

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1969

Chapter 218, Laws of 1997

55th Legislature
1997 Regular Session

PUBLIC WATER SYSTEMS--REGULATION

EFFECTIVE DATE: 4/25/97

Passed by the House March 15, 1997
Yeas 95 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate April 15, 1997
Yeas 46 Nays 0

BRAD OWEN
President of the Senate

Approved April 25, 1997

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1969** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 25, 1997 - 4:20 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1969

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Chandler and Regala; by request of Department of Health)

Read first time 03/10/97.

1 AN ACT Relating to regulation of public water systems; amending RCW
2 70.119.030, 70.119A.115, 70.119A.170, and 43.84.092; creating a new
3 section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

6 (1) The provision of safe and reliable water supplies to the people
7 of the state of Washington is fundamental to ensuring public health and
8 continuing economic vitality of this state.

9 (2) The department of health, pursuant to legislative directive in
10 1995, has provided a report that incorporates the findings and
11 recommendations of the water supply advisory committee as to progress
12 in meeting the objectives of the public health improvement plan,
13 changes warranted by the recent congressional action reauthorizing the
14 federal safe drinking water act, and new approaches to providing
15 services under the general principles of regulatory reform.

16 (3) The environmental protection agency has recently completed a
17 national assessment of public water system capital needs, which has

1 identified over four billion dollars in such needs in the state of
2 Washington.

3 (4) The changes to the safe drinking water act offer the
4 opportunity for the increased ability of the state to tailor federal
5 requirements and programs to meet the conditions and objectives within
6 this state.

7 (5) The department of health and local governments should be
8 provided with adequate authority, flexibility, and resources to be able
9 to implement the principles and recommendations adopted by the water
10 supply advisory committee.

11 (6) Statutory changes are necessary to eliminate ambiguity or
12 conflicting authorities, provide additional information and tools to
13 consumers and the public, and make necessary changes to be consistent
14 with federal law.

15 (7) A basic element to the protection of the public's health from
16 waterborne disease outbreaks is systematic and comprehensive monitoring
17 of water supplies for all contaminants, including hazardous substances
18 with long-term health effects, and routine field visits to water
19 systems for technical assistance and evaluation.

20 (8) The water systems of this state should have prompt and full
21 access to the newly created federal state revolving fund program to
22 help meet their financial needs and to achieve and maintain the
23 technical, managerial, and financial capacity necessary for long-term
24 compliance with state and federal regulations. This requires authority
25 for streamlined program administration and the provision of the
26 necessary state funds required to match the available federal funds.

27 (9) Stable, predictable, and adequate funding is essential to a
28 state-wide drinking water program that meets state public health
29 objectives and provides the necessary state resources to utilize the
30 new flexibility, opportunities, and programs under the safe drinking
31 water act.

32 **Sec. 2.** RCW 70.119.030 and 1995 c 376 s 6 are each amended to read
33 as follows:

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

35 (a) It is a group A water system; or

36 (b) It is a public water system using a surface water source or a
37 ground water source under the direct influence of surface water.

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

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

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

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

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

1 **Sec. 3.** RCW 70.119A.115 and 1994 c 252 s 3 are each amended to
2 read as follows:

3 The department shall develop and implement a voluntary consolidated
4 source monitoring program sufficient to accurately characterize the
5 source water quality of the state's drinking water supplies and to
6 maximize the flexibility allowed in the federal safe drinking water act
7 to allow public water systems to be waived from full testing
8 requirements for organic and inorganic chemicals under the federal safe
9 drinking water act. The department shall ((pay)) arrange for the
10 initial sampling and provide for testing and programmatic costs ((for
11 the area-wide waiver program)) to the extent that the legislature
12 provides funding for this purpose in water system operating permit fees
13 or through specific appropriation of funds from other sources. The
14 department shall assess a fee using its authority under RCW 43.20B.020,
15 sufficient to cover all testing and directly related costs to public
16 water systems that ((apply for an area-wide waiver)) otherwise are not
17 funded. The department shall adjust the amount of the fee based on the
18 size of the public drinking water system. Fees charged by the
19 department for this purpose may not vary by more than a factor of ten.
20 The department shall, to the ((maximum)) extent ((possible)) feasible
21 and cost-effective, use the services of local governments, local health
22 departments, and private laboratories to implement the ((area-wide))
23 testing program. The department shall consult with the departments of
24 agriculture and ecology for the purpose of exchanging water quality and
25 other information.

