
SUBSTITUTE SENATE BILL 5448

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Energy, Telecommunications & Utilities
(originally sponsored by Senators Fraser, Hochstatter, Sutherland and
Winsley; by request of Department of Health)

Read first time 02/24/95.

1 AN ACT Relating to public water systems; amending RCW 70.116.060,
2 70.119A.060, 82.16.020, 70.119A.110, 70.119.020, 70.119.030,
3 70.116.050, 70.119A.040, 70.119A.130, and 70.116.070; reenacting and
4 amending RCW 80.04.110; adding a new section to chapter 70.119A RCW;
5 creating a new section; providing an effective date; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that:

9 (1) Protection of the state's water resources, and utilization of
10 such resources for provision of public water supplies, requires more
11 efficient and effective management than is currently provided under
12 state law;

13 (2) The provision of public water supplies to the people of the
14 state should be undertaken in a manner that is consistent with the
15 planning principles of the growth management act and the comprehensive
16 plans adopted by local governments under the growth management act;

17 (3) Small water systems have inherent difficulties with proper
18 planning, operation, financing, management and maintenance. The
19 ability of such systems to provide safe and reliable supplies to their

1 customers on a long-term basis needs to be assured through proper
2 management and training of operators;

3 (4) New water quality standards and operational requirements for
4 public water systems will soon generate higher rates for the customers
5 of those systems, which may be difficult for customers to afford to
6 pay. It is in the best interest of the people of this state that small
7 systems maintain themselves in a financially viable condition;

8 (5) County governments are ultimately responsible to act as
9 receivers of any failing water systems within their jurisdictions;

10 (6) The drinking water 2000 task force has recommended maintaining
11 a strong and properly funded state-wide drinking water program,
12 retaining primary responsibility for administering the federal safe
13 drinking water act in Washington. The task force has further
14 recommended delegation of as many water system regulatory functions as
15 possible to local governments, with provision of adequate resources and
16 elimination of barriers to such delegation. In order to achieve these
17 objectives, the state should provide adequate future funding from both
18 general state funds and funding directly from the regulated water
19 system;

20 (7) The public health services improvement plan recommends that the
21 principal public health functions in Washington, including regulation
22 of public water systems, should be undertaken by local jurisdictions
23 with the capacity to perform them; and

24 (8) State government, local governments, water suppliers, and other
25 interested parties should work for continuing economic growth of the
26 state by maximizing the use of existing water supply management
27 alternatives, including regional water systems, satellite management,
28 and coordinated water system development.

29 **Sec. 2.** RCW 70.116.060 and 1977 ex.s. c 142 s 6 are each amended
30 to read as follows:

31 (1) A coordinated water system plan shall be submitted to the
32 secretary for design approval within two years of the establishment of
33 the boundaries of a critical water supply service area.

34 (2) The secretary shall review the coordinated water system plan
35 and, to the extent the plan is consistent with the requirements of this
36 chapter and regulations adopted hereunder, shall approve the plan,
37 provided that the secretary shall not approve those portions of a
38 coordinated water system plan ((which)) that fail to meet the

1 requirements for future service area boundaries until any boundary
2 dispute is resolved as set forth in RCW 70.116.070.

3 (3) Following the approval of a coordinated water system plan by
4 the secretary:

5 (a) All purveyors constructing or proposing to construct public
6 water system facilities within the area covered by the plan shall
7 comply with the plan.

8 (b) No other purveyor shall establish a public water system within
9 the area covered by the plan, unless the (~~secretary~~) local
10 legislative authority determines that existing purveyors are unable to
11 provide the service in a timely and reasonable manner, pursuant to
12 guidelines developed by the secretary. If such a determination is
13 made, the (~~secretary may~~) local legislative authority shall require
14 the new public water system to be constructed in accordance with the
15 construction standards and specifications embodied in the coordinated
16 water system plan approved for the area. The service area boundaries
17 in the coordinated plan for the affected utilities shall be revised to
18 reflect the decision of the local legislative authority.

19 (4) The secretary may deny proposals to establish or to expand any
20 public water system within a critical water supply service area for
21 which there is not an approved coordinated water system plan at any
22 time after two years of the establishment of the critical water supply
23 service area: PROVIDED, That service connections shall not be
24 considered expansions.

25 (5) The affected legislative authorities may develop and utilize a
26 mechanism for addressing disputes that arise in the implementation of
27 the coordinated water system plan after the plan has been approved by
28 the secretary.

29 (6) After adoption of the initial coordinated water system plan,
30 the local legislative authority or the secretary may determine that the
31 plan should be updated or revised. The legislative authority may
32 initiate an update at any time, but the secretary may initiate an
33 update no more frequently than once every five years. The update may
34 encompass all or a portion of the plan, with the scope of the update to
35 be determined by the secretary and the legislative authority. The
36 process for the update shall be the one prescribed in RCW 70.116.050.

