

2 **E2SSB 5448** - H AMD  
3 By Representative Chandler

4 ADOPTED AS AMENDED 4/23/95

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

35 (6) The public health services improvement plan recommends that the  
36 principal public health functions in Washington, including regulation

1 of public water systems, should be fully funded by state revenues and  
2 undertaken by local jurisdictions with the capacity to perform them;  
3 and

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

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

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

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

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

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

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

1 utilities shall be revised to reflect the decision of the local  
2 legislative authority.

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

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

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

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

24 (8) If the secretary initiates an update or revision of a  
25 coordinated water system plan, the state shall pay for the cost of  
26 updating or revising the plan.

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

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

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

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

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

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

1 (e) Provide the department with the current names, addresses, and  
2 telephone numbers of the owners, operators, and emergency contact  
3 persons for the system, including any changes to this information, and  
4 provide to users the name and twenty-four hour telephone number of an  
5 emergency contact person; and

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

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

10 (a) It is owned or operated by a satellite system management agency  
11 established under RCW 70.116.134 and the satellite system management  
12 system complies with financial viability requirements of the  
13 department; or (b) a satellite management system is not available and  
14 it is determined that the new system has sufficient management and  
15 financial resources to provide safe and reliable service. The approval  
16 of any new system that is not owned by a satellite system management  
17 agency shall be conditioned upon future management or ownership by a  
18 satellite system management agency, if such management or ownership can  
19 be made with reasonable economy and efficiency, or upon periodic review  
20 of the system's operational history to determine its ability to meet  
21 the department's financial viability and other operating requirements.  
22 The department and local health jurisdictions shall enforce this  
23 requirement under authority provided under this chapter, chapter  
24 70.116, or 70.05 RCW, or other authority governing the approval of new  
25 water systems by the department or a local jurisdiction.

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

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

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

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

17 **Sec. 5.** RCW 70.119.020 and 1991 c 305 s 2 are each amended to read  
18 as follows:

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

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

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

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

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

33 (5) "Distribution system" means that portion of a public water  
34 system which stores, transmits, pumps and distributes water to  
35 consumers.

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

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

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

6 (7) "Group A water system" means a system with fifteen or more  
7 service connections, regardless of the number of people; or a system  
8 serving an average of twenty-five or more people per day for sixty or  
9 more days within a calendar year, regardless of the number of service  
10 connections. Group A water system does not include a system serving  
11 fewer than fifteen single-family residences, regardless of the number  
12 of people.

13 (8) "Group B water system" means a system with more than four  
14 service connections but less than fifteen service connections and  
15 serving either: (a) An average of less than twenty-five people per day  
16 for sixty or more days within a calendar year; or (b) any number of  
17 people for less than sixty days within a calendar year.

18 (9) "Nationally recognized association of certification  
19 authorities" shall mean an organization which serves as an information  
20 center for certification activities, recommends minimum standards and  
21 guidelines for classification of potable water treatment plants, water  
22 distribution systems and waste water facilities and certification of  
23 operators, facilitates reciprocity between state programs and assists  
24 authorities in establishing new certification programs and updating  
25 existing ones.

26 ((+9)) (10) "Public water system" means any system, excluding a  
27 system serving only one single-family residence and a system with four  
28 or fewer connections all of which serve residences on the same farm,  
29 providing piped water for human consumption or domestic use, including  
30 any collection, treatment, storage, or distribution facilities under  
31 control of the purveyor and used primarily in connection with the  
32 system; and collection or pretreatment storage facilities not under  
33 control of the purveyor but primarily used in connection with the  
34 system.

35 ((+10)) (11) "Purification plant" means that portion of a public  
36 water system which treats or improves the physical, chemical or  
37 bacteriological quality of the system's water to bring the water into  
38 compliance with state board of health standards.

1       (~~(11)~~) (12) "Secretary" means the secretary of the department of  
2 health.

3       (~~(12)~~) (13) "Service" means a connection to a public water system  
4 designed to serve a single-family residence, dwelling unit, or  
5 equivalent use. If the facility has group home or barracks-type  
6 accommodations, three persons will be considered equivalent to one  
7 service.

8       (~~(13)~~) (14) "Surface water" means all water open to the  
9 atmosphere and subject to surface runoff.

