

---

SENATE BILL 6017

---

State of Washington

61st Legislature

2009 Regular Session

By Senator Morton

Read first time 02/13/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to fire suppression ponds; amending RCW 90.03.015,  
2 90.44.035, and 90.44.050; adding a new section to chapter 90.03 RCW;  
3 adding a new section to chapter 90.44 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** Current population growth and expanding  
6 development into traditionally nonurban areas have increasingly brought  
7 humans into contact with wildfires. The level of development of an  
8 area and that area's proximity to a municipal water system directly  
9 affects the amount of water available to firefighters for suppression  
10 activities. Homes in areas without access to a municipal water system  
11 are more difficult to defend and protect from wildfire as water must be  
12 brought to the site in tankers or by drawing from static water sources  
13 nearby. The forecasted growth in catastrophic wildfires indicates that  
14 climatic change could cause an increase in both fire suppression costs  
15 and economic losses due to wildfires. It is therefore the purpose of  
16 this act to recognize the importance of preventing wildfires by  
17 allowing landowners in rural areas to create a small fire suppression  
18 pond on their property that can be used for fire prevention and fire  
19 suppression purposes.

1       **Sec. 2.** RCW 90.03.015 and 2003 1st sp.s. c 5 s 1 are each amended  
2 to read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Department" means the department of ecology.

6       (2) "Director" means the director of ecology.

7       (3) "Fire suppression pond" means a pond of less than ten acre feet  
8 in volume used to impound water for fire suppression or fire  
9 prevention. Fire prevention includes, but is not limited to, water  
10 stored for emergency fire suppression activities or for the application  
11 of water to trees or other vegetation in order to prevent or address  
12 hazardous fire conditions.

13       (4) "Municipal water supplier" means an entity that supplies water  
14 for municipal water supply purposes.

15       ~~((+4))~~ (5) "Municipal water supply purposes" means a beneficial  
16 use of water: (a) For residential purposes through fifteen or more  
17 residential service connections or for providing residential use of  
18 water for a nonresidential population that is, on average, at least  
19 twenty-five people for at least sixty days a year; (b) for governmental  
20 or governmental proprietary purposes by a city, town, public utility  
21 district, county, sewer district, or water district; or (c) indirectly  
22 for the purposes in (a) or (b) of this subsection through the delivery  
23 of treated or raw water to a public water system for such use. If  
24 water is beneficially used under a water right for the purposes listed  
25 in (a), (b), or (c) of this subsection, any other beneficial use of  
26 water under the right generally associated with the use of water within  
27 a municipality is also for "municipal water supply purposes,"  
28 including, but not limited to, beneficial use for commercial,  
29 industrial, irrigation of parks and open spaces, institutional,  
30 landscaping, fire flow, water system maintenance and repair, or related  
31 purposes. If a governmental entity holds a water right that is for the  
32 purposes listed in (a), (b), or (c) of this subsection, its use of  
33 water or its delivery of water for any other beneficial use generally  
34 associated with the use of water within a municipality is also for  
35 "municipal water supply purposes," including, but not limited to,  
36 beneficial use for commercial, industrial, irrigation of parks and open  
37 spaces, institutional, landscaping, fire flow, water system maintenance  
38 and repair, or related purposes.

1           ~~((+5))~~ (6) "Person" means any firm, association, water users'  
2 association, corporation, irrigation district, or municipal  
3 corporation, as well as an individual.

4           NEW SECTION. **Sec. 3.** A new section is added to chapter 90.03 RCW  
5 to read as follows:

6           A withdrawal of surface water for a fire suppression pond is exempt  
7 from the permit requirements of this chapter.

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

10           ~~((For purposes of this chapter:))~~ The definitions in this section  
11 apply throughout this chapter unless the context clearly requires  
12 otherwise.

13           (1) "Department" means the department of ecology~~((+))~~.

14           (2) "Director" means the director of ecology~~((+))~~.

