
SENATE BILL 5622

State of Washington

68th Legislature

2023 Regular Session

By Senator Torres

1 AN ACT Relating to the transfer of alternate water rights and
2 water rights for municipal water supply purposes; amending RCW
3 90.44.100; creating a new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that it is in the
6 public interest to encourage changes and transfers of water rights
7 for municipal water supply purposes to serve the needs of the state's
8 growing population. The legislature further finds that alternate
9 water rights are a useful tool to add flexibility within water
10 systems and that transfers of alternate water rights should preserve
11 authorized aggregate limits on the amount of water used. The
12 legislature intends that the holders of valid permits or certificates
13 of groundwater rights for municipal water supply purposes including,
14 but not limited to, certificates covered by RCW 90.03.330(3) be
15 permitted by the department of ecology to amend their water rights to
16 allow full or partial transfer to and use by other public water
17 systems.

18 **Sec. 2.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to
19 read as follows:

1 (1) After an application to, and upon the issuance by the
2 department of an amendment to the appropriate permit or certificate
3 of groundwater right, the holder of a valid right to withdraw public
4 groundwaters may, without losing the holder's priority of right,
5 construct wells or other means of withdrawal at a new location in
6 substitution for or in addition to those at the original location, or
7 the holder may change the manner or the place of use of the water.

8 (2) An amendment to construct replacement or a new additional
9 well or wells at a location outside of the location of the original
10 well or wells or to change the manner or place of use of the water
11 shall be issued only after publication of notice of the application
12 and findings as prescribed in the case of an original application.
13 Such amendment shall be issued by the department only on the
14 conditions that: (a) The additional or replacement well or wells
15 shall tap the same body of public groundwater as the original well or
16 wells; (b) where a replacement well or wells is approved, the use of
17 the original well or wells shall be discontinued and the original
18 well or wells shall be properly decommissioned as required under
19 chapter 18.104 RCW; (c) where an additional well or wells is
20 constructed, the original well or wells may continue to be used, but
21 the combined total withdrawal from the original and additional well
22 or wells shall not enlarge the right conveyed by the original permit
23 or certificate; and (d) other existing rights shall not be impaired.
24 Where an amendment enables an alternate water right to be transferred
25 in whole or in part and beneficially used by another water right
26 holder, the amendment shall preserve the terms of the alternate water
27 right, including any aggregate limit on the amount of water withdrawn
28 under the alternate water right and any related rights. The
29 department may specify an approved manner of construction and shall
30 require a showing of compliance with the terms of the amendment, as
31 provided in RCW 90.44.080 in the case of an original permit.

32 (3) The construction of a replacement or new additional well or
33 wells at the location of the original well or wells shall be allowed
34 without application to the department for an amendment. However, the
35 following apply to such a replacement or new additional well: (a) The
36 well shall tap the same body of public groundwater as the original
37 well or wells; (b) if a replacement well is constructed, the use of
38 the original well or wells shall be discontinued and the original
39 well or wells shall be properly decommissioned as required under
40 chapter 18.104 RCW; (c) if a new additional well is constructed, the

1 original well or wells may continue to be used, but the combined
2 total withdrawal from the original and additional well or wells shall
3 not enlarge the right conveyed by the original water use permit or
4 certificate; (d) the construction and use of the well shall not
5 interfere with or impair water rights with an earlier date of
6 priority than the water right or rights for the original well or
7 wells; (e) the replacement or additional well shall be located no
8 closer than the original well to a well it might interfere with; (f)
9 the department may specify an approved manner of construction of the
10 well; and (g) the department shall require a showing of compliance
11 with the conditions of this subsection (3).

12 (4) As used in this section, the "location of the original well
13 or wells" is the area described as the point of withdrawal in the
14 original public notice published for the application for the water
15 right for the well.

16 (5) As used in this section, an "alternate water right" is a
17 right that may be used either instead of or simultaneously with
18 another identified water right or rights and where the aggregate
19 amount of water used from all identified sources is not allowed to
20 exceed a total authorized quantity.

21 (6) Water rights covered under RCW 90.03.330(3) may be amended
22 under this section to enable beneficial use within the original or
23 another public water system. This subsection shall not be construed
24 as prohibiting any other amendment of a permit or certificate
25 otherwise complying with the requirements of this section.

26 (7) The development and use of a small irrigation impoundment, as
27 defined in RCW 90.03.370(8), does not constitute a change or
28 amendment for the purposes of this section. The exemption expressly
29 provided by this subsection shall not be construed as requiring an
30 amendment of any existing water right to enable the holder of the
31 right to store water governed by the right.

32 NEW SECTION. Sec. 3. This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of
34 the state government and its existing public institutions, and takes
35 effect immediately.

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