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SENATE BILL 5765

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Barr, Madsen and Bailey.

Read first time February 19, 1991. Referred to Committee on  
Agriculture & Water Resources.

1 AN ACT Relating to water management; amending RCW 19.27.097; adding  
2 new sections to chapter 90.44 RCW; and providing a contingent effective  
3 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 and the  
7 state board of health may each adopt rules to implement this section.

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

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

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

1 areas. Review shall be based on the guidelines developed pursuant to  
2 section 6 of this act.

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

24 Tribal governments having lands within county boundaries that are  
25 otherwise not subject to the provisions of sections 2 through 6 of this  
26 act, or having interests regarding the quantity or quality of waters  
27 within county boundaries, shall be consulted by the departments of  
28 health and ecology prior to designation of an area as one without  
29 significant water resource problems, and shall be given timely notice  
30 in writing when designations occur.

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

3        Except for areas designated as areas without significant water  
4 resource problems pursuant to section 2 of this act, county governments  
5 shall deny building permits where there is insufficient evidence of  
6 adequate quantities or quality of available potable water for the  
7 intended use of the building, or shall impose conditions or  
8 requirements on issuance of permits that address identified water  
9 quantity or quality concerns. Those conditions and requirements may  
10 include, but are not limited to, well siting requirements, water  
11 treatment requirements, and the requirement of connection to an  
12 existing public water system where the existing system is willing and  
13 able to provide safe and reliable potable water to the applicant with  
14 reasonable economy and efficiency. The department of health shall  
15 establish criteria to determine when connection with an existing public  
16 water system is required. For individual water supplies serving one  
17 single family residence, conditions and requirements imposed by  
18 counties on building permits in order to address water quality problems  
19 may at the discretion of the county be limited to disclosure of the  
20 quality problems to applicants and to subsequent purchasers or lessees  
21 of the building.

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

24        If areas are recommended by counties to the departments of ecology  
25 and health for designation as areas without significant water resource  
26 problems and those recommendations are not adopted, the county may  
27 petition the state board of health to review the department of health's  
28 findings and conclusions on water quality in the recommended areas, and  
29 may likewise petition the pollution control hearings board to review

1 the department of ecology's findings and conclusions on water quantity  
2 for the areas recommended. The county's petitions shall include  
3 information and documents that support its recommendation to designate  
4 areas without significant water resource problems.

5 The decision of the pollution control hearings board or the state  
6 board of health shall determine the administrative designation for the  
7 recommended area. Decisions of the pollution control hearings board or  
8 the state board of health shall be appealable in the superior court of  
9 the county in which the recommended area is located.

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

12 Local governments, the department of ecology, and the department of  
13 health shall use information that is currently available to them to  
14 recommend and designate areas without significant water resource  
15 problems. Decisions by the departments of health and ecology to  
16 designate an area as one without significant water resource problems  
17 shall be subject to periodic review at the departments' discretion but  
18 not less than once every five years. Local government, the department  
19 of ecology, and the department of health shall not be liable for  
20 problems of water availability or water quality that may be found in  
21 areas designated as areas without significant water resource problems.

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

24 The department of ecology and the department of health, in  
25 consultation with representatives from counties, local health  
26 departments, county planners, and the state board of health, and with  
27 input from interested parties and the general public, shall establish  
28 guidelines for determining areas without significant water resource

1 problems. As used in this section and section 7 of this act, the term  
2 "guidelines" means "to describe parameters that guide local  
3 recommendations for designation of areas without significant water  
4 resource problems while at the same time allow the exercise of local  
5 government discretion." These guidelines shall be adopted by rule  
6 under chapter 34.05 RCW by December 31, 1991.

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