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SENATE BILL 5042

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State of Washington

57th Legislature

2001 Regular Session

By Senators Honeyford, Hale, Hochstatter and Deccio

Read first time 01/08/2001. Referred to Committee on Environment,  
Energy & Water.

1 AN ACT Relating to water right certificates; and amending RCW  
2 90.03.330 and 90.44.100.

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

4 **Sec. 1.** RCW 90.03.330 and 1987 c 109 s 89 are each amended to read  
5 as follows:

6 (1) Upon a showing satisfactory to the department that any  
7 appropriation has been perfected in accordance with the provisions of  
8 this chapter, it shall be the duty of the department to issue to the  
9 applicant a certificate stating such facts in a form to be prescribed  
10 by him or her, and such certificate shall thereupon be recorded with  
11 the department. Any original water right certificate issued, as  
12 provided by this chapter, shall be recorded with the department and  
13 thereafter, at the expense of the party receiving the same, be by the  
14 department transmitted to the county auditor of the county or counties  
15 where the distributing system or any part thereof is located, and be  
16 recorded in the office of such county auditor, and thereafter be  
17 transmitted to the owner thereof.

18 (2) A certificate issued by the department under the provisions of  
19 this chapter may not be revoked or amended without specific legislative

1 or judicial direction, provided that the water right represented by the  
2 certificate has not been relinquished under the provisions of chapter  
3 90.14 RCW.

4 **Sec. 2.** RCW 90.44.100 and 1997 c 316 s 2 are each amended to read  
5 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 the holder's priority of right,  
10 construct wells or other means of withdrawal at a new location in  
11 substitution for or in addition to those at the original location, or  
12 the holder may change the manner or the place of use of the water.

13 (2) An amendment to construct replacement or a new additional well  
14 or wells at a location outside of the location of the original well or  
15 wells or to change the manner or place of use of the water shall be  
16 issued only after publication of notice of the application and findings  
17 as prescribed in the case of an original application. Such amendment  
18 shall be issued by the department only on the conditions that: (a) The  
19 additional or replacement well or wells shall tap the same body of  
20 public ground water as the original well or wells; (b) where a  
21 replacement well or wells is approved, the use of the original well or  
22 wells shall be discontinued and the original well or wells shall be  
23 properly decommissioned as required under chapter 18.104 RCW; (c) where  
24 an additional well or wells is constructed, the original well or wells  
25 may continue to be used, but the combined total withdrawal from the  
26 original and additional well or wells shall not enlarge the right  
27 conveyed by the original permit or certificate; and (d) other existing  
28 rights shall not be impaired. The department may specify an approved  
29 manner of construction and shall require a showing of compliance with  
30 the terms of the amendment, as provided in RCW 90.44.080 in the case of  
31 an original permit.

32 (3) The construction of a replacement or new additional well or  
33 wells at the location of the original well or wells shall be allowed  
34 without application to the department for an amendment. However, the  
35 following apply to such a replacement or new additional well: (a) The  
36 well shall tap the same body of public ground water as the original  
37 well or wells; (b) if a replacement well is constructed, the use of the  
38 original well or wells shall be discontinued and the original well or

1 wells shall be properly decommissioned as required under chapter 18.104  
2 RCW; (c) if a new additional well is constructed, the original well or  
3 wells may continue to be used, but the combined total withdrawal from  
4 the original and additional well or wells shall not enlarge the right  
5 conveyed by the original water use permit or certificate; (d) the  
6 construction and use of the well shall not interfere with or impair  
7 water rights with an earlier date of priority than the water right or  
8 rights for the original well or wells; (e) the replacement or  
9 additional well shall be located no closer than the original well to a  
10 well it might interfere with; (f) the department may specify an  
11 approved manner of construction of the well; and (g) the department  
12 shall require a showing of compliance with the conditions of this  
13 subsection (3).

14 (4) A certificate issued by the department under the provisions of  
15 this chapter may not be revoked or amended without specific legislative  
16 or judicial direction, provided that the water right represented by the  
17 certificate has not been relinquished under the provisions of chapter  
18 90.14 RCW.

19 (5) As used in this section, the "location of the original well or  
20 wells" is the area described as the point of withdrawal in the original  
21 public notice published for the application for the water right for the  
22 well.

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