
HOUSE BILL 1350

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Chandler and Tharinger

Read first time 01/24/13. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to providing options for local communities to
2 balance growth of the community with water resource goals; amending RCW
3 58.17.110 and 90.44.050; adding a new section to chapter 36.01 RCW;
4 adding new sections to chapter 90.54 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.01 RCW
7 to read as follows:

8 (1) A county legislative authority may by ordinance establish
9 quantity limits for new uses of water related to single or group
10 domestic uses in an amount not exceeding five thousand gallons a day
11 that are lower than those provided in RCW 90.44.050.

12 (2) Quantity limits established under this section must be set
13 either:

14 (a) No lower than three hundred fifty gallons per day per residence
15 for single or group domestic use; or

16 (b) To an amount less than three hundred fifty gallons per day if
17 that amount is based on a finding that justifies a lower amount as
18 sufficient to satisfy requirements for public health and safety.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.54 RCW
2 to read as follows:

3 (1) In watersheds where the department has closed or partially
4 closed a basin to further appropriation of groundwater, or in areas
5 where a county anticipates a closure or partial closure, the county
6 legislative authority may create a limited purpose local water bank
7 consistent with section 3 of this act. In considering whether a water
8 bank would be a viable tool in the area, the county legislative
9 authority shall consider whether there are a sufficient number of
10 existing water rights in the area to make a water bank successful.

11 (2) Water banks created under this section serve the purpose of
12 providing mitigation credits for existing interruptible or new exempt
13 groundwater withdrawals. The credit must be granted on a one-to-one
14 ratio. The maximum amount of credit may not exceed, as applicable, the
15 following:

16 (a) Five thousand gallons per day;

17 (b) Lower than three hundred fifty gallons per day per residence
18 for single or group domestic use; or

19 (c) An amount less than three hundred fifty gallons per day if that
20 amount is based on a finding that justifies a lower amount as
21 sufficient to satisfy requirements for public health and safety.

22 (3) A seasonal water right must be prorated on a basis of the total
23 permitted withdrawal divided by three hundred sixty-five days to arrive
24 at the total expressed gallons per day.

25 (4) A water right or a portion of a water right placed into a
26 limited purpose local water bank must be demonstrated to be in
27 hydraulic continuity with the groundwater to be withdrawn by the new
28 user and be shown as a real water right by the department, per the
29 department's transfer processes, before being made available. Water
30 rights placed into a limited purpose local water bank may only be
31 purchased on a permanent basis and only for purposes of mitigating
32 exempt withdrawals consistent with subsection (2) of this section.

33 (5) Water credits purchased through a limited purpose local water
34 bank must be affixed to a specific parcel of land to mitigate
35 interruptible or new groundwater withdrawals consistent with this
36 section and section 3 of this act. Purchased water credits are
37 assignable with conveyance of title of the new land parcel to which it
38 is affixed, but may not be transferred to another parcel. However,

1 nothing in this section prevents a parcel to which a water credit is
2 affixed to be subdivided and the water credit prorated amongst the
3 newly created parcels, as long as no parcel is:

4 (a) No lower than three hundred fifty gallons per day per residence
5 for single or group domestic use; or

6 (b) An amount less than three hundred fifty gallons per day if that
7 amount is based on a finding that justifies a lower amount as
8 sufficient to satisfy requirements for public health and safety.

9 (6) Water credits purchased from a bank must be purchased in the
10 form of a certificate expressed in a maximum gallons per day withdrawal
11 format. The price of the certificate is determined by the water right
12 holder and is a one-time purchase price.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.54 RCW
14 to read as follows:

15 (1) A limited purpose local water bank may be created by ordinance
16 adopted by the county legislative authority consistent with section 2
17 of this act. An ordinance may be adopted only after providing a
18 thirty-day comment period and at least one public hearing located
19 within the boundaries of the watershed, or if no suitable location
20 exists, at the county seat.

21 (2) The county legislative authority may administer a limited
22 purpose local water bank or may contract with a water conservancy
23 board, watershed planning group, conservation district, or other water
24 purveyor to administer the local water bank. The cost of administering
25 the limited purpose local water bank may be supported by general fund
26 moneys, real estate excise tax revenues, or from fees added to the
27 price of water credits purchased from the bank, or a combination of
28 these sources. Fees affixed to the water credit price may be
29 calculated to recover the actual costs of the purchase price of the
30 water credits.

31 (3) Nothing in this section or section 2 of this act may be
32 construed to grant the local legislative authority or agency contracted
33 to administer the limited purpose local water bank any authority to
34 place conditions on the use of the water credits purchased beyond those
35 found in existing law or this section.

1 **Sec. 4.** RCW 58.17.110 and 1995 c 32 s 3 are each amended to read
2 as follows:

3 (1) The city, town, or county legislative body shall inquire into
4 the public use and interest proposed to be served by the establishment
5 of the subdivision and dedication. It shall determine: (a) If
6 appropriate provisions are made for, but not limited to, the public
7 health, safety, and general welfare, for open spaces, drainage ways,
8 streets or roads, alleys, other public ways, transit stops, potable
9 water supplies, sanitary wastes, parks and recreation, playgrounds,
10 schools and schoolgrounds, and shall consider all other relevant facts,
11 including sidewalks and other planning features that (~~(assure)~~) ensure
12 safe walking conditions for students who only walk to and from school;
13 and (b) whether the public interest will be served by the subdivision
14 and dedication.