10       **Sec. 6.** RCW 70.119.030 and 1991 c 305 s 3 are each amended to read  
11 as follows:

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

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

15       (b) It is a (~~group A~~) public water system using a surface water  
16 source or a ground water source under the direct influence of surface  
17 water.

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

23       (3) A certified operator may provide required services to more than  
24 one system or to a group of systems. The amount of time that a  
25 certified operator shall be required to be present at any given system  
26 shall be based upon the time required to properly operate and maintain  
27 the public water system as designed and constructed in accordance with  
28 RCW 43.20.050. The employing or appointing officials shall designate  
29 the position or positions requiring mandatory certification within  
30 their individual systems and shall assure that such certified operators  
31 are responsible for the system's technical operation.

32       (4) The department shall, in establishing by rule or otherwise the  
33 requirements for public water systems with fewer than one hundred  
34 connections, phase in such requirements in order to assure that (a) an  
35 adequate number of certified operators are available to serve the  
36 additional systems, (b) the systems have adequate notice and time to  
37 plan for securing the services of a certified operator, (c) the  
38 department has the additional data and other administrative capacity,

1 (d) adequate training is available to certify additional operators as  
2 necessary, and (e) any additional requirements under federal law are  
3 satisfied. The department shall not require a certified operator for  
4 a system with fewer than one hundred connections unless that system is  
5 determined by the department to be in significant noncompliance with  
6 monitoring, or water quality standards which would put the public  
7 health at risk, as defined by the department by rule, or has, or is  
8 required to have, water treatment facilities other than simple  
9 disinfection.

10 (5) Any examination required by the department as a prerequisite  
11 for the issuance of a certificate under this chapter shall be offered  
12 in each region where the department has a regional office.

13 (6) Operators not required to be certified by this chapter are  
14 encouraged to become certified on a voluntary basis.

15 **Sec. 7.** RCW 70.116.050 and 1977 ex.s. c 142 s 5 are each amended  
16 to read as follows:

17 (1) Each purveyor within the boundaries of a critical water supply  
18 service area shall develop a water system plan for the purveyor's  
19 future service area if such a plan has not already been developed:  
20 PROVIDED, That nonmunicipally owned public water systems are exempt  
21 from the planning requirements of this chapter, except for the  
22 establishment of service area boundaries if they(~~(a) Were in~~  
23 ~~existence as of September 21, 1977; and (b))~~) have no plans for water  
24 service beyond their existing service area(~~(, and (c) meet minimum~~  
25 ~~quality and pressure design criteria established by the state board of~~  
26 ~~health))~~): PROVIDED FURTHER, That if the county legislative authority  
27 permits a change in development that will increase the demand for water  
28 service of such a system beyond the existing system's ability to  
29 provide minimum water service, the purveyor shall develop a water  
30 system plan in accordance with this section. The establishment of  
31 future service area boundaries shall be in accordance with RCW  
32 70.116.070.

33 (2) After the boundaries of a critical water supply service area  
34 have been established pursuant to RCW 70.116.040, the committee  
35 established in RCW 70.116.040 shall participate in the development of  
36 a coordinated water system plan for the designated area. Such a plan  
37 shall incorporate all water system plans developed pursuant to  
38 subsection (1) of this section. The plan shall provide for maximum

1 integration and coordination of public water system facilities  
2 consistent with the protection and enhancement of the public health and  
3 well-being. Decisions of the committee shall be by majority vote of  
4 those present at meetings of the committee.

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

11 (4) To insure that the plan incorporates the proper designs to  
12 protect public health, the secretary shall adopt regulations pursuant  
13 to chapter 34.05 RCW concerning the scope and content of coordinated  
14 water system plans, and shall ensure, as minimum requirements, that  
15 such plans:

16 (a) Are reviewed by the appropriate local governmental agency to  
17 insure that the plan is not inconsistent with the land use plans,  
18 shoreline master programs, and/or developmental policies of the general  
19 purpose local government or governments whose jurisdiction the water  
20 system plan affects.

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

24 (c) Incorporate the fire protection standards developed pursuant to  
25 RCW 70.116.080.