37 **Sec. 3.** RCW 70.119A.060 and 1991 c 304 s 4 are each amended to
38 read as follows:

1 (1) In order to assure safe and reliable public drinking water and
2 to protect the public health, public water systems shall:

3 (a) Protect the water sources used for drinking water;

4 (b) Provide treatment adequate to assure that the public health is
5 protected;

6 (c) Provide and effectively operate and maintain public water
7 system facilities;

8 (d) Plan for future growth and assure the availability of safe and
9 reliable drinking water;

10 (e) Provide the department with the current names, addresses, and
11 telephone numbers of the owners, operators, and emergency contact
12 persons for the system, including any changes to this information, and
13 provide to users the name and twenty-four hour telephone number of an
14 emergency contact person; and

15 (f) Take whatever investigative or corrective action is necessary
16 to assure that a safe and reliable drinking water supply is
17 continuously available to users.

18 (2) No new public water system may be approved or created within an
19 urban growth area established under RCW 36.70A.110 unless it is owned
20 or operated by a satellite system management agency established under
21 RCW 70.116.134. No new public water system may be approved or created
22 in other areas of the state unless it is owned or operated by a
23 satellite system management agency established under RCW 70.116.134,
24 where available, and where the satellite system management system
25 complies with financial viability requirements of the department. The
26 approval of any new system that is not owned by a satellite system
27 management agency shall be conditioned upon future connection to
28 another system if such connection may be made with reasonable economy
29 and efficiency, or upon periodic review of the system's operational
30 history to determine its ability to meet the department's financial
31 viability and other operating requirements. The department and local
32 health jurisdictions shall enforce this requirement under authority
33 provided under this chapter, chapter 70.116, or 70.05 RCW, or other
34 authority governing the approval of new water systems by the department
35 or a local jurisdiction.

36 (3) The department and local health jurisdictions shall carry out
37 the rules and regulations of the state board of health adopted pursuant
38 to RCW 43.20.050(2)(a) and other rules adopted by the department
39 relating to public water systems.

1 **Sec. 4.** RCW 82.16.020 and 1989 c 302 s 204 are each amended to
2 read as follows:

3 (1) There is levied and there shall be collected from every person
4 a tax for the act or privilege of engaging within this state in any one
5 or more of the businesses herein mentioned. The tax shall be equal to
6 the gross income of the business, multiplied by the rate set out after
7 the business, as follows:

8 (a) Railroad, express, railroad car, sewerage collection, and
9 telegraph businesses: Three and six-tenths percent;

10 (b) Light and power business: Three and sixty-two one-hundredths
11 percent;

12 (c) Gas distribution business: Three and six-tenths percent;

13 (d) Urban transportation business: Six-tenths of one percent;

14 (e) Vessels under sixty-five feet in length, except tugboats,
15 operating upon the waters within the state: Six-tenths of one percent;

16 (f) Motor transportation and tugboat businesses, and all public
17 service businesses other than ones mentioned above: One and eight-
18 tenths of one percent;

19 (g) Water distribution business: Four and seven-tenths percent.

20 (2) An additional tax is imposed equal to the rate specified in RCW
21 82.02.030 multiplied by the tax payable under subsection (1) of this
22 section.

23 (3) Twenty percent of the moneys collected under subsection (1) of
24 this section on water distribution businesses and sixty percent of the
25 moneys collected under subsection (1) of this section on sewerage
26 collection businesses shall be deposited in the public works assistance
27 account created in RCW 43.155.050.

28 (4) Fifteen percent of the moneys collected under subsection (1) of
29 this section on water distribution businesses shall be deposited in the
30 safe drinking water account created in RCW 70.119A.110.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.119A
32 RCW to read as follows:

33 The department shall create a water supply advisory committee.
34 Membership on the committee shall reflect a broad range of interests in
35 the regulation of public water supplies, including water utilities of
36 all sizes, local governments, business groups, special purpose
37 districts, local health jurisdictions, other state and federal
38 agencies, financial institutions, environmental organizations, the

1 legislature, and other groups substantially affected by the
2 department's role in implementing state and federal requirements for
3 public water systems. Members shall be appointed for fixed terms of no
4 less than two years, and may be reappointed. Any members of an
5 existing advisory committee to the drinking water program may remain as
6 members of the water supply advisory committee. The committee shall
7 provide advice to the department on the organization, functions,
8 service delivery methods, and funding of the drinking water program.
9 The committee shall also review the adequacy and necessity of the
10 current and prospective funding for the drinking water program, and the
11 results of the committees' review shall be forwarded to the department
12 for inclusion in a report to the appropriate standing committees of the
13 legislature no later than November 1, 1996. The report shall include
14 a discussion of the extent to which the drinking water program has
15 progressed toward achieving the objectives of the public health
16 improvement plan, and an assessment of any changes to the program
17 necessitated by modifications to the federal safe drinking water act.

18 **Sec. 6.** RCW 70.119A.110 and 1991 c 304 s 5 are each amended to
19 read as follows:

20 (1) No person may operate a group A public water system unless the
21 person first submits an application to the department and receives an
22 operating permit as provided in this section. A new application must
23 be submitted upon any change in ownership of the system. Any person
24 operating a public water system on July 28, 1991, may continue to
25 operate the system until the department takes final action, including
26 any time necessary for a hearing under subsection (3) of this section,
27 on a permit application submitted by the person operating the system
28 under the rules adopted by the department to implement this section.