15 (2)(a) A proposed subdivision and dedication shall not be approved
16 unless the city, town, or county legislative body makes written
17 findings that: (~~(a)~~) (i) Appropriate provisions are made for the
18 public health, safety, and general welfare and for such open spaces,
19 drainage ways, streets or roads, alleys, other public ways, transit
20 stops, potable water supplies, sanitary wastes, parks and recreation,
21 playgrounds, schools and schoolgrounds and all other relevant facts,
22 including sidewalks and other planning features that (~~(assure)~~) ensure
23 safe walking conditions for students who only walk to and from school;
24 and (~~(b)~~) (ii) the public use and interest will be served by the
25 platting of such subdivision and dedication. If it finds that the
26 proposed subdivision and dedication make such appropriate provisions
27 and that the public use and interest will be served, then the
28 legislative body shall approve the proposed subdivision and dedication.
29 Dedication of land to any public body, provision of public improvements
30 to serve the subdivision, and/or impact fees imposed under RCW
31 82.02.050 through 82.02.090 may be required as a condition of
32 subdivision approval. Dedications shall be clearly shown on the final
33 plat. No dedication, provision of public improvements, or impact fees
34 imposed under RCW 82.02.050 through 82.02.090 shall be allowed that
35 constitutes an unconstitutional taking of private property. The
36 legislative body shall not as a condition to the approval of any
37 subdivision require a release from damages to be procured from other
38 property owners.

1 (b)(i) Permit exempt wells authorized under RCW 90.44.050 may be
2 used by a city, town, or county legislative body to satisfy the
3 requirements of this section for the appropriate provision of potable
4 water to a subdivision as long as total withdrawals from the wells do
5 not exceed the daily maximum withdrawals allowed under RCW 90.44.050
6 and do not:

7 (A) Service a project footprint larger than forty acres if the
8 wells will be the only source of water available to the project; or

9 (B) Service a project footprint larger than twenty acres if there
10 are other water sources available to the project for lawn, garden, and
11 other outside watering purposes.

12 (ii) For subdivisions that are proposed with a project footprint
13 greater than those identified in (b)(i) of this subsection, separate
14 permit exempt wells must be made available to service each additional
15 forty or twenty acre increment of project footprint, whichever is
16 appropriate under (b)(i) of this subsection, so approval by the city,
17 town, or county legislative body may be granted.

18 (3) If the preliminary plat includes a dedication of a public park
19 with an area of less than two acres and the donor has designated that
20 the park be named in honor of a deceased individual of good character,
21 the city, town, or county legislative body must adopt the designated
22 name.

23 **Sec. 5.** RCW 90.44.050 and 2003 c 307 s 1 are each amended to read
24 as follows:

25 Except as provided in section 1 of this act and RCW 58.17.110,
26 after June 6, 1945, no withdrawal of public groundwaters of the state
27 shall be begun, nor shall any well or other works for such withdrawal
28 be constructed, unless an application to appropriate such waters has
29 been made to the department and a permit has been granted by it as
30 herein provided: EXCEPT, HOWEVER, That any withdrawal of public
31 groundwaters for stock-watering purposes, or for the watering of a lawn
32 or of a noncommercial garden not exceeding one-half acre in area, or
33 for single or group domestic uses in an amount not exceeding five
34 thousand gallons a day, or as provided in RCW 90.44.052, or for an
35 industrial purpose in an amount not exceeding five thousand gallons a
36 day, is and shall be exempt from the provisions of this section, but,
37 to the extent that it is regularly used beneficially, shall be entitled

1 to a right equal to that established by a permit issued under the
2 provisions of this chapter: PROVIDED, HOWEVER, That the department
3 from time to time may require the person or agency making any such
4 small withdrawal to furnish information as to the means for and the
5 quantity of that withdrawal: PROVIDED, FURTHER, That at the option of
6 the party making withdrawals of groundwaters of the state not exceeding
7 five thousand gallons per day, applications under this section or
8 declarations under RCW 90.44.090 may be filed and permits and
9 certificates obtained in the same manner and under the same
10 requirements as is in this chapter provided in the case of withdrawals
11 in excess of five thousand gallons a day.

12 NEW SECTION. **Sec. 6.** (1) By passing this act, it is not the
13 intent of the legislature to change, alter, or otherwise affect the
14 application of RCW 90.44.050 or any of the exemptions provided in that
15 statute beyond the plain meaning of the language provided in section 2
16 of this act and added to RCW 58.17.110.

17 (2) It is the intent of this act to allow counties the authority
18 and option to balance growth of the community with water resource goals
19 by addressing future development criteria in regards to exempt well
20 withdrawals as per section 4 of this act. As to sections 1, 2, and 3
21 of this act, it is the intent of this act to allow counties the
22 authority and option to balance growth of the community with water
23 resource goals by allowing allocation for the best use of the water
24 resources available.

25 (3) No person, judicial body, or administrative agency should
26 interpret any provisions of this act in a manner that is inconsistent
27 with these statements of intent.

28 NEW SECTION. **Sec. 7.** (1) Section 4 of this act applies to
29 subdivisions of land prospectively only and not retroactively. It
30 applies only to causes of action that arise on or after the effective
31 date of this section.

32 (2) Sections 1, 2, and 3 of this act may be applied to any or all
33 existing divisions of land that are not developed as of the effective
34 date of this section.

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