

HOUSE BILL REPORT

HB 1375

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to consolidating a new exempt withdrawal of groundwater into an existing public water system.

Brief Description: Concerning consolidating a new exempt withdrawal of groundwater into an existing public water system.

Sponsors: Representatives Blake and Chandler.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/7/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Allows a Group A or Group B water system that could provide adequate potable water for new development if not for the water system's lack of sufficient water rights to consolidate the water system's existing withdrawals with the necessary allowed permit exempt well withdrawals.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Buys, Haigh, Hurst, Kretz, Orcutt, Pettigrew, Schmick, Van De Wege and Warnick.

Minority Report: Do not pass. Signed by 3 members: Representatives Lytton, Vice Chair; Dunshee and Stanford.

Staff: Jason Callahan (786-7117).

Background:

Groundwater Exempt Wells.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 in size.

Single or group domestic uses or industrial purposes in an amount not exceeding 5,000 gallons a day are also exempt. Court rulings have held that group uses are only eligible to withdraw a total of 5,000 gallons per day for the entire group under the applicable exemption.

If a water user has a valid water right that allows for the permitted withdraw of groundwater, that water right holder may consolidate that allowed withdraw amount with any withdraws allowed under the permit exemption for groundwater withdraws. This consolidation does not affect the water right's priority. However, the consolidated amount of exempt well withdrawals is not necessarily 5,000 gallons per day. The water right holder may only consolidate the greater of the average amount withdrawn over the previous five years or 800 gallons per day for each residential connection. The 800 gallons per day minimum may be adjusted in rule by the Department.

Local Building Approvals.

The approval or denial of building permits and subdivision formalization is generally a local government decision. In making these decisions, 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 Systems.

Group A public water systems are water systems with 15 or more service connections, a system serving an average of 25 or more people per day for 60 or more days within a calendar year, or a system serving 1,000 or more people for two or more consecutive days. Group B public water systems are any public water system that does not meet the definition of a Group A public water system.

Summary of Substitute Bill:

Express authority is provided for a public water system to service a new development with up to 5,000 gallons of water a day that would otherwise, but for the service of the water system, be provided through the use of a private exempt well. The public water system providing the water could expand the amount of water allowed to be withdrawn under its existing water right by the amount used to service the new development if certain conditions are met.

In order to consolidate the water used to service a new development with an existing water right, the public water system would have to show that it is in compliance with all applicable water resource, water use efficiency, and drinking water requirements. It would also have to

show that any withdraws would be from the same body of ground water as would wells that would otherwise service the development, and that the water system would not be able to service the development but for the increase to the water system's authorized withdraws.

Any consolidation of water rights with exempt well withdraws would have to occur within the first five years of providing water. At that time, the water system must comply with any applicable provisions relating to notice and impairment and provide information to the Department related to water use for the new development. Information regarding water use must be gleaned from water meter data.

Substitute Bill Compared to Original Bill:

The substitute bill: provides that a Group A or B water system must be in compliance with all applicable water resource, water use efficiency, and drinking water requirements; requires the Group A or B water system to withdraw from the same body of groundwater as would have any exempt well serving the same development; and requires the water system to provide the Department with information from water meters that serve as the basis for calculating how much water was beneficially used.

Appropriation: None.

Fiscal Note: Requested on February 21, 2013.

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

Staff Summary of Public Testimony:

(In support) The bill would offer flexibility that is only used in very limited circumstances in the most rural of communities. The water withdraws effected by the bill would be made either way, but the changes in the bill allow for the existing infrastructure to be utilized for those withdraws instead of having to punch a new well into an aquifer.

(With concerns) Public water systems have good management parameters but someone would have to make sure that any water right consolidations are not taking water from senior water right holders. The role of the state as the reviewer of the proposal needs to be clarified. The provisions of the bill should also be focused to ensure that the stockwater exemption is not effected and to ensure that a water grab does not ensue.

(Opposed) The bill assumes that there will be an increase in water withdraws but does not have a good process to ensure that impairment to senior water right holders will not occur and needs a better defined appeals mechanism. The current law already allows the same outcome as the bill proposes but limits the water right consolidation to the water that is actually used and not to the maximum that is lawfully possible to use. The burden to refute any impacts would be passed from the state to local government. The checks and balances in the existing law are being missed in the bill.

Persons Testifying: (In support) Representative Blake, prime sponsor; Bill Clarke, Washington Public Utilities District Association; Marc Marcantonio, Water Cooperative of Pierce County; Jeff Johnson, Spanaway Water Company; Kathleen Collins, Washington Water Policy Alliance; and Scott Hazlegrove, Washington Association of Sewer and Water Districts.

(With concerns) Maia Bellon, Department of Ecology; Jack Field, Washington Cattlemen's Association; Bruce Wishart, Center for Environmental Law & Policy and Sierra Club; Glenn Smith, Washington State Ground Water Association; and Miguel Perez-Gibson, Colville Tribes.

(Opposed) Darcy Nonemacher, Washington Environmental Council; Dawn Vyvyan, Yakama Nation and Puyallup Tribe; and Steve Robinson, Tulalip and Umatilla Tribes.

Persons Signed In To Testify But Not Testifying: None.