

ESSB 6312 - H COMM AMD

By Committee on Agriculture & Natural Resources

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.44 RCW
4 to read as follows:

5 (1) Each parcel of property that is located within a closed Skagit
6 river subbasin is entitled to the withdrawal of public groundwater in
7 an amount not exceeding three hundred fifty gallons per day per
8 dwelling unit if the dwelling:

9 (a) Utilizes an on-site septic system for wastewater management;

10 (b) Is unable to practicably receive a water supply from a public
11 water system pursuant to RCW 43.20.260 and 70.116.030;

12 (c) Satisfies the mitigation requirements of section 2 of this act;

13 (d) Complies with all county ordinances and project approval
14 conditions and requirements;

15 (e) Complies with any local jurisdiction provisions that require
16 proof that water is physically available and that it meets all
17 applicable water quality standards; and

18 (f) Is on a legal lot of record that was in existence prior to the
19 effective date of this section.

20 (2) To the extent groundwater withdrawn under the authority
21 established in this section is regularly used beneficially, that
22 dwelling is entitled to a right equal to that established by a permit
23 issued under the provisions of this chapter.

24 (3) Groundwater withdrawn under the authority established in this
25 section must be limited to permit exempt domestic uses, as that term
26 applies to the administration of RCW 90.44.050.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.44 RCW
28 to read as follows:

29 (1)(a) The owner of any parcel located in a closed Skagit river

1 subbasin must, prior to any groundwater withdrawals authorized by
2 section 1 of this act, initiate the implementation of an environmental
3 mitigation plan that has been approved by the department as resulting
4 in no net loss of water to the hydraulic system of the Skagit river
5 basin.

6 (b) The mitigation plan must be designed to offset the impacts to
7 stream flows caused by the groundwater withdrawal authorized by section
8 1 of this act. The mitigation plan must quantify the expected impacts
9 on stream flows and must include the protection of and, where possible,
10 the enhancement of instream flows in the Skagit river basin by:

- 11 (i) Acquiring water rights;
- 12 (ii) Incentivizing water conservation and low-impact development
13 practices; and
- 14 (iii) Promoting any other instream flow enhancement projects,
15 including but not limited to collection, retention, and release of
16 rainwater, constructing ponds, wetlands, and other water impoundments,
17 and storm water infiltration.

18 (c) The applicant for mitigation plan approval must also identify
19 the sources of funding or funding commitments necessary to implement
20 the mitigation plan.

21 (2)(a) The responsibility for developing the mitigation plan and
22 funding its implementation belongs to the owner of the property subject
23 to the mitigation plan. However, nothing in this section prohibits a
24 county or public utility district from contributing public funds for
25 the development and implementation of a mitigation plan under this
26 section. Any commitment of public funds by a county or public utility
27 district must be identified in the mitigation plan submitted to the
28 department for approval.

29 (b) For property owners located in the Skagit river basin who
30 applied for a building permit with the county applicable to the
31 property where groundwater withdrawals are intended under section 1 of
32 this act prior to the effective date of this section only, the
33 development and implementation of a mitigation plan submitted for
34 approval under this section may be funded, in part or in whole, by
35 state capital budget funding.

36 **Sec. 3.** RCW 90.44.035 and 2000 c 98 s 2 are each amended to read
37 as follows:

1 For purposes of this chapter:

2 (1) "Department" means the department of ecology;

3 (2) "Director" means the director of ecology;

4 (3) "Groundwaters" means all waters that exist beneath the land
5 surface or beneath the bed of any stream, lake or reservoir, or other
6 body of surface water within the boundaries of this state, whatever may
7 be the geological formation or structure in which such water stands or
8 flows, percolates or otherwise moves. There is a recognized
9 distinction between natural groundwater and artificially stored
10 groundwater;

11 (4) "Natural groundwater" means water that exists in underground
12 storage owing wholly to natural processes;

13 (5) "Artificially stored groundwater" means water that is made
14 available in underground storage artificially, either intentionally, or
15 incidentally to irrigation and that otherwise would have been
16 dissipated by natural processes; (~~and~~)

