

2 **E2SSB 5448** - H COMM AMD **NOT ADOPTED 4/13/95**

3 By Committee on Agriculture & Ecology

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

16 (3) Small water systems have inherent difficulties with proper  
17 planning, operation, financing, management and maintenance. The  
18 ability of such systems to provide safe and reliable supplies to their  
19 customers on a long-term basis needs to be assured through proper  
20 management and training of operators;

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

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

28 (6) The drinking water 2000 task force has recommended maintaining  
29 a strong and properly funded state-wide drinking water program,  
30 retaining primary responsibility for administering the federal safe  
31 drinking water act in Washington. The task force has further  
32 recommended delegation of as many water system regulatory functions as  
33 possible to local governments, with provision of adequate resources and  
34 elimination of barriers to such delegation. In order to achieve these  
35 objectives, the state should provide adequate future funding from both

1 general state funds and funding directly from the regulated water  
2 system;

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

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

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

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

17 (2) The secretary shall review the coordinated water system plan  
18 and, to the extent the plan is consistent with the requirements of this  
19 chapter and regulations adopted hereunder, shall approve the plan,  
20 provided that the secretary shall not approve those portions of a  
21 coordinated water system plan ((which)) that fail to meet the  
22 requirements for future service area boundaries until any boundary  
23 dispute is resolved as set forth in RCW 70.116.070.

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

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

29 (b) No other purveyor shall establish a public water system within  
30 the area covered by the plan, unless the ((secretary)) local  
31 legislative authority determines that existing purveyors are unable to  
32 provide the service in a timely and reasonable manner, pursuant to  
33 guidelines developed by the secretary. An existing purveyor is unable  
34 to provide the service in a timely manner if the water cannot be  
35 provided to an applicant for water within one hundred twenty days. If  
36 such a determination is made, the ((secretary may)) local legislative  
37 authority shall require the new public water system to be constructed  
38 in accordance with the construction standards and specifications

1 embodied in the coordinated water system plan approved for the area.  
2 The service area boundaries in the coordinated plan for the affected  
3 utilities shall be revised to reflect the decision of the local  
4 legislative authority.

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

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

15 (6) After adoption of the initial coordinated water system plan,  
16 the local legislative authority or the secretary may determine that the  
17 plan should be updated or revised. The legislative authority may  
18 initiate an update at any time, but the secretary may initiate an  
19 update no more frequently than once every five years. The update may  
20 encompass all or a portion of the plan, with the scope of the update to  
21 be determined by the secretary and the legislative authority. The  
22 process for the update shall be the one prescribed in RCW 70.116.050.

23 (7) The provisions of subsection (3) of this section shall not  
24 apply in any county for which a coordinated water system plan has not  
25 been approved under subsection (2) of this section.

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

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

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

31 (b) Provide treatment adequate to assure that the public health is  
32 protected;

33 (c) Provide and effectively operate and maintain public water  
34 system facilities;

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

37 (e) Provide the department with the current names, addresses, and  
38 telephone numbers of the owners, operators, and emergency contact

1 persons for the system, including any changes to this information, and  
2 provide to users the name and twenty-four hour telephone number of an  
3 emergency contact person; and

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

7 (2) No new public water system may be approved or created unless:

8 (a) It is owned or operated by a satellite system management agency  
9 established under RCW 70.116.134 and the satellite system management  
10 system complies with financial viability requirements of the  
11 department; or (b) a satellite management system is not available and  
12 it is determined that the new system has sufficient management and  
13 financial resources to provide safe and reliable service. The approval  
14 of any new system that is not owned by a satellite system management  
15 agency shall be conditioned upon future connection to another system if  
16 such connection may be made with reasonable economy and efficiency, or  
17 upon periodic review of the system's operational history to determine  
18 its ability to meet the department's financial viability and other  
19 operating requirements. The department and local health jurisdictions  
20 shall enforce this requirement under authority provided under this  
21 chapter, chapter 70.116, or 70.05 RCW, or other authority governing the  
22 approval of new water systems by the department or a local  
23 jurisdiction.

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

28 NEW SECTION. Sec. 4. A new section is added to chapter 70.119A  
29 RCW to read as follows:

30 The department shall create a water supply advisory committee.  
31 Membership on the committee shall reflect a broad range of interests in  
32 the regulation of public water supplies, including water utilities of  
33 all sizes, local governments, business groups, special purpose  
34 districts, local health jurisdictions, other state and federal  
35 agencies, financial institutions, environmental organizations, the  
36 legislature, and other groups substantially affected by the  
37 department's role in implementing state and federal requirements for  
38 public water systems. Members shall be appointed for fixed terms of no

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

15 **Sec. 5.** RCW 82.16.020 and 1989 c 302 s 204 are each amended to  
16 read as follows:

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

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

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

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

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

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

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

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

34 (2) An additional tax is imposed equal to the rate specified in RCW  
35 82.02.030 multiplied by the tax payable under subsection (1) of this  
36 section.