29 (2) The department may require that each application include the
30 information that is reasonable and necessary to determine that the
31 system complies with applicable standards and requirements of the
32 federal safe drinking water act, state law, and rules adopted by the
33 department or by the state board of health.

34 (3) Following its review of the application, its supporting
35 material, and any information received by the department in its
36 investigation of the application, the department shall issue or deny
37 the operating permit. The department shall act on initial permit
38 applications as expeditiously as possible, and shall in all cases

1 either grant or deny the application within one hundred twenty days of
2 receipt of the application or of any supplemental information required
3 to complete the application. The applicant for a permit shall be
4 entitled to file an appeal in accordance with chapter 34.05 RCW if the
5 department denies the initial or subsequent applications or imposes
6 conditions or requirements upon the operator. Any operator of a public
7 water system that requests a hearing may continue to operate the system
8 until a decision is issued after the hearing.

9 (4) At the time of initial permit application or at the time of
10 permit renewal the department may impose such permit conditions,
11 requirements for system improvements, and compliance schedules as it
12 determines are reasonable and necessary to ensure that the system will
13 provide a safe and reliable water supply to its users.

14 (5) Operating permits shall be issued for a term of one year, and
15 shall be renewed annually, unless the operator fails to apply for a new
16 permit or the department finds good cause to deny the application for
17 renewal.

18 (6) Each application shall be accompanied by an annual fee as
19 follows:

20 (a) ~~((The annual fee for public water supply systems serving
21 fifteen to forty nine service connections shall be twenty five dollars.~~

22 (b) ~~The annual fee for public water supply systems serving fifty to
23 three thousand three hundred thirty three service connections shall be
24 based on a uniform per service connection fee of one dollar and fifty
25 cents per service connection.~~

26 (c) ~~The annual fee for public water supply systems serving three
27 thousand three hundred thirty four to fifty three thousand three
28 hundred thirty three service connections shall be based on a uniform
29 per service connection fee of one dollar and fifty cents per service
30 connection plus ten cents for each service connection in excess of
31 three thousand three hundred thirty three service connections.~~

32 (d) ~~The annual fee for public water supply systems serving fifty
33 three thousand three hundred thirty four or more service connections
34 shall be ten thousand dollars.)) For community systems, effective July
35 1, 1996, the fee shall be based on the number of service connections,
36 and calculated as follows:~~

37 (i) All systems shall pay a "program capacity" fee of ninety cents
38 per service connection.

1 (ii) All systems shall pay an additional "program service" fee as
2 follows:

3 (A) For systems with fewer than one hundred service connections,
4 the fee shall be five dollars per service connection;

5 (B) For systems with one hundred to one thousand service
6 connections, the fee shall be ninety-five cents per service connection;

7 (C) For systems with one thousand one to ten thousand service
8 connections, the fee shall be fifteen cents per service connection;

9 (D) For systems with ten thousand to fifty thousand service
10 connections, the fee shall be ten cents per service connection; and

11 (E) For systems with over fifty thousand service connections, the
12 fee shall be five cents per service connection.

13 (b) For community systems, effective July 1, 1997, the fee shall be
14 based on the number of service connections, and calculated as follows:

15 (i) All systems shall pay a basic capacity fee of one dollar and
16 fifteen cents per service connection.

17 (ii) All systems shall pay an additional "program service" fee as
18 follows:

19 (A) For systems with fewer than one hundred service connections,
20 the fee shall be four dollars and fifty cents per service connection;

21 (B) For systems with one hundred to one thousand service
22 connections, the fee shall be one dollar and twenty-five cents per
23 service connection;

24 (C) For systems with one thousand one to ten thousand service
25 connections, the fee shall be thirty-five cents per service connection;

26 (D) For systems with ten thousand to fifty thousand service
27 connections, the fee shall be thirty cents per service connection; and

28 (E) For systems with over fifty thousand service connections, the
29 fee shall be twenty-five cents per service connection.

30 (c) For all noncommunity systems, effective July 1, 1996, the fee
31 shall be one hundred fifty dollars.

32 (d) Each system may allocate its fee between customer groups, and
33 may separately identify the fee on customer bills as the amount
34 collected by the system for maintenance of the state drinking water
35 program and administration of federal requirements.

36 (e) In addition to the fees under (a) through (d) of this
37 subsection, the department may charge an additional one-time fee of
38 five dollars for each service connection in a new water system.

1 (f) For systems in any jurisdiction that has adopted an operating
2 permit program for group A public water systems, as authorized under
3 RCW 70.119A.130, the department shall either not collect a fee or shall
4 reduce its fee, as appropriate, except where the department collects
5 the fee on behalf of the local jurisdiction.

