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ENGROSSED SUBSTITUTE SENATE BILL 5765

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Madsen and Bailey).

Read first time March 6, 1991.

1            AN ACT Relating to water management; amending RCW 19.27.097; adding  
2 new sections to chapter 90.44 RCW; creating a new section; and  
3 providing a contingent effective date.

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

5            **Sec. 1.** RCW 19.27.097 and 1990 1st ex.s. c 17 s 63 are each  
6 amended to read as follows:

7            Except for buildings requiring individual water supplies in areas  
8 designated as areas without significant water resource problems in  
9 accordance with section 2 of this act, each applicant for a building  
10 permit of a building necessitating potable water shall provide evidence  
11 of ((an adequate)) a water supply of sufficient quality and quantity  
12 for the intended use of the building. Evidence may be in the form of  
13 a ((water right permit from the department of ecology, a)) letter from  
14 an approved water purveyor stating the ability to provide water, or  
15 another form sufficient to verify the existence of an adequate water

1 supply. ((An application for a water right shall not be sufficient  
2 proof of an adequate water supply.))

3 Buildings that do not need potable water facilities are exempt  
4 from the provisions of this section. For the purposes of this section,  
5 individual water supplies are defined as those providing potable water  
6 to one single family residence. The department of ecology ((may)) and  
7 the state board of health shall each adopt rules to implement this  
8 section.

9 NEW SECTION. Sec. 2. A new section is added to chapter 90.44 RCW  
10 to read as follows:

11 As used in sections 2 through 6 of this act and RCW 19.27.097,  
12 "areas without significant water resource problems" are areas within  
13 counties not required by RCW 36.70A.040 to adopt comprehensive land use  
14 plans and development regulations that do not have significant problems  
15 associated with the quantity or quality of potable water, either known  
16 or probable. To designate areas without significant water resource  
17 problems, county governments shall first consult with the department of  
18 ecology regarding water supply availability and with the department of  
19 health regarding the quality of potable water for areas within the  
20 county, based on guidelines developed pursuant to section 6 of this  
21 act. County governments shall also consult with federally recognized  
22 Indian tribes having interests in the quantity or quality of waters  
23 within areas considered for designation.

24 County governments may recommend to the departments of health and  
25 ecology areas that the county believes have no significant water  
26 quality or quantity problems. Counties shall include sufficient  
27 documentation to support their recommendations for designation. The  
28 department of health shall review county recommendations to determine  
29 if significant water quality problems exist within areas recommended.

1 The department of ecology shall review county recommendations to  
2 determine if significant water quantity problems exist within the  
3 areas. Review shall be based on the guidelines developed pursuant to  
4 section 6 of this act.

5 If both departments determine that significant water resource  
6 problems do not exist, the county recommendations shall be adopted and  
7 the areas designated by the departments as areas without significant  
8 water resource problems. If the department of health determines that  
9 one or more significant water quality problems exist, or if the  
10 department of ecology determines that one or more significant water  
11 quantity problems exist within a recommended area, the recommendation  
12 of the county shall be denied. The departments shall issue written  
13 findings and conclusions to support the determination that significant  
14 water quality or quantity problems exist, and shall send a copy of the  
15 decision to the county within sixty days of receipt of the county  
16 recommendations and supporting documentation. If the departments fail  
17 to issue a determination within sixty days of receiving county  
18 recommendations and supporting documentation, the recommendations shall  
19 be considered adopted until such time the department of health or  
20 ecology comes forward with documentation demonstrating significant  
21 water quality or quantity problems for the area at issue together with  
22 written findings and conclusions supporting its determination. The  
23 departments of health and ecology may make recommendations to counties  
24 for adjusting recommended areas to remove significant water resource  
25 problems from within their boundaries.

26 Tribal governments having lands within county boundaries that are  
27 otherwise not subject to the provisions of sections 2 through 6 of this  
28 act, or having interests regarding the quantity or quality of waters  
29 within county boundaries, shall be consulted by the departments of  
30 health and ecology prior to designation of an area as one without

1 significant water resource problems, and shall be given timely notice  
2 in writing when designations occur.