37 (3) Twenty percent of the moneys collected under subsection (1) of  
38 this section on water distribution businesses and sixty percent of the

1 moneys collected under subsection (1) of this section on sewerage  
2 collection businesses shall be deposited in the public works assistance  
3 account created in RCW 43.155.050.

4 (4) Fifteen percent of the moneys collected under subsection (1) of  
5 this section on water distribution businesses shall be deposited in the  
6 safe drinking water account created in RCW 70.119A.120.

7 **Sec. 6.** 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. 7.** 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. 8.** 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. Any abbreviated plan adopted by a county legislative  
20 authority pursuant to this subsection shall be subject to the same  
21 provisions contained in RCW 70.116.060 for coordinated water system  
22 plans that are approved by the secretary.

23 **Sec. 9.** RCW 70.119A.040 and 1993 c 305 s 2 are each amended to  
24 read as follows:

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

37 (b) In addition, a person who constructs, modifies, or expands a  
38 public water system or who commences the construction, modification, or

1 expansion of a public water system without first obtaining the required  
2 departmental approval is subject to penalties of not more than five  
3 thousand dollars per service connection, or, in the case of a system  
4 serving a transient population, a penalty of not more than four hundred  
5 dollars per person based on the highest average daily population the  
6 system serves or is anticipated to serve. The total penalty that may  
7 be imposed pursuant to this subsection (1)(b) is five hundred thousand  
8 dollars, except that the total penalty may not exceed one thousand  
9 dollars if the public water system has less than one thousand  
10 connections and an attempt was first made to secure departmental  
11 approval for modification or expansion of the system. For the purpose  
12 of computing the penalty under this subsection, a service connection  
13 shall include any new service connection actually constructed, any  
14 anticipated service connection the system has been designed to serve,  
15 and, in the case of a system modification not involving expansions,  
16 each existing service connection that benefits or would benefit from  
17 the modification.

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

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

30 (3) Within twenty-eight days after notice is received, the person  
31 incurring the penalty may file an application for an adjudicative  
32 proceeding and may pursue subsequent review as provided in chapter  
33 34.05 RCW and applicable rules of the department or board of health.

34 (4) A penalty imposed by a final administrative order is due upon  
35 service of the final administrative order. A person who fails to pay  
36 a penalty assessed by a final administrative order within thirty days  
37 of service of the final administrative order shall pay, in addition to  
38 the amount of the penalty, interest at the rate of one percent of the  
39 unpaid balance of the assessed penalty for each month or part of a

1 month that the penalty remains unpaid, commencing with the month in  
2 which the notice of penalty was served and such reasonable attorney's  
3 fees as are incurred in securing the final administrative order.

4 (5) A person who institutes proceedings for judicial review of a  
5 final administrative order assessing a civil penalty under this chapter  
6 shall place the full amount of the penalty in an interest bearing  
7 account in the registry of the reviewing court. At the conclusion of  
8 the proceeding the court shall, as appropriate, enter a judgment on  
9 behalf of the department and order that the judgment be satisfied to  
10 the extent possible from moneys paid into the registry of the court or  
11 shall enter a judgment in favor of the person appealing the penalty  
12 assessment and order return of the moneys paid into the registry of the  
13 court together with accrued interest to the person appealing. The  
14 judgment may award reasonable attorney's fees for the cost of the  
15 attorney general's office in representing the department.

16 (6) If no appeal is taken from a final administrative order  
17 assessing a civil penalty under this chapter, the department may file  
18 a certified copy of the final administrative order with the clerk of  
19 the superior court in which the public water system is located or in  
20 Thurston county, and the clerk shall enter judgment in the name of the  
21 department and in the amount of the penalty assessed in the final  
22 administrative order.

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

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

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

35 **Sec. 10.** RCW 70.119A.130 and 1991 c 304 s 7 are each amended to  
36 read as follows:

37 (~~Until July 1, 1996, local governments shall be prohibited from~~  
38 ~~administering a separate operating permit requirement for public water~~

1 ~~systems. After July 1, 1996,~~) Local governments may establish  
2 separate operating permit requirements for public water systems  
3 provided the operating permit requirements have been approved by the  
4 department. The department shall not approve local operating permit  
5 requirements unless the local system will result in an increased level  
6 of service to the public water system. There shall not be duplicate  
7 operating permit requirements imposed by local governments and the  
8 department.