6 ~~((The department may phase in the implementation for any group~~
7 ~~of systems provided the schedule for implementation is established by~~
8 ~~rule. Prior to implementing the operating permit requirement on water~~
9 ~~systems having less than five hundred service connections, the~~
10 ~~department shall form a committee composed of persons operating these~~
11 ~~systems. The committee shall be composed of the department of health,~~
12 ~~two operators of water systems having under one hundred connections,~~
13 ~~two operators of water systems having between one hundred and two~~
14 ~~hundred service connections, two operators of water systems having~~
15 ~~between two hundred and three hundred service connections, two~~
16 ~~operators of water systems having between three hundred and four~~
17 ~~hundred service connections, two operators of water systems having~~
18 ~~between four hundred and five hundred service connections, and two~~
19 ~~county public health officials. The members shall be chosen from~~
20 ~~different geographic regions of the state. This committee shall~~
21 ~~develop draft rules to implement this section. The draft rules will~~
22 ~~then be subject to the rule-making procedures in accordance with~~
23 ~~chapter 34.05 RCW.~~

24 ~~(8))~~ The department shall notify existing public water systems of
25 the requirements of RCW 70.119A.030, 70.119A.060, and this section at
26 least one hundred twenty days prior to the date that an application for
27 a permit is required pursuant to RCW 70.119A.030, 70.119A.060, and this
28 section.

29 ~~((9))~~ (8) The department shall issue one operating permit to any
30 approved satellite system management agency. Operating permit fees for
31 approved satellite system management agencies shall be one dollar and
32 fifty cents per connection per year for the total number of connections
33 under the management of the approved satellite agency. The department
34 shall define by rule the meaning of the term "satellite system
35 management agency." If a statutory definition of this term exists,
36 then the department shall adopt by rule a definition consistent with
37 the statutory definition.

38 ~~((10))~~ (9) For purposes of this section, "group A public water
39 system" and "system" mean those water systems with fifteen or more

1 service connections, regardless of the number of people; or a system
2 serving an average of twenty-five or more people per day for sixty or
3 more days within a calendar year, regardless of the number of service
4 connections. "Community system" means a system serving a residential
5 population, and "noncommunity system" means a system serving a
6 nonresidential population.

7 **Sec. 7.** RCW 70.119.020 and 1991 c 305 s 2 are each amended to read
8 as follows:

9 As used in this chapter unless context requires another meaning:

10 (1) "Board" means the board established pursuant to RCW 70.95B.070
11 which shall be known as the water and waste water operator
12 certification board of examiners.

13 (2) "Certificate" means a certificate of competency issued by the
14 secretary stating that the operator has met the requirements for the
15 specified operator classification of the certification program.

16 (3) "Certified operator" means an individual holding a valid
17 certificate and employed or appointed by any county, water district,
18 municipality, public or private corporation, company, institution,
19 person, or the state of Washington and who is designated by the
20 employing or appointing officials as the person responsible for active
21 daily technical operation.

22 (4) "Department" means the department of health.

23 (5) "Distribution system" means that portion of a public water
24 system which stores, transmits, pumps and distributes water to
25 consumers.

26 (6) "Ground water under the direct influence of surface water"
27 means any water beneath the surface of the ground with:

28 (a) Significant occurrence of insects or other macroorganisms,
29 algae, or large diameter pathogens such as giardia lamblia; or

30 (b) Significant and relatively rapid shifts in water
31 characteristics such as turbidity, temperature, conductivity, or pH
32 which closely correlate to climatological or surface water conditions.

33 (7) "Group A water system" means a system with fifteen or more
34 service connections, regardless of the number of people; or a system
35 serving an average of twenty-five or more people per day for sixty or
36 more days within a calendar year, regardless of the number of service
37 connections. (~~Group A water system does not include a system serving~~

1 fewer than fifteen single-family residences, regardless of the number
2 of people.)

3 (8) "Nationally recognized association of certification
4 authorities" shall mean an organization which serves as an information
5 center for certification activities, recommends minimum standards and
6 guidelines for classification of potable water treatment plants, water
7 distribution systems and waste water facilities and certification of
8 operators, facilitates reciprocity between state programs and assists
9 authorities in establishing new certification programs and updating
10 existing ones.

11 (9) "Public water system" means any system, excluding a system
12 serving only one single-family residence and a system with four or
13 fewer connections all of which serve residences on the same farm,
14 providing piped water for human consumption or domestic use, including
15 any collection, treatment, storage, or distribution facilities under
16 control of the purveyor and used primarily in connection with the
17 system; and collection or pretreatment storage facilities not under
18 control of the purveyor but primarily used in connection with the
19 system.

20 (10) "Purification plant" means that portion of a public water
21 system which treats or improves the physical, chemical or
22 bacteriological quality of the system's water to bring the water into
23 compliance with state board of health standards.

24 (11) "Secretary" means the secretary of the department of health.

25 (12) "Service" means a connection to a public water system designed
26 to serve a single-family residence, dwelling unit, or equivalent use.
27 If the facility has group home or barracks-type accommodations, three
28 persons will be considered equivalent to one service.

29 (13) "Surface water" means all water open to the atmosphere and
30 subject to surface runoff.

31 **Sec. 8.** RCW 70.119.030 and 1991 c 305 s 3 are each amended to read
32 as follows:

33 (1) A public water system shall have a certified operator if:

34 (a) ~~((The system serves one hundred or more services in use at any
35 one time))~~ It is a group A water system; or

36 (b) It is a ~~((group A))~~ public water system using a surface water
37 source or a ground water source under the direct influence of surface
38 water.

