

CHAPTER 122.

[S. B. 167.]

GROUND WATERS—REGULATION AND CONTROL.

AN ACT relating to the regulation and control of ground waters within the State of Washington, amending sections 5, 9 and 12, chapter 263 of the Laws of 1945, and adding a new section.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 5 of chapter 263 of the Laws of 1945 (sec. 7400-5, Rem. Rev. Stat.; sec. 993-58 (59) PPC) be amended to read as follows:

Section 5. After the effective date of this act no withdrawal of public ground waters of the state shall be begun, nor shall any well or other works for such withdrawal be constructed, unless an application to appropriate such waters has been made to the Supervisor of Hydraulics and a permit has been granted by him as herein provided: *Except, however,* That any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a non-commercial garden not exceeding one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand (5,000) gallons a day, or for an industrial purpose in an amount not exceeding five thousand (5,000) gallons a day, is and shall be exempt from the provisions of this section, but, to the extent that it is regularly used beneficially, shall be entitled to a right equal to that established by a permit issued under the provisions of this act: *Provided, however,* That the Supervisor of Hydraulics from time to time may require the person or agency making any such small withdrawal to furnish information as to the means for and the quantity of that withdrawal: *Provided, further,* That at the option of the party making withdrawals of ground waters of the state not exceeding five thousand (5,000) gallons per day, applications under this sec-

Application
for permit.

Exemption
for domestic
and industrial
uses.

Information
may be
required.

Withdrawals
less than
5,000 gallons.

tion or declarations under section 9 of this act may be filed and permits and certificates obtained in the same manner and under the same requirements as is in this act provided in the case of withdrawals in excess of five thousand gallons a day.

SEC. 2. That section 9 of chapter 263, Laws of 1945 (sec. 7400-9, Rem. Rev. Stat.; sec. 993-58 (67) PPC) be amended to read as follows:

Vested rights claimed.

Certificate.

Declaration by claimant.

Time may be extended.

Section 9. Any person, firm or corporation claiming a vested right to withdraw public ground waters of the state by virtue of prior beneficial use of such water shall, within three (3) years after the effective date of this act, be entitled to receive from the Supervisor of Hydraulics a certificate of ground water right to that effect: *Provided*, That the issuance by the Supervisor of Hydraulics of any such certificate of vested right shall be contingent on a declaration by the claimant in a form prescribed by said Supervisor, which declaration shall set forth: (1) the beneficial use for which such withdrawal has been made; (2) the date or approximate date of the earliest beneficial use of the water so withdrawn, and the continuity of such beneficial use; (3) the amount of water claimed; (4) if the beneficial use has been for irrigation, the description of the land to which such water has been applied and the name of the owner thereof; and (5) so far as it may be available, descriptive information concerning each well or other works for the withdrawal of public ground water, as required of original permittees under the provisions of section 8 of this act: *Provided, however*, That in case of failure to comply with the provisions of this section within the three (3) years allotted, the claimant may apply to the Supervisor of Hydraulics for a reasonable extension of time, which shall not exceed two (2) additional years and which shall be granted only upon a showing of good cause for such failure.

Each such declaration shall be certified, either on the basis of the personal knowledge of the declarant or on the basis of information and belief. With respect to each such declaration there shall be publication, and findings in the same manner as provided in section 6 of this act in the case of an original application to appropriate water. If his findings sustain the declaration, the Supervisor of Hydraulics shall approve said declaration, which then shall be recorded at length in his office and may also be recorded in the office of the County Auditor of the county within which the claimed withdrawal and beneficial use of public ground water have been made. When duly approved and recorded as herein provided, each such declaration or copies thereof shall have the same force and effect as an original permit granted under the provisions of section 6 of this act, with a priority as of the date of the earliest beneficial use of the water.

Certification of declaration.

Publication.

Findings.

Approval.

Recording.

Priority.

Declarations heretofore filed with the Supervisor of Hydraulics in substantial compliance with the provisions of this section shall have the same force and effect as if filed after the effective date of this act.

Declarations heretofore filed.

The same fees shall be collected by the Supervisor of Hydraulics in the case of applications for the issuance of certificates of vested rights, as are required to be collected in the case of application for permits for withdrawal of ground waters and for the issuance of certificates of ground water withdrawal rights under this act.