26 **Sec. 4.** RCW 70.119A.170 and 1995 c 376 s 10 are each amended to
27 read as follows:

28 (1) A drinking water assistance account is created in the state
29 treasury. Such subaccounts as are necessary to carry out the purposes
30 of this chapter are permitted to be established within the account.
31 The purpose of the account is to allow the state to ((take advantage
32 of)) use any federal funds that become available ((for safe drinking
33 water)) to states from congress to fund a state revolving loan fund
34 program as part of the reauthorization of the federal safe drinking
35 water act. Expenditures from the account may only be made by the
36 secretary ((or)), the public works board, or the department of
37 community, trade, and economic development, after appropriation.
38 Moneys in the account may only be used, consistent with federal law, to

1 assist water systems to provide safe drinking water through a program
2 administered through the department of health ~~((and))~~, the public works
3 board, and the department of community, trade, and economic development
4 and for other activities authorized under federal law. Money may be
5 placed in the account from the proceeds of bonds when authorized by the
6 legislature, transfers from other state funds or accounts, federal
7 capitalization grants or other financial assistance, all repayments of
8 moneys borrowed from the account, all interest payments made by
9 borrowers from the account or otherwise earned on the account, or any
10 other lawful source. ~~((Expenditures from the account may only be made
11 by the secretary or the public works board after appropriation.))~~ All
12 interest earned on moneys deposited in the account, including
13 repayments, shall remain in the account and may be used for any
14 eligible purpose. Moneys in the account may only be used to assist
15 local governments and water systems to provide safe and reliable
16 drinking water, for other services and assistance authorized by federal
17 law to be funded from these federal funds, and to administer the
18 program.

19 (2) The department and the public works board shall establish and
20 maintain a program to use the moneys in the drinking water assistance
21 account as provided by the federal government under the safe drinking
22 water act. The department and the public works board, in consultation
23 with purveyors, local governments, local health jurisdictions,
24 financial institutions, commercial construction interests, other state
25 agencies, and other affected and interested parties, shall by January
26 1, 1999, adopt final joint rules and requirements for the provision of
27 financial assistance to public water systems as authorized under
28 federal law. Prior to the effective date of the final rules, the
29 department and the public works board may establish and utilize
30 guidelines for the sole purpose of ensuring the timely procurement of
31 financial assistance from the federal government under the safe
32 drinking water act, but such guidelines shall be converted to rules by
33 January 1, 1999. The department and the public works board shall make
34 every reasonable effort to ensure the state's receipt and disbursement
35 of federal funds to eligible public water systems as quickly as
36 possible after the federal government has made them available. By
37 December 15, 1997, the department and the public works board shall
38 provide a report to the appropriate committees of the legislature
39 reflecting the input from the affected interests and parties on the

1 status of the program. The report shall include significant issues and
2 concerns, the status of rulemaking and guidelines, and a plan for the
3 adoption of final rules.

4 (3) If the department, public works board, or any other department,
5 agency, board, or commission of state government participates in
6 providing service under this section, the administering entity shall
7 endeavor to provide cost-effective and timely services. Mechanisms to
8 provide cost-effective and timely services include: (a) Adopting
9 federal guidelines by reference into administrative rules; (b) using
10 existing management mechanisms rather than creating new administrative
11 structures; (c) investigating the use of service contracts, either with
12 other governmental entities or with nongovernmental service providers;
13 (d) the use of joint or combined financial assistance applications; and
14 (e) any other method or practice designed to streamline and expedite
15 the delivery of services and financial assistance.