1 (2) The certified operators shall be in charge of the technical
2 direction of a water system's operation, or an operating shift of such
3 a system, or a major segment of a system necessary for monitoring or
4 improving the quality of water. The operator shall be certified as
5 provided in RCW 70.119.050.

6 (3) A certified operator may provide required services to more than
7 one system or to a group of systems. The amount of time that a
8 certified operator shall be required to be present at any given system
9 shall be based upon the time required to properly operate and maintain
10 the public water system as designed and constructed in accordance with
11 RCW 43.20.050. The employing or appointing officials shall designate
12 the position or positions requiring mandatory certification within
13 their individual systems and shall assure that such certified operators
14 are responsible for the system's technical operation.

15 (4) The department shall, in establishing by rule or otherwise the
16 requirements for public water systems with fewer than one hundred
17 connections, phase in such requirements in order to assure that (a) an
18 adequate number of certified operators are available to serve the
19 additional systems, (b) the systems have adequate notice and time to
20 plan for securing the services of a certified operator, (c) the
21 department has the additional data and other administrative capacity,
22 (d) adequate training is available to certify additional operators as
23 necessary, and (e) any additional requirements under federal law are
24 satisfied. The department shall waive the requirement for a certified
25 operator for a system with fewer than one hundred connections if that
26 system satisfactorily demonstrates to the department that: It has not
27 had a significant number of violations of any monitoring or water
28 quality standards; it otherwise meets the requirements of the
29 department with regard to adequacy and financial viability; and it does
30 not have, or is not required to have, any water treatment facilities.
31 The waiver shall only be valid while the system meets these
32 requirements.

33 (5) Operators not required to be certified by this chapter are
34 encouraged to become certified on a voluntary basis.

35 **Sec. 9.** RCW 70.116.050 and 1977 ex.s. c 142 s 5 are each amended
36 to read as follows:

37 (1) Each purveyor within the boundaries of a critical water supply
38 service area shall develop a water system plan for the purveyor's

1 future service area if such a plan has not already been developed:
2 PROVIDED, That nonmunicipally owned public water systems are exempt
3 from the planning requirements of this chapter, except for the
4 establishment of service area boundaries if they(~~(a) Were in~~
5 ~~existence as of September 21, 1977; and (b))~~) have no plans for water
6 service beyond their existing service area(~~(, and (c) meet minimum~~
7 ~~quality and pressure design criteria established by the state board of~~
8 ~~health)~~): PROVIDED FURTHER, That if the county legislative authority
9 permits a change in development that will increase the demand for water
10 service of such a system beyond the existing system's ability to
11 provide minimum water service, the purveyor shall develop a water
12 system plan in accordance with this section. The establishment of
13 future service area boundaries shall be in accordance with RCW
14 70.116.070.

15 (2) After the boundaries of a critical water supply service area
16 have been established pursuant to RCW 70.116.040, the committee
17 established in RCW 70.116.040 shall participate in the development of
18 a coordinated water system plan for the designated area. Such a plan
19 shall incorporate all water system plans developed pursuant to
20 subsection (1) of this section. The plan shall provide for maximum
21 integration and coordination of public water system facilities
22 consistent with the protection and enhancement of the public health and
23 well-being. Decisions of the committee shall be by majority vote of
24 those present at meetings of the committee.

25 (3) Those portions of a critical water supply service area not yet
26 served by a public water system shall have a coordinated water system
27 plan developed by existing purveyors based upon permitted densities in
28 county plans, ordinances, and/or growth policies for a minimum of five
29 years beyond the date of establishment of the boundaries of the
30 critical water supply service area.

31 (4) To insure that the plan incorporates the proper designs to
32 protect public health, the secretary shall adopt regulations pursuant
33 to chapter 34.05 RCW concerning the scope and content of coordinated
34 water system plans, and shall ensure, as minimum requirements, that
35 such plans:

36 (a) Are reviewed by the appropriate local governmental agency to
37 insure that the plan is not inconsistent with the land use plans,
38 shoreline master programs, and/or developmental policies of the general

1 purpose local government or governments whose jurisdiction the water
2 system plan affects.

3 (b) Recognize all water resource plans, water quality plans, and
4 water pollution control plans which have been adopted by units of
5 local, regional, and state government.

6 (c) Incorporate the fire protection standards developed pursuant to
7 RCW 70.116.080.

8 (d) Identify the future service area boundaries of the public water
9 system or systems included in the plan within the critical water supply
10 service area.

11 (e) Identify feasible emergency inter-ties between adjacent
12 purveyors.

13 (f) Include satellite system management requirements consistent
14 with RCW 70.116.134.

15 (g) Include policies and procedures that generally address failing
16 water systems for which counties may become responsible under RCW
17 43.70.195.

18 (5) If a "water general plan" for a critical water supply service
19 area or portion thereof has been prepared pursuant to chapter 36.94 RCW
20 and such a plan meets the requirements of subsections (1) and (4) of
21 this section, such a plan shall constitute the coordinated water system
22 plan for the applicable geographical area.

23 (6) The committee established in RCW 70.116.040 may develop and
24 utilize a mechanism for addressing disputes that arise in the
25 development of the coordinated water system plan.