Fees.

SEC. 3. That there shall be added to chapter 263, of the Laws of 1945, a new section designated as section 11-A to read as follows:

Section 11-A. The unauthorized use of ground water to which another person is entitled, or the wilful or negligent waste of ground water, or the failure, when required by the Supervisor of Hy-

Unlawful acts.

draulics, to cap flowing wells or equip the same with valves, fittings, or casings to prevent waste of ground waters, shall be a misdemeanor.

SEC. 4. That section 12 of chapter 263 of the Laws of 1945 (sec. 7400-12, Rem. Rev. Stat.; sec. 993-58 (73) PPC) be amended to read as follows:

Appropriator's rights.

Preferred use.

Jurisdiction in supervisor.

Investigation by supervisor.

Ground water areas, sub-areas and depth zones to be designated and controlled.

Section 12. As between appropriators of public ground water, the prior appropriator shall as against subsequent appropriators from the same ground water body be entitled to the preferred use of such ground water to the extent of his appropriation and beneficial use, and shall enjoy the right to have any withdrawals by a subsequent appropriator of ground water limited to an amount that will maintain and provide a safe sustaining yield in the amount of the prior appropriation. The Supervisor of Hydraulics shall have jurisdiction over the withdrawals of ground water and shall administer the ground water rights under the principle just set forth, and he shall have the jurisdiction to limit withdrawals by appropriators of ground water so as to enforce the maintenance of a safe sustaining yield from the ground water body. For this purpose, the Supervisor of Hydraulics shall have authority and it shall be his duty from time to time, as adequate factual data become available, to designate ground water areas or sub-areas, to designate separate depth zones within any such area or sub-area, or to modify the boundaries of existing such area, or sub-area, or zones to the end that the withdrawals therefrom may be administratively controlled as prescribed in section 13 of this act in order that overdraft of public ground waters may be prevented so far as is feasible. Each such area or zone shall, as nearly as known facts permit, be so designated as to enclose a single and distinct body of public ground water. Each such sub-area may be so designated as to enclose all or any part of a

distinct body of public ground water, as the Supervisor of Hydraulics deems will most effectively accomplish the purposes of this act.

Designation of, or modification of the boundaries of such a ground water area, sub-area, or zone may be proposed by the Supervisor of Hydraulics on his own motion or by petition to the Supervisor of Hydraulics signed by at least fifty (50) or one-fourth ($\frac{1}{4}$), whichever is the lesser number, of the users of ground water in a proposed ground water area, sub-area, or zone. Before any proposed ground water area, sub-area, or zone shall be designated, or before the boundaries or any existing ground water area, sub-area, or zone shall be modified the Supervisor of Hydraulics shall publish a notice setting forth: (1) in terms of the appropriate legal subdivisions a description of all lands enclosed within the proposed area, sub-area, or zone, or within the area, sub-area, or zone whose boundaries are proposed to be modified; (2) the object of the proposed designation or modification of boundaries; and (3) the day and hour, and the place where written objections may be submitted and heard. Such notice shall be published in three (3) consecutive weekly issues of a newspaper of general circulation in the county or counties containing all or the greater portion of the lands involved, and the newspaper of publication shall be selected by the Supervisor of Hydraulics. Publication as just prescribed shall be construed as sufficient notice to the land owners and water users concerned.

Objections having been heard as herein provided, the Supervisor of Hydraulics shall make and file in his office written findings of fact with respect to the proposed designation or modification and, if the findings are in the affirmative, shall also enter a written order designating the ground water area, or sub-area, or zone or modifying the boundaries of the existing area, sub-area, or zone. Such findings and

Boundaries
may be
proposed.

Petition.

Publication
of notice.

Contents of
notice.

Hearings.

Findings.

Publication of findings.

order shall also be published substantially in the manner herein prescribed for notice of hearing, and when so published shall be final and conclusive unless an appeal therefrom is taken within the period and in the manner prescribed by section 16 of this act. Publication of such findings and order shall give force and effect to the remaining provisions of this section and to the provisions of section 13 of this act, with respect to the particular area, sub-area, or zone.

Priorities.