26 (d) Identify the future service area boundaries of the public water  
27 system or systems included in the plan within the critical water supply  
28 service area.

29 (e) Identify feasible emergency inter-ties between adjacent  
30 purveyors.

31 (f) Include satellite system management requirements consistent  
32 with RCW 70.116.134.

33 (g) Include policies and procedures that generally address failing  
34 water systems for which counties may become responsible under RCW  
35 43.70.195.

36 (5) If a "water general plan" for a critical water supply service  
37 area or portion thereof has been prepared pursuant to chapter 36.94 RCW  
38 and such a plan meets the requirements of subsections (1) and (4) of

1 this section, such a plan shall constitute the coordinated water system  
2 plan for the applicable geographical area.

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

6 (7) Prior to the submission of a coordinated water system plan to  
7 the secretary for approval ((of the design of the proposed facilities))  
8 pursuant to RCW 70.116.060, ((the plan shall be reviewed for  
9 consistency with subsection (4) of this section by)) the legislative  
10 authorities of the counties in which the critical water supply service  
11 area is located shall hold a public hearing thereon and shall determine  
12 the plan's consistency with subsection (4) of this section. If within  
13 sixty days of receipt of the plan, the legislative authorities find any  
14 segment of a proposed service area of a purveyor's plan or any segment  
15 of the coordinated water system plan to be inconsistent with any  
16 current land use plans, shoreline master programs, and/or developmental  
17 policies of the general purpose local government or governments whose  
18 jurisdiction the water system plan affects, the secretary shall not  
19 approve that portion of the plan until the inconsistency is resolved  
20 between the local government and the purveyor. If no comments have  
21 been received from the legislative authorities within sixty days of  
22 receipt of the plan, the secretary may consider the plan for approval.

23 (8) Any county legislative authority may adopt an abbreviated plan  
24 for the provision of water supplies within its boundaries that includes  
25 provisions for service area boundaries, minimum design criteria, and  
26 review process. The elements of the abbreviated plan shall conform to  
27 the criteria established by the department under subsection (4) of this  
28 section and shall otherwise be consistent with other adopted land use  
29 and resource plans. The county legislative authority may, in lieu of  
30 the committee required under RCW 70.116.040, and the procedures  
31 authorized in this section, utilize an advisory committee that is  
32 representative of the water utilities and local governments within its  
33 jurisdiction to assist in the preparation of the abbreviated plan,  
34 which may be adopted by resolution and submitted to the secretary for  
35 approval. Purveyors within the boundaries covered by the abbreviated  
36 plan need not develop a water system plan, except to the extent  
37 required by the secretary or state board of health under other  
38 authority. Any abbreviated plan adopted by a county legislative  
39 authority pursuant to this subsection shall be subject to the same

1 provisions contained in RCW 70.116.060 for coordinated water system  
2 plans that are approved by the secretary.

3 **Sec. 8.** RCW 70.119A.040 and 1993 c 305 s 2 are each amended to  
4 read as follows:

5 (1)(a) In addition to or as an alternative to any other penalty or  
6 action allowed by law, a person who violates a law or rule regulating  
7 public water systems and administered by the department of health is  
8 subject to a penalty of not more than five thousand dollars per day for  
9 every such violation, or, in the case of a violation that has been  
10 determined to be a public health emergency, a penalty of not more than  
11 ten thousand dollars per day for every such violation. Every such  
12 violation shall be a separate and distinct offense. The amount of fine  
13 shall reflect the health significance of the violation and the previous  
14 record of compliance on the part of the public water supplier. In case  
15 of continuing violation, every day's continuance shall be a separate  
16 and distinct violation.

17 (b) In addition, a person who constructs, modifies, or expands a  
18 public water system or who commences the construction, modification, or  
19 expansion of a public water system without first obtaining the required  
20 departmental approval is subject to penalties of not more than five  
21 thousand dollars per service connection, or, in the case of a system  
22 serving a transient population, a penalty of not more than four hundred  
23 dollars per person based on the highest average daily population the  
24 system serves or is anticipated to serve may be imposed. The total  
25 penalty that may be imposed pursuant to this subsection (1)(b) is five  
26 hundred thousand dollars. For the purpose of computing the penalty  
27 under this subsection, a service connection shall include any new  
28 service connection actually constructed, any anticipated service  
29 connection the system has been designed to serve, and, in the case of  
30 a system modification not involving expansions, each existing service  
31 connection that benefits or would benefit from the modification.

