

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5448**

Chapter 376, Laws of 1995

(partial veto)

54th Legislature  
1995 Regular Session

PUBLIC WATER SYSTEMS REGULATION

EFFECTIVE DATE: 7/23/95 - Except Section 9 which becomes  
effective 7/1/95

Passed by the Senate April 23, 1995  
YEAS 44 NAYS 0

JOEL PRITCHARD

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 23, 1995  
YEAS 94 NAYS 0

CLYDE BALLARD

\_\_\_\_\_  
**Speaker of the  
House of Representatives**

Approved May 16, 1995, with the  
exception of sections 5 and 16, which  
are vetoed.

MIKE LOWRY

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the  
Senate of the State of Washington,  
do hereby certify that the attached  
is **ENGROSSED SECOND SUBSTITUTE  
SENATE BILL 5448** as passed by the  
Senate and the House of  
Representatives on the dates hereon  
set forth.

MARTY BROWN

\_\_\_\_\_  
**Secretary**

FILED

May 16, 1995 - 11:26 a.m.

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5448

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AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1995 Regular Session

State of Washington                      54th Legislature                      1995 Regular Session

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

Read first time 03/06/95.

1            AN ACT Relating to public water systems; amending RCW 70.116.060,  
2 70.119A.060,    70.119.020,    70.119.030,    70.116.050,    70.119A.040,  
3 70.119A.130,    43.155.050,    70.116.070,    56.08.200,    and    57.08.180;  
4 reenacting and amending RCW 80.04.110; adding new sections to chapter  
5 70.119A RCW; creating a new section; prescribing penalties; providing  
6 an effective date; and declaring an emergency.

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

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

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

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

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

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

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

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

17 (6) The public health services improvement plan recommends that the  
18 principal public health functions in Washington, including regulation  
19 of public water systems, should be fully funded by state revenues and  
20 undertaken by local jurisdictions with the capacity to perform them;  
21 and

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

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

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

32 (2) The secretary shall review the coordinated water system plan  
33 and, to the extent the plan is consistent with the requirements of this  
34 chapter and regulations adopted hereunder, shall approve the plan,  
35 provided that the secretary shall not approve those portions of a  
36 coordinated water system plan ((which)) that fail to meet the  
37 requirements for future service area boundaries until any boundary  
38 dispute is resolved as set forth in RCW 70.116.070.

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

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

6 (b) No other purveyor shall establish a public water system within  
7 the area covered by the plan, unless the (~~secretary~~) local  
8 legislative authority determines that existing purveyors are unable to  
9 provide the service in a timely and reasonable manner, pursuant to  
10 guidelines developed by the secretary. An existing purveyor is unable  
11 to provide the service in a timely manner if the water cannot be  
12 provided to an applicant for water within one hundred twenty days  
13 unless specified otherwise by the local legislative authority. If such  
14 a determination is made, the (~~secretary may~~) local legislative  
15 authority shall require the new public water system to be constructed  
16 in accordance with the construction standards and specifications  
17 embodied in the coordinated water system plan approved for the area.  
18 The service area boundaries in the coordinated plan for the affected  
19 utilities shall be revised to reflect the decision of the local  
20 legislative authority.

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

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

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

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

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

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

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

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

12       (b) Provide treatment adequate to assure that the public health is  
13 protected;

14       (c) Provide and effectively operate and maintain public water  
15 system facilities;

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

18       (e) Provide the department with the current names, addresses, and  
19 telephone numbers of the owners, operators, and emergency contact  
20 persons for the system, including any changes to this information, and  
21 provide to users the name and twenty-four hour telephone number of an  
22 emergency contact person; and

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

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

27 (a) It is owned or operated by a satellite system management agency  
28 established under RCW 70.116.134 and the satellite system management  
29 system complies with financial viability requirements of the  
30 department; or (b) a satellite management system is not available and  
31 it is determined that the new system has sufficient management and  
32 financial resources to provide safe and reliable service. The approval  
33 of any new system that is not owned by a satellite system management  
34 agency shall be conditioned upon future management or ownership by a  
35 satellite system management agency, if such management or ownership can  
36 be made with reasonable economy and efficiency, or upon periodic review  
37 of the system's operational history to determine its ability to meet  
38 the department's financial viability and other operating requirements.