Priorities of right to withdraw public ground water shall be established separately for each ground water area, sub-area, or zone and, as between such rights, the first in time shall be the superior in right. The priority of the right acquired under a certificate of ground water right shall be the date of filing of the original application for a withdrawal in the office of the Supervisor of Hydraulics, or the date or approximate date of the earliest beneficial use of water as set forth in a certificate of a vested ground water right, under the provisions of section 9 of this act.

Declaration of ownership of area or zone waters.

Within ninety (90) days after the designation of a ground water area, sub-area or zone as herein provided, any person, firm or corporation then claiming to be the owner of artificially stored ground water within such area, sub-area, or zone shall file a certified declaration to that effect in the office of the Supervisor of Hydraulics on a form prescribed by said Supervisor. Such declaration shall cover: (1) the location and description of the works by whose operation such artificial ground water storage is purported to have been created, and the name or names of the owner or owners thereof; (2) a description of the lands purported to be underlain by such artificially stored ground water, and the name or names of the owner or owners thereof; (3) the amount of such water claimed; (4) the date or approximate date of the earliest artificial storage; (5) evidence competent to show that the water claimed is in fact

Contents of declaration.

water that would have been dissipated naturally except for artificial improvements by the claimant; and (6) such additional factual information as reasonably may be required by the Supervisor of Hydraulics. If any of the purported artificially stored ground water has been or then is being withdrawn, the claimant also shall file (1) the declarations which this act requires of claimants to a vested right to withdraw public ground waters, and (2) evidence competent to show that none of the water withdrawn under those declarations is in fact public ground water from the area, sub-area, or zone concerned: *Provided, however,* That in case of failure to file a declaration within the 90-day period herein provided, the claimant may apply to the Supervisor of Hydraulics for a reasonable extension of time, which shall not exceed two (2) additional years and which shall be granted only upon a showing of good cause for such failure.

Extension
of time
for filing
declaration.

Following publication of the declaration and findings—as in the case of an original application, permit, or certificate of right to appropriate public ground waters—the Supervisor of Hydraulics shall accept or reject such declaration or declarations with respect to ownership or withdrawal of artificially stored ground water. Acceptance of such declaration or declarations by the Supervisor of Hydraulics shall convey to the declarant no right to withdraw public ground waters from the particular area, sub-area, or zone, nor to impair existing or subsequent rights to such public waters.

Acceptance
or rejection
of declara-
tion.

Existing
rights
unimpaired.

Any person, firm or corporation hereafter claiming to be the owner of ground water within a designated ground water area, sub-area, or zone by virtue of its artificial storage subsequent to such designation shall, within three (3) years following the earliest artificial storage file a declaration of claim in the office of the Supervisor of Hydraulics, as herein prescribed for claims based on artificial

Artificial
storage.

Declaration.

Extension of time for filing.

storage prior to such designation: *Provided, however,* That in case of such failure the claimant may apply to the Supervisor of Hydraulics for a reasonable extension of time, which shall not exceed two (2) additional years and which shall be granted upon a showing of good cause for such failure.

Withdrawal of such waters.

Any person, firm or corporation hereafter withdrawing ground water claimed to be owned by virtue of artificial storage subsequent to designation of the relevant ground water area, sub-area, or zone shall, within ninety (90) days following the earliest such withdrawal, file in the office of the Supervisor of Hydraulics the declarations required by this act with respect to withdrawals of public ground water.

Passed the Senate March 3, 1947.

Passed the House March 6, 1947.

Approved by the Governor March 17, 1947.

CHAPTER 123.

[S. B. 170.]

USE AND DIVERSION OF WATERS.

AN ACT relating to the use and diversion of water in the State of Washington and amending section 2 of chapter 162 of the Laws of 1925, fixing the compensation of stream patrolmen, and amending section 9 of chapter 117 of the Laws of 1917, fixing the compensation of water masters.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 2 of chapter 162 of the Laws of 1925 (Rem. Rev. Stat. 7351-2; PPC 993-75), be amended to read as follows:

Wages of stream patrolmen.

Section 2. Each stream patrolman shall receive a wage per day for each day actually employed in the duties of his office, or if employed by the month, he shall receive a salary per month, which wage or salary shall be fixed in the manner provided by law