9 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.119A  
10 RCW to read as follows:

11 A drinking water assistance account is created in the state  
12 treasury. The purpose of the account is to allow the state to take  
13 advantage of any federal funds that become available for safe drinking  
14 water. Expenditures from the account may only be made by the secretary  
15 or the public works board after appropriation. Moneys in the account  
16 may only be used to assist water systems to provide safe drinking  
17 water.

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

20 (1) Complaint may be made by the commission of its own motion or by  
21 any person or corporation, chamber of commerce, board of trade, or any  
22 commercial, mercantile, agricultural or manufacturing society, or any  
23 body politic or municipal corporation, or by the public counsel section  
24 of the office of the attorney general, or its successor, by petition or  
25 complaint in writing, setting forth any act or thing done or omitted to  
26 be done by any public service corporation in violation, or claimed to  
27 be in violation, of any provision of law or of any order or rule of the  
28 commission: PROVIDED, That no complaint shall be entertained by the  
29 commission except upon its own motion, as to the reasonableness of the  
30 schedule of the rates or charges of any gas company, electrical  
31 company, water company, or telecommunications company, unless the same  
32 be signed by the mayor, council or commission of the city or town in  
33 which the company complained of is engaged in business, or not less  
34 than twenty-five consumers or purchasers of such gas, electricity,  
35 water or telecommunications service, or at least twenty-five percent of  
36 the consumers or purchasers of the company's service: PROVIDED,  
37 FURTHER, That when two or more public service corporations, (meaning to

1 exclude municipal and other public corporations) are engaged in  
2 competition in any locality or localities in the state, either may make  
3 complaint against the other or others that the rates, charges, rules,  
4 regulations or practices of such other or others with or in respect to  
5 which the complainant is in competition, are unreasonable,  
6 unremunerative, discriminatory, illegal, unfair or intending or tending  
7 to oppress the complainant, to stifle competition, or to create or  
8 encourage the creation of monopoly, and upon such complaint or upon  
9 complaint of the commission upon its own motion, the commission shall  
10 have power, after notice and hearing as in other cases, to, by its  
11 order, subject to appeal as in other cases, correct the abuse  
12 complained of by establishing such uniform rates, charges, rules,  
13 regulations or practices in lieu of those complained of, to be observed  
14 by all of such competing public service corporations in the locality or  
15 localities specified as shall be found reasonable, remunerative,  
16 nondiscriminatory, legal, and fair or tending to prevent oppression or  
17 monopoly or to encourage competition, and upon any such hearing it  
18 shall be proper for the commission to take into consideration the  
19 rates, charges, rules, regulations and practices of the public service  
20 corporation or corporations complained of in any other locality or  
21 localities in the state.

22 (2) All matters upon which complaint may be founded may be joined  
23 in one hearing, and no motion shall be entertained against a complaint  
24 for misjoinder of complaints or grievances or misjoinder of parties;  
25 and in any review of the courts of orders of the commission the same  
26 rule shall apply and pertain with regard to the joinder of complaints  
27 and parties as herein provided: PROVIDED, All grievances to be  
28 inquired into shall be plainly set forth in the complaint. No  
29 complaint shall be dismissed because of the absence of direct damage to  
30 the complainant.

31 (3) Upon the filing of a complaint, the commission shall cause a  
32 copy thereof to be served upon the person or corporation complained of,  
33 which shall be accompanied by a notice fixing the time when and place  
34 where a hearing will be had upon such complaint. The time fixed for  
35 such hearing shall not be less than ten days after the date of the  
36 service of such notice and complaint, excepting as herein provided.  
37 The commission shall enter its final order with respect to a complaint  
38 filed by any entity or person other than the commission within ten  
39 months from the date of filing of the complaint, unless the date is

1 extended for cause. Rules of practice and procedure not otherwise  
2 provided for in this title may be prescribed by the commission. Such  
3 rules may include the requirement that a complainant use informal  
4 processes before filing a formal complaint.

5 (4) The commission shall, as appropriate, audit a nonmunicipal  
6 water system upon receipt of an administrative order from the  
7 department, or the city or county in which the water system is located,  
8 finding that the water delivered by a system does not meet state board  
9 of health standards adopted under RCW 43.20.050(2)(a) or standards  
10 adopted under chapters 70.116 and 70.119A RCW, and the results of the  
11 audit shall be provided to the requesting department, city, or county.  
12 However, the number of nonmunicipal water systems referred to the  
13 commission in any one calendar year shall not exceed twenty percent of  
14 the water companies subject to commission regulation as defined in RCW  
15 80.04.010.

