

---

**Agriculture & Natural  
Resources Committee**

---

**SSB 5023**

**Brief Description:** Concerning the construction of an additional or replacement well.

**Sponsors:** Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Honeyford and Hale).

**Brief Summary of Substitute Bill**

- Authorizes the Department of Ecology to approve a change in the purpose of use of a ground water right, not just its manner of use.
- Authorizes changes of existing ground water rights to new locations within a water resource inventory area (WRIA) or in an adjacent WRIA, instead of new locations tapping the same water body.
- Authorizes the use of other existing wells to exercise a water right under certain circumstances.
- Expands the area in which new or replacement wells may be constructed under an existing right without a requirement that departmental approval be obtained; and identifies a new area in which new locations for wells may be authorized through a notification and publication process.

**Hearing Date:** 3/28/03

**Staff:** Kenneth Hirst (786-7105).

**Background:**

Various aspects of a ground water right may be modified with the approval of the Department of Ecology (DOE) if the modifications to the right will not impair other existing water rights, the wells under the modified right tap the same ground water body as wells under the original right, and the water right is not enlarged. If a well is replaced in the process, it must be properly decommissioned. The modified right has the same date of priority as the original right. For ground water rights, these modifications are "amendments" of the rights.

Under certain circumstances, new or replacement wells may be constructed to withdraw water under the right without the holder of the right seeking the approval of the DOE. Such new or replacement wells must be constructed within an area known as the "location of the original well or wells." This is the area that was described as the point of withdrawal in the original public notice published when the original water right was applied for.

**Summary of Bill:**

Modifications to Existing Policies. The nature of the modifications to an existing ground water right that may be authorized under the formal procedure for amending existing ground water rights is expanded. The purpose of use of a ground water right, not just the manner of use, may be amended. The amended right need no longer tap the same ground water body; however, the wells must be within the same water resource inventory area (WRIA) as the original wells under the right, or within an adjoining WRIA. In addition to constructing new wells or replacement wells for a ground water right, the point of withdrawal under the right may also be moved to another existing well. A formal amendment of the right or a change that can be made without seeking the approval of the DOE is prohibited from increasing the annual or instantaneous quantity of the water withdrawn, rather being prohibited from "enlarging" the water right. The "location of the original well or wells" within which a change may currently be made without seeking the approval of the DOE is expanded. It is now either the location identified in the notice published for the original well or wells or within one-quarter mile of them, whichever area is larger.

New Procedure. A new procedure is set out for authorizing the new or additional wells under an existing right in the area outside of the "location of the original well or wells" but within two miles of those wells. Under this procedure, notice must be published once a week for two consecutive weeks regarding the new or additional well, but the approval of the DOE is not required. Certain aspects of the changes in the right that must be contained in the notice are identified.

The notice must state that a water right holder wishing to assert a claim of potential water quantity impairment may do so by filing a claim with the DOE within 20 days of the second publication. The claim must describe how the addition or construction of a replacement or new additional well will cause potential quantity impairment to the water right holder's right. If the DOE receives a claim, it must investigate the claim and issue a written technical opinion on whether the quantity of the claimant's water right is likely to be impaired. The opinion is advisory only and is not appealable.

The person filing the claim and the water right holder must attempt to resolve any potential impairment issues raised in the claim. After attempting to resolve any potential impairment issues, the claimant may bring an action before the superior court in the county where the proposed new or additional well is to be located. Adding an additional existing well or the construction of a replacement or new additional well may begin 60 days after the first publication date of the notice.

**Appropriation:** None.

**Fiscal Note:** Not Requested.

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