1 The department and local health jurisdictions shall enforce this  
2 requirement under authority provided under this chapter, chapter  
3 70.116, or 70.05 RCW, or other authority governing the approval of new  
4 water systems by the department or a local jurisdiction.

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

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

11 The department shall create a water supply advisory committee.  
12 Membership on the committee shall reflect a broad range of interests in  
13 the regulation of public water supplies, including water utilities of  
14 all sizes, local governments, business groups, special purpose  
15 districts, local health jurisdictions, other state and federal  
16 agencies, financial institutions, environmental organizations, the  
17 legislature, and other groups substantially affected by the  
18 department's role in implementing state and federal requirements for  
19 public water systems. Members shall be appointed for fixed terms of no  
20 less than two years, and may be reappointed. Any members of an  
21 existing advisory committee to the drinking water program may remain as  
22 members of the water supply advisory committee. The committee shall  
23 provide advice to the department on the organization, functions,  
24 service delivery methods, and funding of the drinking water program.  
25 The committee shall also review the adequacy and necessity of the  
26 current and prospective funding for the drinking water program, and the  
27 results of the committees' review shall be forwarded to the department  
28 for inclusion in a report to the appropriate standing committees of the  
29 legislature no later than November 1, 1996. The report shall include  
30 a discussion of the extent to which the drinking water program has  
31 progressed toward achieving the objectives of the public health  
32 improvement plan, and an assessment of any changes to the program  
33 necessitated by modifications to the federal safe drinking water act.

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

36 *As used in this chapter unless context requires another meaning:*

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

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

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

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

14 (5) "Distribution system" means that portion of a public water  
15 system which stores, transmits, pumps and distributes water to  
16 consumers.

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

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

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

24 (7) "Group A water system" means a system with fifteen or more  
25 service connections, regardless of the number of people; or a system  
26 serving an average of twenty-five or more people per day for sixty or  
27 more days within a calendar year, regardless of the number of service  
28 connections. Group A water system does not include a system serving  
29 fewer than fifteen single-family residences, regardless of the number  
30 of people.

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

36 (9) "Nationally recognized association of certification  
37 authorities" shall mean an organization which serves as an information  
38 center for certification activities, recommends minimum standards and  
39 guidelines for classification of potable water treatment plants, water

1 *distribution systems and waste water facilities and certification of*  
2 *operators, facilitates reciprocity between state programs and assists*  
3 *authorities in establishing new certification programs and updating*  
4 *existing ones.*

5 ~~((+9))~~ (10) "Public water system" means any system, excluding a  
6 system serving only one single-family residence and a system with four  
7 or fewer connections all of which serve residences on the same farm,  
8 providing piped water for human consumption or domestic use, including  
9 any collection, treatment, storage, or distribution facilities under  
10 control of the purveyor and used primarily in connection with the  
11 system; and collection or pretreatment storage facilities not under  
12 control of the purveyor but primarily used in connection with the  
13 system.

14 ~~((+10))~~ (11) "Purification plant" means that portion of a public  
15 water system which treats or improves the physical, chemical or  
16 bacteriological quality of the system's water to bring the water into  
17 compliance with state board of health standards.

18 ~~((+11))~~ (12) "Secretary" means the secretary of the department of  
19 health.

20 ~~((+12))~~ (13) "Service" means a connection to a public water system  
21 designed to serve a single-family residence, dwelling unit, or  
22 equivalent use. If the facility has group home or barracks-type  
23 accommodations, three persons will be considered equivalent to one  
24 service.

25 ~~((+13))~~ (14) "Surface water" means all water open to the  
26 atmosphere and subject to surface runoff.

27 \*Sec. 5 was vetoed. See message at end of chapter.

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

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

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

33 (b) It is a ~~((group A))~~ public water system using a surface water  
34 source or a ground water source under the direct influence of surface  
35 water.

36 (2) The certified operators shall be in charge of the technical  
37 direction of a water system's operation, or an operating shift of such  
38 a system, or a major segment of a system necessary for monitoring or



1 improving the quality of water. The operator shall be certified as  
2 provided in RCW 70.119.050.