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

36 (2) The penalty provided for in this section shall be imposed by a  
37 notice in writing to the person against whom the civil penalty is  
38 assessed and shall describe the violation. The notice shall be

1 personally served in the manner of service of a summons in a civil  
2 action or in a manner that shows proof of receipt. A penalty imposed  
3 by this section is due twenty-eight days after receipt of notice unless  
4 application for an adjudicative proceeding is filed as provided in  
5 subsection (3) of this section.

6 (3) Within twenty-eight days after notice is received, the person  
7 incurring the penalty may file an application for an adjudicative  
8 proceeding and may pursue subsequent review as provided in chapter  
9 34.05 RCW and applicable rules of the department or board of health.

10 (4) A penalty imposed by a final administrative order is due upon  
11 service of the final administrative order. A person who fails to pay  
12 a penalty assessed by a final administrative order within thirty days  
13 of service of the final administrative order shall pay, in addition to  
14 the amount of the penalty, interest at the rate of one percent of the  
15 unpaid balance of the assessed penalty for each month or part of a  
16 month that the penalty remains unpaid, commencing with the month in  
17 which the notice of penalty was served and such reasonable attorney's  
18 fees as are incurred in securing the final administrative order.

19 (5) A person who institutes proceedings for judicial review of a  
20 final administrative order assessing a civil penalty under this chapter  
21 shall place the full amount of the penalty in an interest bearing  
22 account in the registry of the reviewing court. At the conclusion of  
23 the proceeding the court shall, as appropriate, enter a judgment on  
24 behalf of the department and order that the judgment be satisfied to  
25 the extent possible from moneys paid into the registry of the court or  
26 shall enter a judgment in favor of the person appealing the penalty  
27 assessment and order return of the moneys paid into the registry of the  
28 court together with accrued interest to the person appealing. The  
29 judgment may award reasonable attorney's fees for the cost of the  
30 attorney general's office in representing the department.

31 (6) If no appeal is taken from a final administrative order  
32 assessing a civil penalty under this chapter, the department may file  
33 a certified copy of the final administrative order with the clerk of  
34 the superior court in which the public water system is located or in  
35 Thurston county, and the clerk shall enter judgment in the name of the  
36 department and in the amount of the penalty assessed in the final  
37 administrative order.

38 (7) A judgment entered under subsection (5) or (6) of this section  
39 shall have the same force and effect as, and is subject to all of the

1 provisions of law relating to, a judgment in a civil action, and may be  
2 enforced in the same manner as any other judgment of the court in which  
3 it is entered.

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

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

11 **Sec. 9.** RCW 70.119A.130 and 1991 c 304 s 7 are each amended to  
12 read as follows:

13 (~~Until July 1, 1996, local governments shall be prohibited from~~  
14 ~~administering a separate operating permit requirement for public water~~  
15 ~~systems. After July 1, 1996,~~) Local governments may establish  
16 separate operating permit requirements for public water systems  
17 provided the operating permit requirements have been approved by the  
18 department. The department shall not approve local operating permit  
19 requirements unless the local system will result in an increased level  
20 of service to the public water system. There shall not be duplicate  
21 operating permit requirements imposed by local governments and the  
22 department.

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

25 A drinking water assistance account is created in the state  
26 treasury. The purpose of the account is to allow the state to take  
27 advantage of any federal funds that become available for safe drinking  
28 water. Expenditures from the account may only be made by the secretary  
29 or the public works board after appropriation. Moneys in the account  
30 may only be used to assist water systems to provide safe drinking water  
31 through a program administered through the department of health and the  
32 public works board. Money may be placed in the account from the  
33 proceeds of bonds when authorized by the legislature, transfers from  
34 other state funds or accounts, federal capitalization grants or other  
35 financial assistance, all repayments of moneys borrowed from the  
36 account, all interest payments made by borrowers from the account or  
37 otherwise earned on the account, or any other lawful source.

1 Expenditures from the account may only be made by the secretary or the  
2 public works board after appropriation. Moneys in the account may only  
3 be used to assist local governments and water systems to provide safe  
4 and reliable drinking water and to administer the program.