26 (7) Prior to the submission of a coordinated water system plan to
27 the secretary for approval ((of the design of the proposed facilities))
28 pursuant to RCW 70.116.060, ((the plan shall be reviewed for
29 consistency with subsection (4) of this section by)) the legislative
30 authorities of the counties in which the critical water supply service
31 area is located shall hold a public hearing thereon and shall determine
32 the plan's consistency with subsection (4) of this section. If within
33 sixty days of receipt of the plan, the legislative authorities find any
34 segment of a proposed service area of a purveyor's plan or any segment
35 of the coordinated water system plan to be inconsistent with any
36 current land use plans, shoreline master programs, and/or developmental
37 policies of the general purpose local government or governments whose
38 jurisdiction the water system plan affects, the secretary shall not
39 approve that portion of the plan until the inconsistency is resolved

1 between the local government and the purveyor. If no comments have
2 been received from the legislative authorities within sixty days of
3 receipt of the plan, the secretary may consider the plan for approval.

4 (8) Any county legislative authority may adopt an abbreviated plan
5 for the provision of water supplies within its boundaries that includes
6 provisions for service area boundaries, minimum design criteria, and
7 review process. The elements of the abbreviated plan shall conform to
8 the criteria established by the department under subsection (4) of this
9 section and shall otherwise be consistent with other adopted land use
10 and resource plans. The county legislative authority may, in lieu of
11 the committee required under RCW 70.116.040, and the procedures
12 authorized in this section, utilize an advisory committee that is
13 representative of the water utilities and local governments within its
14 jurisdiction to assist in the preparation of the abbreviated plan,
15 which may be adopted by resolution and submitted to the secretary for
16 approval. Purveyors within the boundaries covered by the abbreviated
17 plan need not develop a water system plan, except to the extent
18 required by the secretary or state board of health under other
19 authority.

20 **Sec. 10.** RCW 70.119A.040 and 1993 c 305 s 2 are each amended to
21 read as follows:

22 (1)(a) In addition to or as an alternative to any other penalty or
23 action allowed by law, a person who violates a law or rule regulating
24 public water systems and administered by the department of health is
25 subject to a penalty of not more than five thousand dollars per day for
26 every such violation, or, in the case of a violation that has been
27 determined to be a public health emergency, a penalty of not more than
28 ten thousand dollars per day for every such violation. Every such
29 violation shall be a separate and distinct offense. The amount of fine
30 shall reflect the health significance of the violation and the previous
31 record of compliance on the part of the public water supplier. In case
32 of continuing violation, every day's continuance shall be a separate
33 and distinct violation.

34 (b) In addition, a person who constructs, modifies, or expands a
35 public water system or who commences the construction, modification, or
36 expansion of a public water system without first obtaining the required
37 departmental approval is subject to penalties of not more than five
38 thousand dollars per service connection, or, in the case of a system

1 serving a transient population, a penalty of not more than four hundred
2 dollars per person based on the highest average daily population the
3 system serves or is anticipated to serve. The total penalty that may
4 be imposed pursuant to this subsection (1)(b) is five hundred thousand
5 dollars. For the purpose of computing the penalty under this
6 subsection, a service connection shall include any new service
7 connection actually constructed, any anticipated service connection the
8 system has been designed to serve, and, in the case of a system
9 modification not involving expansions, each existing service connection
10 that benefits or would benefit from the modification.

11 (c) Every person who, through an act of commission or omission,
12 procures, aids, or abets a violation is considered to have violated the
13 provisions of this section and is subject to the penalty provided in
14 this section.

15 (2) The penalty provided for in this section shall be imposed by a
16 notice in writing to the person against whom the civil penalty is
17 assessed and shall describe the violation. The notice shall be
18 personally served in the manner of service of a summons in a civil
19 action or in a manner that shows proof of receipt. A penalty imposed
20 by this section is due twenty-eight days after receipt of notice unless
21 application for an adjudicative proceeding is filed as provided in
22 subsection (3) of this section.

23 (3) Within twenty-eight days after notice is received, the person
24 incurring the penalty may file an application for an adjudicative
25 proceeding and may pursue subsequent review as provided in chapter
26 34.05 RCW and applicable rules of the department or board of health.

27 (4) A penalty imposed by a final administrative order is due upon
28 service of the final administrative order. A person who fails to pay
29 a penalty assessed by a final administrative order within thirty days
30 of service of the final administrative order shall pay, in addition to
31 the amount of the penalty, interest at the rate of one percent of the
32 unpaid balance of the assessed penalty for each month or part of a
33 month that the penalty remains unpaid, commencing with the month in
34 which the notice of penalty was served and such reasonable attorney's
35 fees as are incurred in securing the final administrative order.

36 (5) A person who institutes proceedings for judicial review of a
37 final administrative order assessing a civil penalty under this chapter
38 shall place the full amount of the penalty in an interest bearing
39 account in the registry of the reviewing court. At the conclusion of

1 the proceeding the court shall, as appropriate, enter a judgment on
2 behalf of the department and order that the judgment be satisfied to
3 the extent possible from moneys paid into the registry of the court or
4 shall enter a judgment in favor of the person appealing the penalty
5 assessment and order return of the moneys paid into the registry of the
6 court together with accrued interest to the person appealing. The
7 judgment may award reasonable attorney's fees for the cost of the
8 attorney general's office in representing the department.

