

HOUSE BILL REPORT

HB 2116

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to the use of water for stock-watering purposes.

Brief Description: Allowing a withdrawal of water for stock-watering purposes without a permit issued under RCW 90.44.050.

Sponsors: Representatives Grant and Linville.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/4/03, 3/5/03 [DP].

Brief Summary of Bill

- Expressly limits the stock-watering exemption from ground water permit requirements to 5,000 gallons per day for new rights for stock-watering.
- Exempts an existing withdrawal of ground water for stock-watering from this limitation to the maximum extent of the withdrawal before the effective date of the bill.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 8 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Chandler, Eickmeyer, Grant, Hunt, McDermott and Quall.

Minority Report: Do not pass. Signed by 5 members: Representatives Schoesler, Ranking Minority Member; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Orcutt and Sump.

Staff: Kenneth Hirst (786-7105).

Background:

The Ground Water Code was enacted in 1945. In general, it requires a water right permit for any new withdrawal of ground water after June 6, 1945. However, in addition to "grandfathering" ground water rights in existence before its enactment, the 1945 code

also exempted certain new withdrawals from this permit requirement. The code states that any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding 5,000 gallons a day, or for an industrial purpose in an amount not exceeding 5,000 gallons a day, is exempt from the permit requirements.

Recently, the state's Court of Appeals (Division II) decided a case involving the application of the exemptions provided by the 1945 code. In its decision, the Court found that a commercial nursery, as part of the nursery industry, falls within the exemption provided for industrial uses of ground water not exceeding 5,000 gallons per day. In reaching this conclusion, the Court viewed the overall scheme of the 1945 code as requiring ground water permits except for certain "small withdrawals." It cited these "small withdrawals" as being any amount of water for livestock; any amount of water for a lawn or for a noncommercial garden of a half acre or less; not more than 5,000 gallons per day for domestic use; and not more than 5,000 gallons per day for an industrial purpose.

Summary of Bill:

The exemption from ground water right permit requirements for stock-watering is expressly subject, for a new right to water stock, to a 5,000 gallon per day limitation. A withdrawal of ground water for stock-watering that was begun before the effective date of the bill continues to be exempt from the permit requirements up to the maximum extent that water was withdrawn for stock-watering under the right before the effective date of the bill.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: 1) The bill allows localized expansion of water use. The expansion of the industry means that water use will also expand. 2) The bill rewards those who have not been complying with the exempt well limitation. 3) Watering certain lawns should not be exempt from the 5,000 gallon limitation. 4) There should be more oversight of the use of this exemption and its impact should be understood first.

(Comments) 1) By only grandfathering existing withdrawals, dairy producers will have no choice but to purchase water that will be very expensive because everyone will know they need the water. 2) Many will not be able to afford it since they are still selling milk at very outdated prices. No one will buy their dairies because of the lack of water for growth. 3) Approximately two-thirds of the dairy industry has been using this exemption for supplying water. That means that \$5.4 billion in economic activity is dependent on it. The exemption has always applied; the problem is not with the way the statute is written, it is only with the Department of Ecology's policy.

Testified: (Opposed) Josh Baldi, Washington Environmental Council.

(Comments) Chris Cheney, Washington Cattlemen's Association and Washington Fryer Commission; Jay Gordon, Washington State Dairy Federation; and Jim Waldo, Office of the Governor.