5 **Sec. 11.** RCW 43.155.050 and 1993 sp.s. c 24 s 921 are each amended  
6 to read as follows:

7 The public works assistance account is hereby established in the  
8 state treasury. Money may be placed in the public works assistance  
9 account from the proceeds of bonds when authorized by the legislature  
10 or from any other lawful source. Money in the public works assistance  
11 account shall be used to make loans and to give financial guarantees to  
12 local governments for public works projects. Moneys in the account may  
13 also be appropriated to provide for state match requirements under  
14 federal law for projects and activities conducted and financed by the  
15 board under the drinking water assistance account. During the 1993-95  
16 fiscal biennium, moneys in the public works assistance account may be  
17 appropriated for flood control assistance including grants under  
18 chapter 86.26 RCW. To the extent that moneys in the public works  
19 assistance account are not appropriated during the 1993-95 fiscal  
20 biennium for public works or flood control assistance, the legislature  
21 may direct their transfer to the state general fund. In awarding  
22 grants under chapter 86.26 RCW, the department of ecology shall give  
23 strong preference to local governments that have: (1) Implemented, or  
24 are in the process of implementing, an ordinance that establishes a  
25 flood plain policy that is substantially more stringent than minimum  
26 federal requirements; (2) completed a comprehensive flood control plan  
27 meeting the requirements of RCW 86.12.200; or (3) constructed, or are  
28 in the process of constructing, a system of overtopping dikes or levees  
29 that allow public access.

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

32 (1) Complaint may be made by the commission of its own motion or by  
33 any person or corporation, chamber of commerce, board of trade, or any  
34 commercial, mercantile, agricultural or manufacturing society, or any  
35 body politic or municipal corporation, or by the public counsel section  
36 of the office of the attorney general, or its successor, by petition or  
37 complaint in writing, setting forth any act or thing done or omitted to

1 be done by any public service corporation in violation, or claimed to  
2 be in violation, of any provision of law or of any order or rule of the  
3 commission: PROVIDED, That no complaint shall be entertained by the  
4 commission except upon its own motion, as to the reasonableness of the  
5 schedule of the rates or charges of any gas company, electrical  
6 company, water company, or telecommunications company, unless the same  
7 be signed by the mayor, council or commission of the city or town in  
8 which the company complained of is engaged in business, or not less  
9 than twenty-five consumers or purchasers of such gas, electricity,  
10 water or telecommunications service, or at least twenty-five percent of  
11 the consumers or purchasers of the company's service: PROVIDED,  
12 FURTHER, That when two or more public service corporations, (meaning to  
13 exclude municipal and other public corporations) are engaged in  
14 competition in any locality or localities in the state, either may make  
15 complaint against the other or others that the rates, charges, rules,  
16 regulations or practices of such other or others with or in respect to  
17 which the complainant is in competition, are unreasonable,  
18 unremunerative, discriminatory, illegal, unfair or intending or tending  
19 to oppress the complainant, to stifle competition, or to create or  
20 encourage the creation of monopoly, and upon such complaint or upon  
21 complaint of the commission upon its own motion, the commission shall  
22 have power, after notice and hearing as in other cases, to, by its  
23 order, subject to appeal as in other cases, correct the abuse  
24 complained of by establishing such uniform rates, charges, rules,  
25 regulations or practices in lieu of those complained of, to be observed  
26 by all of such competing public service corporations in the locality or  
27 localities specified as shall be found reasonable, remunerative,  
28 nondiscriminatory, legal, and fair or tending to prevent oppression or  
29 monopoly or to encourage competition, and upon any such hearing it  
30 shall be proper for the commission to take into consideration the  
31 rates, charges, rules, regulations and practices of the public service  
32 corporation or corporations complained of in any other locality or  
33 localities in the state.

34 (2) All matters upon which complaint may be founded may be joined  
35 in one hearing, and no motion shall be entertained against a complaint  
36 for misjoinder of complaints or grievances or misjoinder of parties;  
37 and in any review of the courts of orders of the commission the same  
38 rule shall apply and pertain with regard to the joinder of complaints  
39 and parties as herein provided: PROVIDED, All grievances to be

1 inquired into shall be plainly set forth in the complaint. No  
2 complaint shall be dismissed because of the absence of direct damage to  
3 the complainant.