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

12 (4) The department shall, in establishing by rule or otherwise the  
13 requirements for public water systems with fewer than one hundred  
14 connections, phase in such requirements in order to assure that (a) an  
15 adequate number of certified operators are available to serve the  
16 additional systems, (b) the systems have adequate notice and time to  
17 plan for securing the services of a certified operator, (c) the  
18 department has the additional data and other administrative capacity,  
19 (d) adequate training is available to certify additional operators as  
20 necessary, and (e) any additional requirements under federal law are  
21 satisfied. The department shall not require a certified operator for  
22 a system with fewer than one hundred connections unless that system is  
23 determined by the department to be in significant noncompliance with  
24 monitoring, or water quality standards which would put the public  
25 health at risk, as defined by the department by rule, or has, or is  
26 required to have, water treatment facilities other than simple  
27 disinfection.

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

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

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

35 (1) Each purveyor within the boundaries of a critical water supply  
36 service area shall develop a water system plan for the purveyor's  
37 future service area if such a plan has not already been developed:  
38 PROVIDED, That nonmunicipally owned public water systems are exempt

1 from the planning requirements of this chapter, except for the  
2 establishment of service area boundaries if they(~~(a) were in~~  
3 ~~existence as of September 21, 1977; and (b))~~) have no plans for water  
4 service beyond their existing service area(~~(, and (c) meet minimum~~  
5 ~~quality and pressure design criteria established by the state board of~~  
6 ~~health)~~): PROVIDED FURTHER, That if the county legislative authority  
7 permits a change in development that will increase the demand for water  
8 service of such a system beyond the existing system's ability to  
9 provide minimum water service, the purveyor shall develop a water  
10 system plan in accordance with this section. The establishment of  
11 future service area boundaries shall be in accordance with RCW  
12 70.116.070.

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

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

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

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

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

4 (c) Incorporate the fire protection standards developed pursuant to  
5 RCW 70.116.080.

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

9 (e) Identify feasible emergency inter-ties between adjacent  
10 purveyors.

11 (f) Include satellite system management requirements consistent  
12 with RCW 70.116.134.

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

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

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

24 (7) Prior to the submission of a coordinated water system plan to  
25 the secretary for approval ((of the design of the proposed facilities))  
26 pursuant to RCW 70.116.060, ((the plan shall be reviewed for  
27 consistency with subsection (4) of this section by)) the legislative  
28 authorities of the counties in which the critical water supply service  
29 area is located shall hold a public hearing thereon and shall determine  
30 the plan's consistency with subsection (4) of this section. If within  
31 sixty days of receipt of the plan, the legislative authorities find any  
32 segment of a proposed service area of a purveyor's plan or any segment  
33 of the coordinated water system plan to be inconsistent with any  
34 current land use plans, shoreline master programs, and/or developmental  
35 policies of the general purpose local government or governments whose  
36 jurisdiction the water system plan affects, the secretary shall not  
37 approve that portion of the plan until the inconsistency is resolved  
38 between the local government and the purveyor. If no comments have

1 been received from the legislative authorities within sixty days of  
2 receipt of the plan, the secretary may consider the plan for approval.

3 (8) Any county legislative authority may adopt an abbreviated plan  
4 for the provision of water supplies within its boundaries that includes  
5 provisions for service area boundaries, minimum design criteria, and  
6 review process. The elements of the abbreviated plan shall conform to  
7 the criteria established by the department under subsection (4) of this  
8 section and shall otherwise be consistent with other adopted land use  
9 and resource plans. The county legislative authority may, in lieu of  
10 the committee required under RCW 70.116.040, and the procedures  
11 authorized in this section, utilize an advisory committee that is  
12 representative of the water utilities and local governments within its  
13 jurisdiction to assist in the preparation of the abbreviated plan,  
14 which may be adopted by resolution and submitted to the secretary for  
15 approval. Purveyors within the boundaries covered by the abbreviated  
16 plan need not develop a water system plan, except to the extent  
17 required by the secretary or state board of health under other  
18 authority. Any abbreviated plan adopted by a county legislative  
19 authority pursuant to this subsection shall be subject to the same  
20 provisions contained in RCW 70.116.060 for coordinated water system  
21 plans that are approved by the secretary.

