
**Agriculture & Natural Resources
Committee**

HB 1350

Brief Description: Providing options for local communities to balance growth of the community with water resource goals.

Sponsors: Representatives Chandler and Tharinger.

Brief Summary of Bill

- Provides county legislative authorities with the discretionary authority to establish groundwater withdraw quantity limits that are lower than 5,000 gallons a day.
- Allows, with some exception, a local government to utilize a proposed subdivision's use of exempt wells to satisfy the requirement that sufficient potable water is available for the subdivision.
- Provides counties with the discretionary authority to create a limited purpose water bank in counties where the Department of Ecology has closed, or partially closed, a basin to the further appropriation of groundwater.

Hearing Date: 2/7/13

Staff: Jason Callahan (786-7117).

Background:

Groundwater Exempt Wells.

All groundwater withdrawals require an application and permit from the Department of Ecology (Department). Exemptions from this permit include any withdrawal of public groundwater for stock-watering purposes or for watering a lawn or a noncommercial garden less than 0.5 acre.

Single or group domestic uses or industrial purposes in an amount not exceeding five thousand gallons a day are also exempt [RCW 90.44.050]. Court rulings have held that group uses are

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only eligible to withdraw a total of 5,000 gallons per day for the entire group under the applicable exemption.

The Department has exercised authority in certain regions of the State to limit the uses of new exempt wells. This includes Department rules applicable to portions of Skagit, Kittitas, and Clallam, and Jefferson counties.

Subdivision Approvals.

The approval or denial of building subdivisions is generally a local government decision. In making that decision, a local government must consider if the public interest is served by the proposed subdivision and whether or not appropriate provisions will be made for public health, safety, the general welfare, and other considerations. One of these considerations is whether the proposed subdivision will have access to sufficient potable water.

Water Banks.

According to the Department, water banking is an institutional mechanism used to facilitate the legal transfer and market exchange of various types of surface, groundwater, and water storage. The term “water banking” is widely used to refer to a variety of water management practices. Banking is typically facilitated by an institution that operates in the role of broker or clearinghouse. Many banks pool water supplies from willing sellers and make them available as credits to willing buyers. In 2003, legislation was passed to allow banking in the Yakima basin using the State Trust Water Program. During the 2009 legislative session, the law was amended to clarify that this tool is available to use for banking statewide.

Summary of Bill:

Groundwater Exempt Wells.

County legislative authorities are provided with the discretionary authority to establish groundwater withdraw quantity limits that are lower than 5,000 gallons a day. If a county exercises this option, it must do so through the adoption of an ordinance and may only apply the option to new uses of water related to single or group domestic uses.

The county-established withdraw limit may not be set lower than 350 gallons a day unless there has been a finding by the county that justifies a lower amount that still satisfies the minimum requirements for public health and safety.

Subdivision Approvals.

A local government is expressly authorized to utilize a proposed subdivision's use of exempt wells to satisfy the requirement that sufficient potable water is available for the subdivision. Exempt wells are allowed for this purpose if the total withdraws do not exceed 5,000 gallons of water a day and the wells do not serve as the only source of water available to a project with a footprint greater than 40 acres or to a project greater than 20 acres if the project has available to it another source of water for outdoor uses.

If a proposed subdivision exceeds the 40 or 20 acre limit, then separate exempt wells must be secured to service each additional 20 or 40 acre footprint.

Water Bank.

Counties are given the discretionary authority to create a limited purpose water bank in counties where the Department has closed, or partially closed, a basin to the further appropriation of groundwater. If a water bank is created, it will serve to provide mitigation credits on a one-to-one ratio for existing interruptible or new exempt well groundwater withdrawals. The maximum amount of any mitigation credit must be capped as either 5,000 gallons per day, 350 gallons per day and per residence for group or domestic uses, or an amount less than 350 gallons per day if there has been a finding by the county that justifies a lower amount that still satisfies the minimum requirements for public health and safety.

Any water rights placed in a limited purpose local water bank must be in hydraulic continuity with the groundwater withdrawn by the new user. Any water credits purchased through the local bank must be affixed to a specific parcel of land and are assignable to the title of that land. Transfers of that water right are not allowed.

The county authorizing a local water bank may administer the bank directly or contract with an eligible third party. The cost of administering the water bank may be supported by the county's general fund, real estate excise taxes, or from fees added to the purchase price of a credit from the bank.

Appropriation: None.

Fiscal Note: Requested.

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