

# HOUSE BILL REPORT

## E2SSB 5448

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### As Reported By House Committee On:

Agriculture & Ecology  
Appropriations

**Title:** An act relating to public water systems.

**Brief Description:** Modifying provisions for public water system regulation.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Hochstatter, Sutherland and Winsley; by request of Department of Health).

### Brief History:

#### Committee Activity:

Agriculture & Ecology: 3/29/95, 3/30/95 [DPA];

Appropriations: 4/3/95 [DPA(AG)].

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## HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** Do pass as amended. Signed by 17 members: Representatives Chandler, Chairman; Koster, Vice Chairman; McMorris, Vice Chairman; Mastin, Ranking Minority Member; Chappell, Assistant Ranking Minority Member; Boldt; Clements; Delvin; R. Fisher; Honeyford; Johnson; Kremen; Poulsen; Regala; Robertson; Rust and Schoesler.

**Staff:** Bill Lynch (786-7092).

**Background:** In 1993, the state Department of Health (DOH) convened the Drinking Water 2000 Task Force to review the existing state regulatory program and develop recommendations for the future regulation of public water systems. The task force issued a report in January 1995 outlining specific recommendations.

This report found that there are over 14,000 systems that provide drinking water in the state. Many of these systems serve less than 15 connections. The report also noted that the effect of federal standards on affected water systems is substantial, particularly on these smaller systems since the costs are spread to a smaller customer base.

DOH has a significant role in regulating water systems. These duties include overseeing areas designated as having water supply problems and approving system

plans for these critical water supply service areas. DOH also certifies and regulates public water systems.

**Summary of Amended Bill:** The authority to allow the establishment of a new public water system within the area covered by a coordinated water system plan is transferred from the Department of Health to the local legislative authority. The local legislative authority must determine that the existing purveyors are unable to provide the service in a timely and reasonable manner, pursuant to guidelines developed by the Secretary of Health. An existing purveyor is unable to provide the service in a timely manner if the water cannot be provided to an applicant for water within 120 days. Service area boundaries in the coordinated water system plan must be revised to reflect the decision of the local legislative authority.

Local legislative authorities are authorized to develop a mechanism for resolving disputes that arise after the coordinated water system plan has been approved by the Secretary of Health. The committee created for the establishment of the boundaries of a critical water supply service area may develop a mechanism for resolving disputes that arise in the development of the coordinated water system plan.

Nonmunicipally owned public water systems are exempt from the planning requirements of the public water system coordination plan if they have no plans for water service beyond their existing service area.

Proposed service area boundaries of public water systems that are required to submit plans must be identified in the system's plan. The local legislative authority or its designee is required to review the proposed boundaries to determine if they overlap with the proposed boundaries of other systems. Boundaries that do not overlap are included within the plan. If an overlap of a service area exists, the local legislative authority may attempt to resolve the dispute. Any unresolved dispute, or any decision regarding overlapping service may be appealed to the secretary. Notice of the hearing held by the secretary to resolve the dispute must be provided to each purveyor involved in the dispute.

The minimum requirements for coordinated water system plans must now include satellite system management requirements, and policies and procedures that generally address failing water systems for which counties may become responsible. The county legislative authority must hold a public hearing and determine the plan's consistency with the minimum requirements established by the Secretary of Health before submitting the plan to the secretary for approval.

The local legislative authorities or the secretary may determine that the coordinated water system plan needs to be updated or revised. The secretary may not initiate an update of the plan more than once every five years.

Any county legislative authority may adopt an abbreviated plan for the provision of water supplies within its boundaries. The abbreviated plan must include provisions for service area boundaries, minimum design criteria, and review procedures. The elements must be consistent with other adopted land use and resource plans, and conform to the criteria for coordinated water system plans. The county legislative authority may use an advisory committee that is representative of the water utilities and local governments to assist in the preparation of the abbreviated plan, in lieu of the committee structure required for developing a critical water supply service area. The abbreviated plan may be adopted by resolution and submitted to the Secretary of Health for approval. Purveyors within an area covered by an abbreviated plan are only required to develop a water system plan as required by the Secretary of Health, the State Board of Health, or some other authority. Abbreviated plans are subject to the same provisions as a coordinated water system plan.

Any new public water system must be owned or operated by a satellite system management agency, and the system must comply with financial viability requirements of DOH. If a satellite system management agency is not available, the new water system must have sufficient management and financial resources to provide safe and reliable service.

The approval of a new system that is not owned by a satellite system management agency must be conditioned upon either: (a) future connection to another system if the connection may be made with reasonable economy and efficiency; or (b) periodic review of the system's operational history to determine its ability to meet the department's viability and other operating requirements. DOH and local health jurisdictions are required to enforce the requirements governing the approval of new water systems.