15           (3) "Fire suppression pond" means a pond of less than ten acre feet  
16 in volume used to impound water for fire suppression or fire  
17 prevention. Fire prevention includes, but is not limited to, water  
18 stored for emergency fire suppression activities or for the application  
19 of water to trees or other vegetation in order to prevent or address  
20 hazardous fire conditions.

21           (4) "Groundwaters" means all waters that exist beneath the land  
22 surface or beneath the bed of any stream, lake or reservoir, or other  
23 body of surface water within the boundaries of this state, whatever may  
24 be the geological formation or structure in which such water stands or  
25 flows, percolates or otherwise moves. There is a recognized  
26 distinction between natural groundwater and artificially stored  
27 groundwater~~((+))~~.

28           ~~((+4))~~ (5) "Natural groundwater" means water that exists in  
29 underground storage owing wholly to natural processes~~((+))~~.

30           ~~((+5))~~ (6) "Artificially stored groundwater" means water that is  
31 made available in underground storage artificially, either  
32 intentionally, or incidentally to irrigation and that otherwise would  
33 have been dissipated by natural processes~~((+and))~~.

34           ~~((+6))~~ (7) "Underground artificial storage and recovery project"  
35 means any project in which it is intended to artificially store water  
36 in the ground through injection, surface spreading and infiltration, or

1 other department-approved method, and to make subsequent use of the  
2 stored water. However, (a) this subsection does not apply to  
3 irrigation return flow, or to operational and seepage losses that occur  
4 during the irrigation of land, or to water that is artificially stored  
5 due to the construction, operation, or maintenance of an irrigation  
6 district project, or to projects involving water reclaimed in  
7 accordance with chapter 90.46 RCW; and (b) RCW 90.44.130 applies to  
8 those instances of claimed artificial recharge occurring due to the  
9 construction, operation, or maintenance of an irrigation district  
10 project or operational and seepage losses that occur during the  
11 irrigation of land, as well as other forms of claimed artificial  
12 recharge already existing at the time a groundwater subarea is  
13 established.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.44 RCW  
15 to read as follows:

16 A withdrawal of public groundwaters for a fire suppression pond is  
17 exempt from the permit requirements of RCW 90.44.050.

18 **Sec. 6.** RCW 90.44.050 and 2003 c 307 s 1 are each amended to read  
19 as follows:

20 After June 6, 1945, no withdrawal of public groundwaters of the  
21 state shall be begun, nor shall any well or other works for such  
22 withdrawal be constructed, unless an application to appropriate such  
23 waters has been made to the department and a permit has been granted by  
24 it as herein provided(~~(:—EXCEPT, HOWEVER, That)~~). However, any  
25 withdrawal of public groundwaters for stock-watering purposes, or for  
26 the watering of a lawn or of a noncommercial garden not exceeding one-  
27 half acre in area, or for single or group domestic uses in an amount  
28 not exceeding five thousand gallons a day, or as provided in RCW  
29 90.44.052 or section 5 of this act, or for an industrial purpose in an  
30 amount not exceeding five thousand gallons a day, is and shall be  
31 exempt from the provisions of this section, but, to the extent that it  
32 is regularly used beneficially, shall be entitled to a right equal to  
33 that established by a permit issued under the provisions of this  
34 chapter(~~(:—PROVIDED, HOWEVER, That)~~). The department from time to  
35 time may require the person or agency making any such small withdrawal  
36 to furnish information as to the means for and the quantity of that

1 withdrawal(~~(: PROVIDED, FURTHER, That)~~). Additionally, at the option  
2 of the party making withdrawals of groundwaters of the state not  
3 exceeding five thousand gallons per day, applications under this  
4 section or declarations under RCW 90.44.090 may be filed and permits  
5 and certificates obtained in the same manner and under the same  
6 requirements as is in this chapter provided in the case of withdrawals  
7 in excess of five thousand gallons a day.

--- END ---