
SENATE BILL 5785

State of Washington

55th Legislature

1997 Regular Session

By Senators Swecker, Newhouse, Morton, Haugen and Rasmussen

Read first time 02/12/97. Referred to Committee on Agriculture & Environment.

1 AN ACT Relating to consolidating ground water rights of exempt
2 wells; and amending RCW 90.44.100.

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

4 **Sec. 1.** RCW 90.44.100 and 1987 c 109 s 113 are each amended to
5 read as follows:

6 (1) After an application to, and upon the issuance by the
7 department of an amendment to the appropriate permit or certificate of
8 ground water right, the holder of a valid right to withdraw public
9 ground waters may, without losing ((his)) the holder's priority of
10 right, construct wells or other means of withdrawal at a new location
11 in substitution for or in addition to those at the original
12 location((;)) or ((he may)) change the manner or the place of use of
13 the water((: PROVIDED, HOWEVER, That such)), if the amendment is made
14 in compliance with subsection (2) of this section. In addition, the
15 holder may consolidate with the ground water right another ground water
16 right exempt from the permit requirement under RCW 90.44.050 in
17 accordance with subsection (3) of this section.

18 (2) An amendment to construct wells at a new location or to change
19 the manner or place of use of the water shall be issued only after

1 publication of notice of the application and findings as prescribed in
2 the case of an original application. Such amendment shall be issued by
3 the department only on the conditions that: ~~((+1))~~ (a) The additional
4 or substitute well or wells shall tap the same body of public ground
5 water as the original well or wells; ~~((+2))~~ (b) use of the original
6 well or wells shall be discontinued upon construction of the substitute
7 well or wells; ~~((+3))~~ (c) the construction of an additional well or
8 wells shall not enlarge the right conveyed by the original permit or
9 certificate; and ~~((+4))~~ (d) other existing rights shall not be
10 impaired. The department may specify an approved manner of
11 construction and shall require a showing of compliance with the terms
12 of the amendment, as provided in RCW 90.44.080 in the case of an
13 original permit.

14 (3) An amendment for the consolidation of a ground water right
15 exempt from the permit requirement under RCW 90.44.050 shall be issued
16 only after publication of notice of the application and a determination
17 made by the department that: (a) The exempt well taps the same body of
18 public ground water as the well to which the water right of the exempt
19 well is to be consolidated; (b) use of the exempt well shall be
20 discontinued upon approval of the consolidation of the permit or
21 certificate; (c) legally enforceable agreements have been entered to
22 prohibit the construction of another exempt well to serve the area
23 previously served by the exempt well to be discontinued, and such
24 agreements are binding upon subsequent owners of the land through
25 appropriate binding limitations on the title to the land; and (d) other
26 existing rights, including ground and surface water rights and minimum
27 stream flows adopted by rule, shall not be impaired. The amount of the
28 water to be added to the holder's permit or certificate upon
29 discontinuance of the exempt well shall be the average withdrawal from
30 the well for the most recent five-year period preceding the date of the
31 application, except that the amount shall not be less than eight
32 hundred gallons per day for each residential connection and shall not
33 exceed five thousand gallons per day. The department shall accord a
34 presumption in favor of the applicant's proposed amount if the
35 applicant's information establishes activities for the five-year period
36 in the area served by the well to be consistent with average water
37 usage for such activities in the general area. The department shall
38 develop a schedule of average household and small-area landscaping
39 water usages in consultation with the department of health to aid in

1 applying the presumption. The presumption may be rebutted by credible
2 evidence of nonusage of the well during the required period or a
3 substantially different use or intensity of use of the land. The
4 department shall also accord a presumption in favor of approval of such
5 consolidation if the requirements of this subsection are met and the
6 discontinuance of the exempt well is consistent with an adopted
7 coordinated water system plan under chapter 70.116 RCW, an adopted
8 comprehensive land use plan under chapter 36.70A RCW, or other
9 comprehensive watershed management plan applicable to the area
10 containing an objective of decreasing the number of existing and newly
11 developed small ground water withdrawal wells. The department shall
12 provide a priority to reviewing and deciding upon applications subject
13 to this subsection, and shall make its decision within sixty days of
14 the end of the comment period following publication of the notice by
15 the applicant.

16 (4) This section shall not apply to the consolidation of ground
17 water withdrawal rights under this section.

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