17 (6) "Underground artificial storage and recovery project" means any
18 project in which it is intended to artificially store water in the
19 ground through injection, surface spreading and infiltration, or other
20 department-approved method, and to make subsequent use of the stored
21 water. However, (a) this subsection does not apply to irrigation
22 return flow, or to operational and seepage losses that occur during the
23 irrigation of land, or to water that is artificially stored due to the
24 construction, operation, or maintenance of an irrigation district
25 project, or to projects involving water reclaimed in accordance with
26 chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of
27 claimed artificial recharge occurring due to the construction,
28 operation, or maintenance of an irrigation district project or
29 operational and seepage losses that occur during the irrigation of
30 land, as well as other forms of claimed artificial recharge already
31 existing at the time a groundwater subarea is established; and

32 (7) "Skagit river basin" means water resources inventory areas
33 numbers 3 and 4 established under chapter 173-500 WAC as it existed on
34 the effective date of this section.

35 (8) "Closed Skagit river subbasin" means a subbasin of the Skagit
36 river basin that has been administratively closed to new groundwater
37 withdraws by the department pursuant to chapter 173-503 WAC.

1 **Sec. 4.** RCW 90.44.050 and 2003 c 307 s 1 are each amended to read
2 as follows:

3 After June 6, 1945, no withdrawal of public groundwaters of the
4 state shall be begun, nor shall any well or other works for such
5 withdrawal be constructed, unless an application to appropriate such
6 waters has been made to the department and a permit has been granted by
7 it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public
8 groundwaters for stock-watering purposes, or for the watering of a lawn
9 or of a noncommercial garden not exceeding one-half acre in area, or
10 for single or group domestic uses in an amount not exceeding five
11 thousand gallons a day, or as provided in RCW 90.44.052 or section 1 of
12 this act, or for an industrial purpose in an amount not exceeding five
13 thousand gallons a day, is and shall be exempt from the provisions of
14 this section, but, to the extent that it is regularly used
15 beneficially, shall be entitled to a right equal to that established by
16 a permit issued under the provisions of this chapter: PROVIDED,
17 HOWEVER, That the department from time to time may require the person
18 or agency making any such small withdrawal to furnish information as to
19 the means for and the quantity of that withdrawal: PROVIDED, FURTHER,
20 That at the option of the party making withdrawals of groundwaters of
21 the state not exceeding five thousand gallons per day, applications
22 under this section or declarations under RCW 90.44.090 may be filed and
23 permits and certificates obtained in the same manner and under the same
24 requirements as is in this chapter provided in the case of withdrawals
25 in excess of five thousand gallons a day.

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

28 (1) After June 6, 1945, no withdrawal of public groundwaters of the
29 state shall be begun, nor shall any well or other works for such
30 withdrawal be constructed, unless an application to appropriate such
31 waters has been made to the department and a permit has been granted by
32 it as herein provided: EXCEPT, HOWEVER, That any withdrawal of public
33 groundwaters for stock-watering purposes, or for the watering of a lawn
34 or of a noncommercial garden not exceeding one-half acre in area, or
35 for single or group domestic uses in an amount not exceeding five
36 thousand gallons a day, or as provided in RCW 90.44.052, or for an
37 industrial purpose in an amount not exceeding five thousand gallons a

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

14 (2)(a) The department may not require withdrawals of groundwater to
15 be metered or measured for wells authorized under the provisions of
16 this section constructed prior to the effective date of this section
17 for single or group domestic uses that do not exceed withdrawals of
18 five thousand gallons a day.

19 (b) This subsection does not apply to wells the department has
20 required to be metered or measured as of the effective date of this
21 section.

22 NEW SECTION. Sec. 6. The provisions of this act override any
23 conflicting provisions contained in chapter 173-503 WAC as it existed
24 on the effective date of this section."

25 Correct the title.

EFFECT: Entitles properties located in a closed subbasin of the Skagit river basin to withdraw up to 350 gallons of groundwater each day if the property uses a septic system, cannot practicably be serviced by a public water system, is implementing a mitigation plan approved by the department of ecology, and meets other requirements. Allows a county or public utility district to help fund a mitigation plan for groundwater withdraw in the Skagit river basin, and, for those property owners with a building permit application already submitted, allows state capital budget funding to assist with mitigation plan development and implementation. Prohibits the department of ecology from requiring the metering of existing exempt wells beyond those

currently metered.

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