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

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

36 (b) In addition, a person who constructs, modifies, or expands a  
37 public water system or who commences the construction, modification, or  
38 expansion of a public water system without first obtaining the required

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

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

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

25 (3) Within twenty-eight days after notice is received, the person  
26 incurring the penalty may file an application for an adjudicative  
27 proceeding and may pursue subsequent review as provided in chapter  
28 34.05 RCW and applicable rules of the department or board of health.

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

38 (5) A person who institutes proceedings for judicial review of a  
39 final administrative order assessing a civil penalty under this chapter

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

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

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

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

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

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

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

1 of service to the public water system. There shall not be duplicate  
2 operating permit requirements imposed by local governments and the  
3 department.

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

6 A drinking water assistance account is created in the state  
7 treasury. The purpose of the account is to allow the state to take  
8 advantage of any federal funds that become available for safe drinking  
9 water. Expenditures from the account may only be made by the secretary  
10 or the public works board after appropriation. Moneys in the account  
11 may only be used to assist water systems to provide safe drinking water  
12 through a program administered through the department of health and the  
13 public works board. Money may be placed in the account from the  
14 proceeds of bonds when authorized by the legislature, transfers from  
15 other state funds or accounts, federal capitalization grants or other  
16 financial assistance, all repayments of moneys borrowed from the  
17 account, all interest payments made by borrowers from the account or  
18 otherwise earned on the account, or any other lawful source.  
19 Expenditures from the account may only be made by the secretary or the  
20 public works board after appropriation. Moneys in the account may only  
21 be used to assist local governments and water systems to provide safe  
22 and reliable drinking water and to administer the program.

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

25 The public works assistance account is hereby established in the  
26 state treasury. Money may be placed in the public works assistance  
27 account from the proceeds of bonds when authorized by the legislature  
28 or from any other lawful source. Money in the public works assistance  
29 account shall be used to make loans and to give financial guarantees to  
30 local governments for public works projects. Moneys in the account may  
31 also be appropriated to provide for state match requirements under  
32 federal law for projects and activities conducted and financed by the  
33 board under the drinking water assistance account. During the 1993-95  
34 fiscal biennium, moneys in the public works assistance account may be  
35 appropriated for flood control assistance including grants under  
36 chapter 86.26 RCW. To the extent that moneys in the public works  
37 assistance account are not appropriated during the 1993-95 fiscal

1 biennium for public works or flood control assistance, the legislature  
2 may direct their transfer to the state general fund. In awarding  
3 grants under chapter 86.26 RCW, the department of ecology shall give  
4 strong preference to local governments that have: (1) Implemented, or  
5 are in the process of implementing, an ordinance that establishes a  
6 flood plain policy that is substantially more stringent than minimum  
7 federal requirements; (2) completed a comprehensive flood control plan  
8 meeting the requirements of RCW 86.12.200; or (3) constructed, or are  
9 in the process of constructing, a system of overtopping dikes or levees  
10 that allow public access.

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

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



1 complaint of the commission upon its own motion, the commission shall  
2 have power, after notice and hearing as in other cases, to, by its  
3 order, subject to appeal as in other cases, correct the abuse  
4 complained of by establishing such uniform rates, charges, rules,  
5 regulations or practices in lieu of those complained of, to be observed  
6 by all of such competing public service corporations in the locality or  
7 localities specified as shall be found reasonable, remunerative,  
8 nondiscriminatory, legal, and fair or tending to prevent oppression or  
9 monopoly or to encourage competition, and upon any such hearing it  
10 shall be proper for the commission to take into consideration the  
11 rates, charges, rules, regulations and practices of the public service  
12 corporation or corporations complained of in any other locality or  
13 localities in the state.

