
HOUSE BILL 3106

State of Washington

55th Legislature

1998 Regular Session

By Representative Chandler

Read first time 02/03/98. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to ground water; amending RCW 90.44.050; and
2 creating a new section.

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

4 NEW SECTION. **Sec. 1.** On October 10, 1997, attorney general
5 Christine O. Gregoire issued AGO 1997 No. 6 in response to questions
6 posed by the director of the department of ecology and the secretary of
7 the department of health. The first question addressed in the opinion
8 reaches to the heart of the questions posed. It addresses the
9 applicability of a provision of RCW 90.44.050 exempting certain
10 withdrawals of ground water from the permit requirements of the ground
11 water code, chapter 90.44 RCW. In AGO 1997 No. 6, the attorney
12 general's brief answer to the question posed is as follows: "A group
13 of wells drilled by the same person or group at or about the same time
14 in the same area for the same purpose or project should be considered
15 a single 'withdrawal' and would not be exempt from the permitting
16 requirement contained in RCW 90.44.050 if the total amount withdrawn
17 for domestic use exceeds 5000 gallons per day." At the conclusion of
18 the analysis provided for that brief answer, the attorney general
19 further states: " . . . we conclude that where water is withdrawn by a

1 property owner for a single housing development, within a reasonable
2 short period of time, a single 'withdrawal' occurs for purposes of
3 applying RCW 90.44.050 and determining whether the withdrawal requires
4 a water rights permit, no matter how many individual wells or other
5 withdrawal mechanisms are employed."

6 The purpose of this act is to affirm the opinion of the attorney
7 general contained in AGO 1997 No. 6 and the analysis that supports it.

8 **Sec. 2.** RCW 90.44.050 and 1987 c 109 s 108 are each amended to
9 read as follows:

10 After June 6, 1945, no withdrawal of public ground waters of the
11 state shall be begun, nor shall any well or other works for such
12 withdrawal be constructed, unless an application to appropriate such
13 waters has been made to the department and a permit has been granted by
14 it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public
15 ground waters for stock-watering purposes, or for the watering of a
16 lawn or of a noncommercial garden not exceeding one-half acre in area,
17 or for single or group domestic uses in an amount not exceeding five
18 thousand gallons a day, or for an industrial purpose in an amount not
19 exceeding five thousand gallons a day, is and shall be exempt from the
20 provisions of this section, but, to the extent that it is regularly
21 used beneficially, shall be entitled to a right equal to that
22 established by a permit issued under the provisions of this chapter:
23 PROVIDED, HOWEVER, That the department from time to time may require
24 the person or agency making any such small withdrawal to furnish
25 information as to the means for and the quantity of that withdrawal:
26 PROVIDED, FURTHER, That at the option of the party making withdrawals
27 of ground waters of the state not exceeding five thousand gallons per
28 day, applications under this section or declarations under RCW
29 90.44.090 may be filed and permits and certificates obtained in the
30 same manner and under the same requirements as is in this chapter
31 provided in the case of withdrawals in excess of five thousand gallons
32 a day.

33 A group of wells drilled by the same person or group at or about
34 the same time in the same area for the same purpose or project
35 constitutes a single withdrawal for the purposes of this section and is
36 not exempt from the permitting requirement contained in this section if

1 the total amount withdrawn for use exceeds five thousand gallons per
2 day.

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