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

20 (5) Any customer or purchaser of service from a water system or  
21 company that is subject to commission regulation may file a complaint  
22 with the commission if he or she has reason to believe that the water  
23 delivered by the system to the customer does not meet state drinking  
24 water standards under chapter 43.20 or 70.116 RCW. The commission  
25 shall investigate such a complaint, and shall request that the state  
26 department of health or local health department of the county in which  
27 the system is located test the water for compliance with state drinking  
28 water standards, and provide the results of such testing to the  
29 commission. The commission may decide not to investigate the complaint  
30 if it determines that the complaint has been filed in bad faith, or for  
31 the purpose of harassment of the water system or company, or for other  
32 reasons has no substantial merit. The water system or company shall  
33 bear the expense for the testing. After the commission has received  
34 the complaint from the customer and during the pendency of the  
35 commission investigation, the water system or company shall not take  
36 any steps to terminate service to the customer or to collect any  
37 amounts alleged to be owed to the company by the customer. The  
38 commission may issue an order or take any other action to ensure that  
39 no such steps are taken by the system or company. The customer may, at



1 the customer's option and expense, obtain a water quality test by a  
2 licensed or otherwise qualified water testing laboratory, of the water  
3 delivered to the customer by the water system or company, and provide  
4 the results of such a test to the commission. If the commission  
5 determines that the water does not meet state drinking water standards,  
6 it shall exercise its authority over the system or company as provided  
7 in this title, and may, where appropriate, order a refund to the  
8 customer on a pro rata basis for the substandard water delivered to the  
9 customer, and shall order reimbursement to the customer for the cost  
10 incurred by the customer, if any, in obtaining a water quality test.

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

13 (1) The proposed service area boundaries of public water systems  
14 within the critical water supply service area that are required to  
15 submit water system plans under this chapter shall be ((determined by  
16 written agreement among the purveyors and with the approval of the  
17 appropriate legislative authority. Failure of the legislative  
18 authority to file with the secretary objections to the proposed service  
19 area boundaries within sixty days of receipt of the proposed boundary  
20 agreement may be construed as approval of the agreement)) identified in  
21 the system's plan. The local legislative authority, or its planning  
22 department or other designee, shall review the proposed boundaries to  
23 determine whether the proposed boundaries of one or more systems  
24 overlap. The boundaries determined by the local legislative authority  
25 not to overlap shall be incorporated into the coordinated water system  
26 plan. Where any overlap exists, the local legislative authority may  
27 attempt to resolve the conflict through procedures established under  
28 RCW 70.116.060(5).

29 (2) ((~~If no service area boundary agreement has been established~~  
30 ~~within a reasonable period of time, or if the legislative authority has~~  
31 ~~filed with the secretary objections in writing as provided in~~  
32 ~~subsection (1) of this section)) Any final decision by a local  
33 legislative authority regarding overlapping service areas, or any  
34 unresolved disputes regarding service area boundaries, may be appealed  
35 or referred to the secretary in writing for resolution. After receipt  
36 of an appeal or referral, the secretary shall hold a public hearing  
37 thereon. The secretary shall provide notice of the hearing by  
38 certified mail to each purveyor ((providing service in the critical~~

1 ~~water supply service area))~~ involved in the dispute, to each county  
2 legislative authority having jurisdiction in the area and to the  
3 public. The secretary shall provide public notice pursuant to the  
4 provisions of chapter 65.16 RCW. Such notice shall be given at least  
5 twenty days prior to the hearing. The hearing may be continued from  
6 time to time and, at the termination thereof, the secretary may  
7 restrict the expansion of service of any purveyor within the area if  
8 the secretary finds such restriction is necessary to provide the  
9 greatest protection of the public health and well-being.

10 NEW SECTION. Sec. 14. Section 10 of this act is necessary for the  
11 immediate preservation of the public peace, health, or safety, or  
12 support of the state government and its existing public institutions,  
13 and shall take effect July 1, 1995."

14 **E2SSB 5448** - H COMM AMD  
15 By Committee on Agriculture & Ecology

16  
17 On page 1, line 1 of the title, after "systems;" strike the  
18 remainder of the title and insert "amending RCW 70.116.060,  
19 70.119A.060, 82.16.020, 70.119.020, 70.119.030, 70.116.050,  
20 70.119A.040, 70.119A.130, and 70.116.070; reenacting and amending RCW  
21 80.04.110; adding new sections to chapter 70.119A RCW; creating a new  
22 section; providing an effective date; and declaring an emergency."

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