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

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

36 (4) The commission shall, as appropriate, audit a nonmunicipal  
37 water system upon receipt of an administrative order from the  
38 department, or the city or county in which the water system is located,  
39 finding that the water delivered by a system does not meet state board

1 of health standards adopted under RCW 43.20.050(2)(a) or standards  
2 adopted under chapters 70.116 and 70.119A RCW, and the results of the  
3 audit shall be provided to the requesting department, city, or county.  
4 However, the number of nonmunicipal water systems referred to the  
5 commission in any one calendar year shall not exceed twenty percent of  
6 the water companies subject to commission regulation as defined in RCW  
7 80.04.010.

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

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

1 customer, and shall order reimbursement to the customer for the cost  
2 incurred by the customer, if any, in obtaining a water quality test.

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

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

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

1 the secretary finds such restriction is necessary to provide the  
2 greatest protection of the public health and well-being.

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

5 It is unlawful and a misdemeanor to make, or cause to be made, or  
6 to maintain any ((sewer)) connection with any sewer or water system of  
7 any sewer district, or with any sewer or water system which is  
8 connected directly or indirectly with any sewer or water system of any  
9 sewer district without having permission from the sewer district.

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

12 It is unlawful and a misdemeanor to make, or cause to be made, or  
13 to maintain any ((sewer)) connection with any sewer or water system of  
14 any water district, or with any sewer or water system which is  
15 connected directly or indirectly with any sewer or water system of any  
16 water district without having permission from the water district.

17 ***\*NEW SECTION. Sec. 16. A new section is added to chapter 70.119A***  
18 ***RCW to read as follows:***

19 ***An individual well serving a group domestic use shall be allowed to***  
20 ***provide water service connections for up to a number equal to the***  
21 ***approved maximum daily withdrawal amount for the well as determined by***  
22 ***the water right divided by four hundred. The department may approve a***  
23 ***greater number of service connections based on a factor of less than***  
24 ***four hundred gallons per day delivered to each residence.***

25 ***\*Sec. 16 was vetoed. See message at end of chapter.***

26 **NEW SECTION. Sec. 17.** Section 9 of this act is necessary for the  
27 immediate preservation of the public peace, health, or safety, or  
28 support of the state government and its existing public institutions,  
29 and shall take effect July 1, 1995.

Passed the Senate April 23, 1995.

Passed the House April 23, 1995.

Approved by the Governor May 16, 1995, with the exception of  
certain items which were vetoed.

Filed in Office of Secretary of State May 16, 1995.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 5 and  
3 16, Engrossed Second Substitute Senate Bill No. 5448 entitled:

4 "AN ACT Relating to public water systems;"

5 I praise the hard work and commitment of the legislature in passing  
6 Engrossed Second Substitute Senate Bill No. 5448 as well as the  
7 Drinking Water 2000 Task Force for their recommendations to the  
8 legislature to assure that Washington residents continue to have access  
9 to safe drinking water.

10 This bill makes a number of statutory changes to improve operation  
11 and management of small drinking water systems, to clarify coordinated  
12 water system planning processes and responsibilities, and to enhance  
13 local government decision-making regarding water systems -- a critical  
14 component of local land use planning.

15 Section 5 of Engrossed Second Substitute Senate Bill No. 5448  
16 attempts to exclude water systems of two, three, or four connections  
17 from all state or local regulations. However, the statute amended by  
18 this section does not affect the regulatory authority of state or local  
19 jurisdictions over these small systems and, therefore, provides  
20 incomplete and unclear policy direction.

21 Section 16 of Engrossed Second Substitute Senate Bill No. 5448  
22 would double the number of connections that can be made to a 5,000  
23 gallon per day exempt well from 6 to 12. The 6 connections now allowed  
24 are based on the Department of Health's (DOH) water system sizing  
25 criteria. DOH is in the process of reviewing sizing criteria to more  
26 accurately reflect the needs of specific water system designs.  
27 Arbitrarily increasing the number of connections from 6 to 12  
28 circumvents the process already underway and may have unintended  
29 impacts on public water systems.

30 For these reasons, I am vetoing sections 5 and 16 of Engrossed  
31 Second Substitute Senate Bill No. 5448.

32 With the exception of sections 5 and 16, Engrossed Second  
33 Substitute Senate Bill No. 5448 is approved."