manner
9 and under the same requirements as is in this chapter provided in the
10 case of withdrawals in excess of five thousand gallons a day.

11 (2) The exemption from permit requirements provided by subsection
12 (1) of this section applies in an area unless the exemption has been
13 changed as it applies in that area or has been declared inapplicable in
14 that area in the following manner:

15 (a) The provisions of a watershed plan adopted under chapter 90.82
16 RCW may restrict the use of the exemption in the watershed or in
17 specified portions of the watershed by reducing from five thousand
18 gallons a day the volume of ground water that may be withdrawn without
19 a permit granted by the department in the watershed or in specified
20 portions of the watershed. Such an adopted plan may also alter the
21 list of uses for which ground water may be withdrawn without a permit
22 under the exemption provided by subsection (1) of this section, with or
23 without such a volume reduction, or may declare that the exemption from
24 permit requirements provided by subsection (1) of this section is
25 inapplicable in the watershed or in specified portions of the
26 watershed. The provisions of a watershed plan adopted under chapter
27 90.82 RCW that change the ground water use exemption or declare the
28 exemption inapplicable in the watershed or in specified portions of the
29 watershed in this manner supersede the exemption from permit processing
30 provided by subsection (1) of this section in the watershed or in the
31 specified portions of the watershed.

32 (b) The legislative authority of a county may restrict by ordinance
33 the use of the exemption in any part or parts of the county for which
34 a watershed plan has not been adopted under chapter 90.82 RCW by
35 reducing from five thousand gallons a day the volume of ground water
36 that may be withdrawn without a permit granted by the department in
37 that part or those parts. For any part or parts of a county for which
38 a watershed plan has not been adopted under chapter 90.82 RCW, the
39 legislative authority of the county: May also further restrict the

1 uses for which ground water may be withdrawn without a permit under the
2 exemption provided by subsection (1) of this section, with or without
3 such a volume reduction; or may declare by ordinance that the exemption
4 from permit requirements provided by subsection (1) of this section is
5 inapplicable. A county ordinance that changes the ground water use
6 exemption or declares the exemption inapplicable in such a part or
7 parts of the county in this manner supersedes the exemption from permit
8 processing provided by subsection (1) of this section in that part or
9 those parts of the county specified in the ordinance. For this
10 purpose, a "part" of a county may be, but is not restricted to being,
11 the entire county. Such an ordinance shall have no effect in a part of
12 a county once a watershed plan has been adopted under chapter 90.82 RCW
13 for that part of the county.

14 (3) Withdrawals of ground water from a group of wells constructed
15 by or for the same person as defined in RCW 90.03.015 at or about the
16 same time in the same area for the same purpose or project are to be
17 considered to be a single withdrawal for the purposes of this chapter.

18 (4) The provisions of this section expressly authorizing watershed
19 plans and county legislative authorities to change the exemption from
20 permit requirements provided by subsection (1) of this section may not
21 be construed as altering in any manner any authority of the department
22 existing before the effective date of this section to restrict the use
23 of the exemption in a particular area as a means of establishing new
24 rights to withdraw ground water or any authority of a local government
25 existing before the effective date of this section to do so under
26 chapter 36.36 RCW or RCW 90.44.400.

27 **Sec. 2.** RCW 19.27.097 and 1995 c 399 s 9 are each amended to read
28 as follows:

29 (1) Each applicant for a building permit of a building
30 necessitating potable water shall provide evidence of an adequate water
31 supply for the intended use of the building. Evidence may be in the
32 form of a water right permit from the department of ecology, a letter
33 from an approved water purveyor stating the ability to provide water,
34 or another form sufficient to verify the existence of an adequate water
35 supply. A proposed use of ground water without a permit as authorized
36 under RCW 90.44.050 may be considered as contributing to the evidence
37 of an adequate water supply for the intended use of the building only
38 to the extent that the use of the water to be supplied under the permit

1 exemption provided by RCW 90.44.050 for the intended use of the
2 building is in every respect consistent with the limitations on the use
3 of the ground water without a permit, as those limitations are
4 prescribed by or under RCW 90.44.050. In addition to other
5 authorities, the county or city may impose conditions on building
6 permits requiring connection to an existing public water system where
7 the existing system is willing and able to provide safe and reliable
8 potable water to the applicant with reasonable economy and efficiency.
9 An application for a water right shall not be sufficient proof of an
10 adequate water supply.