9 (6) If no appeal is taken from a final administrative order
10 assessing a civil penalty under this chapter, the department may file
11 a certified copy of the final administrative order with the clerk of
12 the superior court in which the public water system is located or in
13 Thurston county, and the clerk shall enter judgment in the name of the
14 department and in the amount of the penalty assessed in the final
15 administrative order.

16 (7) A judgment entered under subsection (5) or (6) of this section
17 shall have the same force and effect as, and is subject to all of the
18 provisions of law relating to, a judgment in a civil action, and may be
19 enforced in the same manner as any other judgment of the court in which
20 it is entered.

21 (8) All penalties imposed under this section shall be payable to
22 the state treasury and credited to the (~~general fund~~) safe drinking
23 water account, and shall be used by the department to provide training
24 and technical assistance to system owners and operators.

25 (9) Except in cases of public health emergencies, the department
26 may not impose monetary penalties under this section unless a prior
27 effort has been made to resolve the violation informally.

28 **Sec. 11.** RCW 70.119A.130 and 1991 c 304 s 7 are each amended to
29 read as follows:

30 (~~Until July 1, 1996, local governments shall be prohibited from~~
31 ~~administering a separate operating permit requirement for public water~~
32 ~~systems. After July 1, 1996,)) Local governments may establish
33 separate operating permit requirements for public water systems
34 provided the operating permit requirements have been approved by the
35 department. The department shall not approve local operating permit
36 requirements unless the local system will result in an increased level
37 of service to the public water system. There shall not be duplicate~~

1 operating permit requirements imposed by local governments and the
2 department.

3 **Sec. 12.** RCW 80.04.110 and 1991 c 134 s 1 and 1991 c 100 s 2 are
4 each reenacted and amended to read as follows:

5 (1) Complaint may be made by the commission of its own motion or by
6 any person or corporation, chamber of commerce, board of trade, or any
7 commercial, mercantile, agricultural or manufacturing society, or any
8 body politic or municipal corporation, or by the public counsel section
9 of the office of the attorney general, or its successor, by petition or
10 complaint in writing, setting forth any act or thing done or omitted to
11 be done by any public service corporation in violation, or claimed to
12 be in violation, of any provision of law or of any order or rule of the
13 commission: PROVIDED, That no complaint shall be entertained by the
14 commission except upon its own motion, as to the reasonableness of the
15 schedule of the rates or charges of any gas company, electrical
16 company, water company, or telecommunications company, unless the same
17 be signed by the mayor, council or commission of the city or town in
18 which the company complained of is engaged in business, or not less
19 than twenty-five consumers or purchasers of such gas, electricity,
20 water or telecommunications service, or at least twenty-five percent of
21 the consumers or purchasers of the company's service: PROVIDED,
22 FURTHER, That when two or more public service corporations, (meaning to
23 exclude municipal and other public corporations) are engaged in
24 competition in any locality or localities in the state, either may make
25 complaint against the other or others that the rates, charges, rules,
26 regulations or practices of such other or others with or in respect to
27 which the complainant is in competition, are unreasonable,
28 unremunerative, discriminatory, illegal, unfair or intending or tending
29 to oppress the complainant, to stifle competition, or to create or
30 encourage the creation of monopoly, and upon such complaint or upon
31 complaint of the commission upon its own motion, the commission shall
32 have power, after notice and hearing as in other cases, to, by its
33 order, subject to appeal as in other cases, correct the abuse
34 complained of by establishing such uniform rates, charges, rules,
35 regulations or practices in lieu of those complained of, to be observed
36 by all of such competing public service corporations in the locality or
37 localities specified as shall be found reasonable, remunerative,
38 nondiscriminatory, legal, and fair or tending to prevent oppression or

1 monopoly or to encourage competition, and upon any such hearing it
2 shall be proper for the commission to take into consideration the
3 rates, charges, rules, regulations and practices of the public service
4 corporation or corporations complained of in any other locality or
5 localities in the state.

6 (2) All matters upon which complaint may be founded may be joined
7 in one hearing, and no motion shall be entertained against a complaint
8 for misjoinder of complaints or grievances or misjoinder of parties;
9 and in any review of the courts of orders of the commission the same
10 rule shall apply and pertain with regard to the joinder of complaints
11 and parties as herein provided: PROVIDED, All grievances to be
12 inquired into shall be plainly set forth in the complaint. No
13 complaint shall be dismissed because of the absence of direct damage to
14 the complainant.

15 (3) Upon the filing of a complaint, the commission shall cause a
16 copy thereof to be served upon the person or corporation complained of,
17 which shall be accompanied by a notice fixing the time when and place
18 where a hearing will be had upon such complaint. The time fixed for
19 such hearing shall not be less than ten days after the date of the
20 service of such notice and complaint, excepting as herein provided.
21 The commission shall enter its final order with respect to a complaint
22 filed by any entity or person other than the commission within ten
23 months from the date of filing of the complaint, unless the date is
24 extended for cause. Rules of practice and procedure not otherwise
25 provided for in this title may be prescribed by the commission. Such
26 rules may include the requirement that a complainant use informal
27 processes before filing a formal complaint.