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

17 (4) The commission shall, as appropriate, audit a nonmunicipal  
18 water system upon receipt of an administrative order from the  
19 department, or the city or county in which the water system is located,  
20 finding that the water delivered by a system does not meet state board  
21 of health standards adopted under RCW 43.20.050(2)(a) or standards  
22 adopted under chapters 70.116 and 70.119A RCW, and the results of the  
23 audit shall be provided to the requesting department, city, or county.  
24 However, the number of nonmunicipal water systems referred to the  
25 commission in any one calendar year shall not exceed twenty percent of  
26 the water companies subject to commission regulation as defined in RCW  
27 80.04.010.

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

32 (5) Any customer or purchaser of service from a water system or  
33 company that is subject to commission regulation may file a complaint  
34 with the commission if he or she has reason to believe that the water  
35 delivered by the system to the customer does not meet state drinking  
36 water standards under chapter 43.20 or 70.116 RCW. The commission  
37 shall investigate such a complaint, and shall request that the state  
38 department of health or local health department of the county in which  
39 the system is located test the water for compliance with state drinking

1 water standards, and provide the results of such testing to the  
2 commission. The commission may decide not to investigate the complaint  
3 if it determines that the complaint has been filed in bad faith, or for  
4 the purpose of harassment of the water system or company, or for other  
5 reasons has no substantial merit. The water system or company shall  
6 bear the expense for the testing. After the commission has received  
7 the complaint from the customer and during the pendency of the  
8 commission investigation, the water system or company shall not take  
9 any steps to terminate service to the customer or to collect any  
10 amounts alleged to be owed to the company by the customer. The  
11 commission may issue an order or take any other action to ensure that  
12 no such steps are taken by the system or company. The customer may, at  
13 the customer's option and expense, obtain a water quality test by a  
14 licensed or otherwise qualified water testing laboratory, of the water  
15 delivered to the customer by the water system or company, and provide  
16 the results of such a test to the commission. If the commission  
17 determines that the water does not meet state drinking water standards,  
18 it shall exercise its authority over the system or company as provided  
19 in this title, and may, where appropriate, order a refund to the  
20 customer on a pro rata basis for the substandard water delivered to the  
21 customer, and shall order reimbursement to the customer for the cost  
22 incurred by the customer, if any, in obtaining a water quality test.

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

25 (1) The proposed service area boundaries of public water systems  
26 within the critical water supply service area that are required to  
27 submit water system plans under this chapter shall be ((determined by  
28 written agreement among the purveyors and with the approval of the  
29 appropriate legislative authority. Failure of the legislative  
30 authority to file with the secretary objections to the proposed service  
31 area boundaries within sixty days of receipt of the proposed boundary  
32 agreement may be construed as approval of the agreement)) identified in  
33 the system's plan. The local legislative authority, or its planning  
34 department or other designee, shall review the proposed boundaries to  
35 determine whether the proposed boundaries of one or more systems  
36 overlap. The boundaries determined by the local legislative authority  
37 not to overlap shall be incorporated into the coordinated water system  
38 plan. Where any overlap exists, the local legislative authority may

1 attempt to resolve the conflict through procedures established under  
2 RCW 70.116.060(5).

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

22 **Sec. 14.** RCW 56.08.200 and 1991 c 190 s 1 are each amended to read  
23 as follows:

24 It is unlawful and a misdemeanor to make, or cause to be made, or  
25 to maintain any (~~sewer~~) connection with any sewer or water system of  
26 any sewer district, or with any sewer or water system which is  
27 connected directly or indirectly with any sewer or water system of any  
28 sewer district without having permission from the sewer district.

29 **Sec. 15.** RCW 57.08.180 and 1991 c 190 s 5 are each amended to read  
30 as follows:

31 It is unlawful and a misdemeanor to make, or cause to be made, or  
32 to maintain any (~~sewer~~) connection with any sewer or water system of  
33 any water district, or with any sewer or water system which is  
34 connected directly or indirectly with any sewer or water system of any  
35 water district without having permission from the water district.