11 (2) Within counties not required or not choosing to plan pursuant
12 to RCW 36.70A.040, the county and the state may mutually determine
13 those areas in the county in which the requirements of subsection (1)
14 of this section shall not apply. The departments of health and ecology
15 shall coordinate on the implementation of this section. Should the
16 county and the state fail to mutually determine those areas to be
17 designated pursuant to this subsection, the county may petition the
18 department of community, trade, and economic development to mediate or,
19 if necessary, make the determination.

20 (3) Buildings that do not need potable water facilities are exempt
21 from the provisions of this section. The department of ecology, after
22 consultation with local governments, may adopt rules to implement this
23 section, which may recognize differences between high-growth and low-
24 growth counties.

25 **Sec. 3.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read
26 as follows:

27 (1) The city, town, or county legislative body shall inquire into
28 the public use and interest proposed to be served by the establishment
29 of the subdivision and dedication. It shall determine: (a) If
30 appropriate provisions are made for, but not limited to, the public
31 health, safety, and general welfare, for open spaces, drainage ways,
32 streets or roads, alleys, other public ways, transit stops, potable
33 water supplies, sanitary wastes, parks and recreation, playgrounds,
34 schools and schoolgrounds, and shall consider all other relevant facts,
35 including sidewalks and other planning features that assure safe
36 walking conditions for students who only walk to and from school; and
37 (b) whether the public interest will be served by the subdivision and
38 dedication.

1 (2) A proposed subdivision and dedication shall not be approved
2 unless the city, town, or county legislative body makes written
3 findings that: (a) Appropriate provisions are made for the public
4 health, safety, and general welfare and for such open spaces, drainage
5 ways, streets or roads, alleys, other public ways, transit stops,
6 potable water supplies, sanitary wastes, parks and recreation,
7 playgrounds, schools and schoolgrounds and all other relevant facts,
8 including sidewalks and other planning features that assure safe
9 walking conditions for students who only walk to and from school; and
10 (b) the public use and interest will be served by the platting of such
11 subdivision and dedication. If it finds that the proposed subdivision
12 and dedication make such appropriate provisions and that the public use
13 and interest will be served, then the legislative body shall approve
14 the proposed subdivision and dedication. Dedication of land to any
15 public body, provision of public improvements to serve the subdivision,
16 and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be
17 required as a condition of subdivision approval. Dedications shall be
18 clearly shown on the final plat. No dedication, provision of public
19 improvements, or impact fees imposed under RCW 82.02.050 through
20 82.02.090 shall be allowed that constitutes an unconstitutional taking
21 of private property. The legislative body shall not as a condition to
22 the approval of any subdivision require a release from damages to be
23 procured from other property owners.

24 (3) If the preliminary plat includes a dedication of a public park
25 with an area of less than two acres and the donor has designated that
26 the park be named in honor of a deceased individual of good character,
27 the city, town, or county legislative body must adopt the designated
28 name.

29 (4) A proposed use of ground water without a permit as authorized
30 under RCW 90.44.050 may be considered to constitute an appropriate
31 provision for potable water supply under this section only to the
32 extent that all of the water uses to be supplied water under the
33 exemption from permitting provided by RCW 90.44.050 for the proposed
34 subdivision and dedication are in every respect consistent with the
35 limitations on the use of the ground water without a permit, as those
36 limitations are prescribed by or under RCW 90.44.050.

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