28 (4) The commission shall, as appropriate, audit a nonmunicipal
29 water system upon receipt of an administrative order from the
30 department, or the city or county in which the water system is located,
31 finding that the water delivered by a system does not meet state board
32 of health standards adopted under RCW 43.20.050(2)(a) or standards
33 adopted under chapters 70.116 and 70.119A RCW, and the results of the
34 audit shall be provided to the requesting department, city, or county.
35 However, the number of nonmunicipal water systems referred to the
36 commission in any one calendar year shall not exceed twenty percent of
37 the water companies subject to commission regulation as defined in RCW
38 80.04.010.

1 Every nonmunicipal water system referred to the commission for
2 audit under this section shall pay to the commission an audit fee in an
3 amount, based on the system's twelve-month audited period, equal to the
4 fee required to be paid by regulated companies under RCW 80.24.010.

5 (5) Any customer or purchaser of service from a water system or
6 company that is subject to commission regulation may file a complaint
7 with the commission if he or she has reason to believe that the water
8 delivered by the system to the customer does not meet state drinking
9 water standards under chapter 43.20 or 70.116 RCW. The commission
10 shall investigate such a complaint, and shall request that the state
11 department of health or local health department of the county in which
12 the system is located test the water for compliance with state drinking
13 water standards, and provide the results of such testing to the
14 commission. The commission may decide not to investigate the complaint
15 if it determines that the complaint has been filed in bad faith, or for
16 the purpose of harassment of the water system or company, or for other
17 reasons has no substantial merit. The water system or company shall
18 bear the expense for the testing. After the commission has received
19 the complaint from the customer and during the pendency of the
20 commission investigation, the water system or company shall not take
21 any steps to terminate service to the customer or to collect any
22 amounts alleged to be owed to the company by the customer. The
23 commission may issue an order or take any other action to ensure that
24 no such steps are taken by the system or company. The customer may, at
25 the customer's option and expense, obtain a water quality test by a
26 licensed or otherwise qualified water testing laboratory, of the water
27 delivered to the customer by the water system or company, and provide
28 the results of such a test to the commission. If the commission
29 determines that the water does not meet state drinking water standards,
30 it shall exercise its authority over the system or company as provided
31 in this title, and may, where appropriate, order a refund to the
32 customer on a pro rata basis for the substandard water delivered to the
33 customer, and shall order reimbursement to the customer for the cost
34 incurred by the customer, if any, in obtaining a water quality test.

35 **Sec. 13.** RCW 70.116.070 and 1977 ex.s. c 142 s 7 are each amended
36 to read as follows:

37 (1) The proposed service area boundaries of public water systems
38 within the critical water supply service area that are required to

1 submit water system plans under this chapter shall be ((determined by
2 written agreement among the purveyors and with the approval of the
3 appropriate legislative authority. Failure of the legislative
4 authority to file with the secretary objections to the proposed service
5 area boundaries within sixty days of receipt of the proposed boundary
6 agreement may be construed as approval of the agreement)) identified in
7 the system's plan. The local legislative authority, or its planning
8 department or other designee, shall review the proposed boundaries to
9 determine whether the proposed boundaries of one or more systems
10 overlap. The boundaries determined by the local legislative authority
11 not to overlap shall be incorporated into the coordinated water system
12 plan. Where any overlap exists, the local legislative authority may
13 attempt to resolve the conflict through procedures established under
14 RCW 70.116.060(5).

15 (2) ~~((If no service area boundary agreement has been established~~
16 ~~within a reasonable period of time, or if the legislative authority has~~
17 ~~filed with the secretary objections in writing as provided in~~
18 ~~subsection (1) of this section)) Any final decision by a local~~
19 ~~legislative authority regarding overlapping service areas, or any~~
20 ~~unresolved disputes regarding service area boundaries, may be appealed~~
21 ~~or referred to the secretary in writing for resolution. After receipt~~
22 ~~of an appeal or referral, the secretary shall hold a public hearing~~
23 ~~thereon. The secretary shall provide notice of the hearing by~~
24 ~~certified mail to each purveyor ((providing service in the critical~~
25 ~~water supply service area)) involved in the dispute, to each county~~
26 ~~legislative authority having jurisdiction in the area and to the~~
27 ~~public. The secretary shall provide public notice pursuant to the~~
28 ~~provisions of chapter 65.16 RCW. Such notice shall be given at least~~
29 ~~twenty days prior to the hearing. The hearing may be continued from~~
30 ~~time to time and, at the termination thereof, the secretary may~~
31 ~~restrict the expansion of service of any purveyor within the area if~~
32 ~~the secretary finds such restriction is necessary to provide the~~
33 ~~greatest protection of the public health and well-being.~~

34 NEW SECTION. Sec. 14. Section 11 of this act is necessary for the
35 immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,
2 and shall take effect July 1, 1995.

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