
HOUSE BILL 1382

State of Washington 65th Legislature 2017 Regular Session

By Representatives Shea, Taylor, Manweller, Short, Buys, Kretz,
Chandler, Young, Hayes, Holy, and Haler

Read first time 01/18/17. Referred to Committee on Environment.

1 AN ACT Relating to establishing a rebuttable presumption that
2 permit-exempt groundwater withdrawals do not impair instream flows or
3 base flows; amending RCW 58.17.110, 19.27.097, 35.63.090, 35A.63.061,
4 and 36.70.330; and adding a new section to chapter 90.44 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44
7 RCW to read as follows:

8 (1) In absence of conclusive information to the contrary, there
9 is a presumption that a groundwater withdrawal that is exempt from
10 permitting requirements under RCW 90.44.050 will not affect or impair
11 a minimum water flow or level of a surface water body established
12 pursuant to chapter 90.22 RCW or a base flow protected consistent
13 with RCW 90.54.020(3)(a).

14 (2) A demonstration of "conclusive information" sufficient to
15 rebut the presumption in subsection (1) of this section must include,
16 but is not limited to, site-specific groundwater testing data that
17 demonstrates:

18 (a) The precise nature of any hydrological connection between the
19 groundwater source and the surface water body whose minimum water
20 flow or level would be impacted by groundwater withdrawal; and

1 (b) That a withdrawal of groundwater would cause a reduction in
2 the flow or level of the surface water body that is capable of being
3 measured with the use of professional equipment in the field.

4 (3) A person proposing to withdraw groundwater that is exempt
5 from permitting under this chapter is not required to establish or
6 provide data that would support or rebut the presumption established
7 in subsection (1) of this section.

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

10 (1) The city, town, or county legislative body shall inquire into
11 the public use and interest proposed to be served by the
12 establishment of the subdivision and dedication. It shall determine:

13 (a) If appropriate provisions are made for, but not limited to, the
14 public health, safety, and general welfare, for open spaces, drainage
15 ways, streets or roads, alleys, other public ways, transit stops,
16 potable water supplies, sanitary wastes, parks and recreation,
17 playgrounds, schools and schoolgrounds, and shall consider all other
18 relevant facts, including sidewalks and other planning features that
19 assure safe walking conditions for students who only walk to and from
20 school; and (b) whether the public interest will be served by the
21 subdivision and dedication.

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

1 dedication, provision of public improvements, or impact fees imposed
2 under RCW 82.02.050 through 82.02.090 shall be allowed that
3 constitutes an unconstitutional taking of private property. The
4 legislative body shall not as a condition to the approval of any
5 subdivision require a release from damages to be procured from other
6 property owners.

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

12 (4) A city, town, or county legislative body may not withhold or
13 delay its approval of a subdivision and dedication under this section
14 on the basis of not having sufficient evidence or information to
15 rebut the presumption established in section 1(1) of this act.

16 **Sec. 3.** RCW 19.27.097 and 2015 c 225 s 17 are each amended to
17 read as follows:

18 (1) Each applicant for a building permit of a building
19 necessitating potable water shall provide evidence of an adequate
20 water supply for the intended use of the building. Evidence may be in
21 the form of a water right permit from the department of ecology, a
22 letter from an approved water purveyor stating the ability to provide
23 water, or another form sufficient to verify the existence of an
24 adequate water supply. A city or county may not withhold or delay the
25 approval of a building permit under this section on the basis of not
26 having sufficient information or evidence to rebut the presumption
27 established in section 1(1) of this act. In addition to other
28 authorities, the county or city may impose conditions on building
29 permits requiring connection to an existing public water system where
30 the existing system is willing and able to provide safe and reliable
31 potable water to the applicant with reasonable economy and
32 efficiency. An application for a water right shall not be sufficient
33 proof of an adequate water supply.

34 (2) Within counties not required or not choosing to plan pursuant
35 to RCW 36.70A.040, the county and the state may mutually determine
36 those areas in the county in which the requirements of subsection (1)
37 of this section shall not apply. The departments of health and
38 ecology shall coordinate on the implementation of this section.
39 Should the county and the state fail to mutually determine those

1 areas to be designated pursuant to this subsection, the county may
2 petition the department of enterprise services to mediate or, if
3 necessary, make the determination.