The safe drinking water regulation program is funded by a 15 percent set-aside from moneys collected from water distribution businesses under the public utility tax.

Local governments may establish separate operating permit requirements for public water systems if the operating permit requirements have been approved by DOH. These separate requirements may be established after July 1, 1995.

All Group A water systems and public water systems and certain Group B water systems must have a certified operator. A certified operator may provide services to more than one system or group of systems. DOH is required to phase in requirements for public water systems with less than 100 connections in order to serve the systems and satisfy additional requirements under federal law. The requirements for a certified operator for a system with less than 100 connections may be waived if the system can demonstrate a good compliance record and financial viability, and does not have or is not required to have water treatment facilities.

Penalties for violations of the public water system provisions are placed in the safe drinking water account, instead of the state General Fund, and the money is to be used to provide training and technical assistance to system owners and operators. The total fine that may be imposed for modifying or expanding a public water system with less than 1,000 connections without department approval is reduced from \$5,000 to \$1,000, if an attempt was first made to secure departmental approval.

A drinking water assistance account is created in the state treasury to take advantage of any federal funds that become available for safe drinking water. Expenditures from the account may only be made by the secretary of the Department of Health or the Public Works Board after appropriation.

A water supply advisory committee is created to advise DOH on the drinking water program. Committee membership is to include a broad range of interests related to the regulation of public water supplies. The advisory committee must submit a report to the appropriate committees of the Legislature on the adequacy and necessity of the current and prospective funding of the drinking water program by November 1, 1996.

**Amended Bill Compared to Engrossed Second Substitute Bill:** The section pertaining to exempt wells and the metering of those wells is deleted. The increases in annual operating permit fees are deleted and replaced with a 15 percent set-aside from public utility taxes paid by water distribution businesses. The maximum penalty for extending or modifying a water system with less than 1,000 connections without department approval is reduced from \$5,000 to \$1,000, if an attempt was first made to secure department approval.

The current definition of a Group A water system is restored for purposes of the chapter on certification of water system operators. Language is added to clarify that an abbreviated plan adopted by a county legislative authority is subject to the same provisions as a coordinated water system plan. A drinking water assistance account is created to take advantage of federal funding that may become available. A definition of what constitutes being able to provide service in a timely manner is added for purposes of determining whether a purveyor can provide service to an area.

**Appropriation:** None.

**Fiscal Note:** Available on substitute. New fiscal note requested on March 27, 1995.

**Effective Date of Amended Bill:** Ninety days after adjournment of session in which the bill is passed, except that the section allowing local governments to establish operating permit programs takes effect on July 1, 1995.

**Testimony For:** This is necessary if the state is to retain primacy over drinking water. This reflects a two-year effort by many stakeholders. The state should give some general fund support to safe drinking water programs.

**Testimony Against:** (Original Bill) Penalties are too high under existing law. The bill increases the paperwork burden, which makes it hard to keep up with maintaining the system. Fees are too high.

**Testified:** Dave Clark, Department of Health (pro); John Kounts, Washington Public Utility District Association (pro); and Paul Larsen, Bob Wiesen, Gerrit Kuiken, and Nelda Sigurdson, Washington Association Water Systems (con - original bill).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Agriculture & Ecology. Signed by 24 members: Representatives Silver, Chairman; Clements, Vice Chairman; Huff, Vice Chairman; Pelesky, Vice Chairman; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; G. Fisher; Foreman; Grant; Hickel; Lambert; Lisk; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Talcott and Wolfe.

**Minority Report:** Do not pass. Signed by 6 members: Representatives Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Hargrove; Jacobsen and Thibaudeau.

**Staff:** Jim Lux (786-7152).

**Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology:** No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Requested on March 27, 1995.

**Effective Date of Amended Bill:** Ninety days after adjournment of session in which bill is passed, except that the section allowing local governments to establish operating permit programs takes effect on July 1, 1995.

**Testimony For:** This legislation is very important regarding the state's ability to retain primacy over drinking water programs in the state. In order to carry out the requirements of the federal Safe Drinking Water Act, the state needs to delegate responsibilities to willing local governments or third parties and to provide funding to carry out those responsibilities. Adequate regulation of small water systems is not

occurring and there are too many violations. These small systems do not always have the funding to comply. The 15 percent utility tax set-a-side will provide the funding for grants to enable small water systems to meet federal and state requirements that will ensure state primacy.

**Testimony Against:** None.

**Testified:** Dave Clark, Director, Drinking Water Program, Department of Health; and John Kounts, Washington Public Utility District Association and Chairman, Washington Drinking Water 2000 Task Force.