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SENATE BILL 5578

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State of Washington

61st Legislature

2009 Regular Session

By Senators Schoesler, Honeyford, Morton, and Delvin

Read first time 01/27/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to water resource management; amending RCW  
2 90.44.035 and 90.44.050; and declaring an emergency.

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

4 **Sec. 1.** RCW 90.44.035 and 2000 c 98 s 2 are each amended to read  
5 as follows:

6 ~~((For purposes of this chapter:))~~ The definitions in this section  
7 apply throughout this chapter unless the context clearly requires  
8 otherwise.

9 (1) "Department" means the department of ecology;

10 (2) "Director" means the director of ecology;

11 (3) "Groundwaters" means all waters that exist beneath the land  
12 surface or beneath the bed of any stream, lake or reservoir, or other  
13 body of surface water within the boundaries of this state, whatever may  
14 be the geological formation or structure in which such water stands or  
15 flows, percolates or otherwise moves. There is a recognized  
16 distinction between natural groundwater and artificially stored  
17 groundwater;

18 (4) "Natural groundwater" means water that exists in underground  
19 storage owing wholly to natural processes;

1 (5) "Artificially stored groundwater" means water that is made  
2 available in underground storage artificially, either intentionally, or  
3 incidentally to irrigation and that otherwise would have been  
4 dissipated by natural processes; (~~and~~)

5 (6) "Stock watering" means all reasonable uses of water normally  
6 associated with the care and management of livestock including, but not  
7 limited to, drinking, feeding, cleaning of stalls, washing livestock,  
8 washing equipment used in the feeding or milking of livestock,  
9 controlling dust around livestock, and cooling livestock; and

10 (7) "Underground artificial storage and recovery project" means any  
11 project in which it is intended to artificially store water in the  
12 ground through injection, surface spreading and infiltration, or other  
13 department-approved method, and to make subsequent use of the stored  
14 water. However, (a) this subsection does not apply to irrigation  
15 return flow, or to operational and seepage losses that occur during the  
16 irrigation of land, or to water that is artificially stored due to the  
17 construction, operation, or maintenance of an irrigation district  
18 project, or to projects involving water reclaimed in accordance with  
19 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of  
20 claimed artificial recharge occurring due to the construction,  
21 operation, or maintenance of an irrigation district project or  
22 operational and seepage losses that occur during the irrigation of  
23 land, as well as other forms of claimed artificial recharge already  
24 existing at the time a groundwater subarea is established.

25 **Sec. 2.** RCW 90.44.050 and 2003 c 307 s 1 are each amended to read  
26 as follows:

27 (1) After June 6, 1945, no withdrawal of public groundwaters of the  
28 state shall be begun, nor shall any well or other works for such  
29 withdrawal be constructed, unless an application to appropriate such  
30 waters has been made to the department and a permit has been granted by  
31 it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public  
32 groundwaters for (~~stock watering~~) stock watering purposes not to  
33 exceed three hundred fifty acre feet of water per year, or for the  
34 watering of a lawn or of a noncommercial garden not exceeding one-half  
35 acre in area, or for single or group domestic uses in an amount not  
36 exceeding five thousand gallons a day, or as provided in RCW 90.44.052,  
37 or for an industrial purpose in an amount not exceeding five thousand

1 gallons a day, is and shall be exempt from the provisions of this  
2 section, but, to the extent that it is regularly used beneficially,  
3 shall be entitled to a right equal to that established by a permit  
4 issued under the provisions of this chapter(~~(+ PROVIDED, HOWEVER,~~  
5 ~~That)~~).

6 (2)(a) However, the department from time to time may require the  
7 person or agency making any such small withdrawal to furnish  
8 information as to the means for and the quantity of that withdrawal(~~(+~~   
9 ~~PROVIDED, FURTHER, That)~~).

10 (b) Prior to withdrawing more than fifteen thousand gallons a day  
11 for stock watering purposes, the department shall require the  
12 following:

13 (i) A report of examination describing the quantity of water to be  
14 withdrawn;

15 (ii) The development schedule;

16 (iii) A metering plan;

17 (iv) A water right impairment analysis prepared by a qualified  
18 hydrologist or engineer;

19 (v) Proof of compliance with any applicable county land use  
20 planning;

21 (vi) Compliance with applicable state environmental policy act  
22 requirements; and

23 (vii) Generally applicable well construction and reporting  
24 requirements.

25 (3) At the option of the party making withdrawals of groundwaters  
26 of the state not exceeding five thousand gallons per day, applications  
27 under this section or declarations under RCW 90.44.090 may be filed and  
28 permits and certificates obtained in the same manner and under the same  
29 requirements as is in this chapter provided in the case of withdrawals  
30 in excess of five thousand gallons a day.

31 NEW SECTION. Sec. 3. This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 immediately.

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