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

5 Except for areas designated as areas without significant water  
6 resource problems pursuant to section 2 of this act, county governments  
7 shall deny building permits where there is insufficient evidence of  
8 adequate quantities or quality of available potable water for the  
9 intended use of the building, or shall impose conditions or  
10 requirements on issuance of permits that address identified water  
11 quantity or quality concerns. Those conditions and requirements may  
12 include, but are not limited to, well siting requirements, water  
13 treatment requirements, and the requirement of connection to an  
14 existing public water system where the existing system is willing and  
15 able to provide safe and reliable potable water to the applicant with  
16 reasonable economy and efficiency. When connection to an existing  
17 system is required, applicable public health standards, utility service  
18 policies, and approved coordinated water system plans for the area  
19 shall be used for guidance in determining who will provide service.  
20 The department of health shall establish criteria to determine when  
21 connection with an existing public water system is required. For  
22 individual water supplies serving one single family residence,  
23 conditions and requirements imposed by counties on building permits in  
24 order to address water quality problems may at the discretion of the  
25 county be limited to disclosure of the quality problems to applicants  
26 and to subsequent purchasers or lessees of the building, consistent  
27 with rules that may be adopted by the state board of health regarding  
28 quality standards for individual water supplies. Nothing in RCW  
29 19.27.097 or sections 2 through 6 of this act shall be construed to

1 require an applicant for water service to annex to a city or town  
2 unless there is an agreement to do so among relevant land use  
3 jurisdictional authorities.

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

6 If areas are recommended by counties to the departments of ecology  
7 and health for designation as areas without significant water resource  
8 problems and those recommendations are not adopted, the county may  
9 petition the state board of health to review the department of health's  
10 findings and conclusions on water quality in the recommended areas, and  
11 may likewise petition the pollution control hearings board to review  
12 the department of ecology's findings and conclusions on water quantity  
13 for the areas recommended. The county's petitions shall include  
14 information and documents that support its recommendation to designate  
15 areas without significant water resource problems.

16 The decision of the pollution control hearings board or the state  
17 board of health shall determine the administrative designation for the  
18 recommended area. Decisions of the pollution control hearings board or  
19 the state board of health shall be appealable in the superior court of  
20 the county in which the recommended area is located.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.44 RCW  
22 to read as follows:

23 Local governments, the department of ecology, and the department of  
24 health shall use information that is currently available to them to  
25 recommend and designate areas without significant water resource  
26 problems. Decisions by the departments of health and ecology to  
27 designate an area as one without significant water resource problems  
28 shall be subject to periodic review at the departments' discretion but

1 not less than once every five years. Local government, the department  
2 of ecology, and the department of health shall not be liable for  
3 problems of water availability or water quality that may be found in  
4 areas designated as areas without significant water resource problems.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.44 RCW  
6 to read as follows:

7 The department of ecology and the department of health, in  
8 consultation with representatives from counties, local health  
9 departments, county planners, and the state board of health, in  
10 consultation with representatives of tribal governments, and with input  
11 from interested parties and the general public, shall establish  
12 guidelines for determining areas without significant water resource  
13 problems. As used in this section and section 7 of this act, the term  
14 "guidelines" means "to describe parameters that guide local  
15 recommendations for designation of areas without significant water  
16 resource problems while at the same time allow the exercise of local  
17 government discretion." These guidelines shall be adopted by rule  
18 under chapter 34.05 RCW by December 31, 1991.

19 NEW SECTION. **Sec. 7.** Section 1 of this act shall take effect  
20 when the guidelines required by section 6 of this act have been  
21 adopted.

22 NEW SECTION. **Sec. 8.** If specific funding for the purposes of  
23 this act, referencing this act by bill number, is not provided by June  
24 30, 1991, in the omnibus appropriations act, this act shall be null and  
25 void.