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HOUSE BILL 2102

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Halper, Grant, Newhouse, Hankins, Buri and Dunn

Read first time 02/17/2005.      Referred to Committee on Economic Development, Agriculture & Trade.

1            AN ACT Relating to changing a ground water right; and amending RCW  
2 90.44.100.

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

4            **Sec. 1.** RCW 90.44.100 and 2003 c 329 s 3 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~~)) purpose or the place of use of the  
13 water.

14            (2) An amendment to construct replacement or a new additional well  
15 or wells at a location outside of the location of the original well or  
16 wells or to change the ((~~manner~~)) purpose or place of use of the water  
17 shall be issued only after publication of notice of the application and  
18 findings as prescribed in the case of an original application. Such  
19 amendment shall be issued by the department only on the conditions

1 that: (a) The additional or replacement well or wells shall tap the  
2 same body of public ground water as the original well or wells; (b)  
3 where a replacement well or wells is approved, the use of the original  
4 well or wells shall be discontinued and the original well or wells  
5 shall be properly decommissioned as required under chapter 18.104 RCW;  
6 (c) where an additional well or wells is constructed, the original well  
7 or wells may continue to be used, but the combined total withdrawal  
8 from the original and additional well or wells shall not enlarge by  
9 increasing the annual consumptive quantity of the right conveyed by the  
10 original permit or certificate; and (d) other existing rights shall not  
11 be impaired. The department may specify an approved manner of  
12 construction and shall require a showing of compliance with the terms  
13 of the amendment, as provided in RCW 90.44.080 in the case of an  
14 original permit.

15 (3) The construction of a replacement or new additional well or  
16 wells at the location of the original well or wells shall be allowed  
17 without application to the department for an amendment. However, the  
18 following apply to such a replacement or new additional well: (a) The  
19 well shall tap the same body of public ground water as the original  
20 well or wells; (b) if a replacement well is constructed, the use of the  
21 original well or wells shall be discontinued and the original well or  
22 wells shall be properly decommissioned as required under chapter 18.104  
23 RCW; (c) if a new additional well is constructed, the original well or  
24 wells may continue to be used, but the combined total withdrawal from  
25 the original and additional well or wells shall not enlarge the right  
26 conveyed by the original water use permit or certificate; (d) the  
27 construction and use of the well shall not interfere with or impair  
28 water rights with an earlier date of priority than the water right or  
29 rights for the original well or wells; (e) the replacement or  
30 additional well shall be located no closer than the original well to a  
31 well it might interfere with; (f) the department may specify an  
32 approved manner of construction of the well; and (g) the department  
33 shall require a showing of compliance with the conditions of this  
34 subsection (3).

35 (4) As used in this section, the "location of the original well or  
36 wells" is the area described as the point of withdrawal in the original  
37 public notice published for the application for the water right for the  
38 well.

1           (5) The development and use of a small irrigation impoundment, as  
2 defined in RCW 90.03.370(8), does not constitute a change or amendment  
3 for the purposes of this section. The exemption expressly provided by  
4 this subsection shall not be construed as requiring an amendment of any  
5 existing water right to enable the holder of the right to store water  
6 governed by the right.

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