4 (3) Buildings that do not need potable water facilities are
5 exempt from the provisions of this section. The department of
6 ecology, after consultation with local governments, may adopt rules
7 to implement this section, which may recognize differences between
8 high-growth and low-growth counties.

9 **Sec. 4.** RCW 35.63.090 and 1985 c 126 s 1 are each amended to
10 read as follows:

11 All regulations shall be worked out as parts of a comprehensive
12 plan which each commission shall prepare for the physical and other
13 generally advantageous development of the municipality and shall be
14 designed, among other things, to encourage the most appropriate use
15 of land throughout the municipality; to lessen traffic congestion and
16 accidents; to secure safety from fire; to provide adequate light and
17 air; to prevent overcrowding of land; to avoid undue concentration of
18 population; to promote a coordinated development of the unbuilt
19 areas; to encourage the formation of neighborhood or community units;
20 to secure an appropriate allotment of land area in new developments
21 for all the requirements of community life; to conserve and restore
22 natural beauty and other natural resources; to encourage and protect
23 access to direct sunlight for solar energy systems; and to facilitate
24 the adequate provision of transportation, water, sewerage and other
25 public uses and requirements, including protection of the quality and
26 quantity of groundwater used for public water supplies in a manner
27 consistent with section 1 of this act. Each plan shall include a
28 review of drainage, flooding, and storm water run-off in the area and
29 nearby jurisdictions and provide guidance for corrective actions to
30 mitigate or cleanse those discharges that pollute Puget Sound or
31 waters entering Puget Sound.

32 **Sec. 5.** RCW 35A.63.061 and 1985 c 126 s 2 are each amended to
33 read as follows:

34 The comprehensive plan shall be in such form and of such scope as
35 the code city's ordinance or charter may require. It may consist of a
36 map or maps, diagrams, charts, reports and descriptive and
37 explanatory text or other devices and materials to express, explain,
38 or depict the elements of the plan; and it shall include a

1 recommended plan, scheme, or design for each of the following
2 elements:

3 (1) A land-use element that designates the proposed general
4 distribution, general location, and extent of the uses of land. These
5 uses may include, but are not limited to, agricultural, residential,
6 commercial, industrial, recreational, educational, public, and other
7 categories of public and private uses of land. The land-use element
8 shall also include estimates of future population growth in, and
9 statements of recommended standards of population density and
10 building intensity for, the area covered by the comprehensive plan.
11 The land use element shall also provide for protection of the quality
12 and quantity of groundwater used for public water supplies in a
13 manner consistent with section 1 of this act and shall review
14 drainage, flooding, and storm water run-off in the area and nearby
15 jurisdictions and provide guidance for corrective actions to mitigate
16 or cleanse those discharges that pollute Puget Sound or waters
17 entering Puget Sound.

18 (2) A circulation element consisting of the general location,
19 alignment, and extent of existing and proposed major thoroughfares,
20 major transportation routes, and major terminal facilities, all of
21 which shall be correlated with the land-use element of the
22 comprehensive plan.

23 **Sec. 6.** RCW 36.70.330 and 1985 c 126 s 3 are each amended to
24 read as follows:

25 The comprehensive plan shall consist of a map or maps, and
26 descriptive text covering objectives, principles and standards used
27 to develop it, and shall include each of the following elements:

28 (1) A land use element which designates the proposed general
29 distribution and general location and extent of the uses of land for
30 agriculture, housing, commerce, industry, recreation, education,
31 public buildings and lands, and other categories of public and
32 private use of land, including a statement of the standards of
33 population density and building intensity recommended for the various
34 areas in the jurisdiction and estimates of future population growth
35 in the area covered by the comprehensive plan, all correlated with
36 the land use element of the comprehensive plan. The land use element
37 shall also provide for protection of the quality and quantity of
38 groundwater used for public water supplies in a manner consistent
39 with section 1 of this act and shall review drainage, flooding, and

1 storm water run-off in the area and nearby jurisdictions and provide
2 guidance for corrective actions to mitigate or cleanse those
3 discharges that pollute Puget Sound or waters entering Puget Sound;

4 (2) A circulation element consisting of the general location,
5 alignment and extent of major thoroughfares, major transportation
6 routes, trunk utility lines, and major terminal facilities, all of
7 which shall be correlated with the land use element of the
8 comprehensive plan;

9 (3) Any supporting maps, diagrams, charts, descriptive material
10 and reports necessary to explain and supplement the above elements.

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