16 (4) The department shall have the authority to establish assistance
17 priorities and carry out oversight and related activities, other than
18 financial administration, with respect to assistance provided with
19 federal funds. The department, the public works board, and the
20 department of community, trade, and economic development shall jointly
21 develop, with the assistance of water purveyors and other affected and
22 interested parties, a memorandum of understanding setting forth
23 responsibilities and duties for each of the parties. The memorandum of
24 understanding at a minimum, shall include:

25 (a) Responsibility for developing guidelines for providing
26 assistance to public water systems and related oversight prioritization
27 and oversight responsibilities including requirements for
28 prioritization of loans or other financial assistance to public water
29 systems;

30 (b) Department submittal of preapplication information to the
31 public works board for review and comment;

32 (c) Department submittal of a prioritized list of projects to the
33 public works board for determination of:

34 (i) Financial capability of the applicant; and

35 (ii) Readiness to proceed, or the ability of the applicant to
36 promptly commence the project;

37 (d) A process for determining consistency with existing water
38 resource planning and management, including coordinated water supply

1 plans, regional water resource plans, and comprehensive plans under the
2 growth management act, chapter 36.70A RCW;

3 (e) A determination of:

4 (i) Least-cost solutions, including consolidation and restructuring
5 of small systems, where appropriate, into more economical units;

6 (ii) The provision of regional facilities;

7 (iii) Projects and activities that facilitate compliance with the
8 federal safe drinking water act; and

9 (iv) Projects and activities that are intended to achieve the
10 public health objectives of federal and state drinking water laws;

11 (f) Implementation of water conservation and other demand
12 management measures consistent with state guidelines for water
13 utilities;

14 (g) Assistance for the necessary planning and engineering to assure
15 that consistency, coordination, and proper professional review are
16 incorporated into projects or activities proposed for funding;

17 (h) Minimum standards for water system capacity, financial
18 viability, and water system planning;

19 (i) Testing and evaluation of the water quality of the state's
20 public water system to assure that priority for financial assistance is
21 provided to systems and areas with threats to public health from
22 contaminated supplies and reduce in appropriate cases the substantial
23 increases in costs and rates that customers of small systems would
24 otherwise incur under the monitoring and testing requirements of the
25 federal safe drinking water act;

26 (j) Coordination, to the maximum extent possible, with other state
27 programs that provide financial assistance to public water systems and
28 state programs that address existing or potential water quality or
29 drinking contamination problems;

30 (k) Definitions of "affordability" and "disadvantaged community"
31 that are consistent with these and similar terms in use by other state
32 or federal assistance programs;

33 (l) Criteria for the financial assistance program for public water
34 systems, which shall include, but are not limited to:

35 (i) Determining projects addressing the most serious risk to human
36 health;

37 (ii) Determining the capacity of the system to effectively manage
38 its resources, including meeting state financial viability criteria;
39 and

1 (iii) Determining the relative benefit to the community served; and
2 (m) Ensure that each agency fulfills the audit, accounting, and
3 reporting requirements under federal law for its portion of the
4 administration of this program.

5 (5) The department and the public works board shall begin the
6 process to disburse funds no later than October 1, 1997, and shall
7 adopt such rules as are necessary under chapter 34.05 RCW to administer
8 the program by January 1, 1999.

9 **Sec. 5.** RCW 43.84.092 and 1996 c 262 s 4 are each amended to read
10 as follows:

11 (1) All earnings of investments of surplus balances in the state
12 treasury shall be deposited to the treasury income account, which
13 account is hereby established in the state treasury.

14 (2) The treasury income account shall be utilized to pay or receive
15 funds associated with federal programs as required by the federal cash
16 management improvement act of 1990. The treasury income account is
17 subject in all respects to chapter 43.88 RCW, but no appropriation is
18 required for refunds or allocations of interest earnings required by
19 the cash management improvement act. Refunds of interest to the
20 federal treasury required under the cash management improvement act
21 fall under RCW 43.88.180 and shall not require appropriation. The
22 office of financial management shall determine the amounts due to or
23 from the federal government pursuant to the cash management improvement
24 act. The office of financial management may direct transfers of funds
25 between accounts as deemed necessary to implement the provisions of the
26 cash management improvement act, and this subsection. Refunds or
27 allocations shall occur prior to the distributions of earnings set
28 forth in subsection (4) of this section.

29 (3) Except for the provisions of RCW 43.84.160, the treasury income
30 account may be utilized for the payment of purchased banking services
31 on behalf of treasury funds including, but not limited to, depository,
32 safekeeping, and disbursement functions for the state treasury and
33 affected state agencies. The treasury income account is subject in all
34 respects to chapter 43.88 RCW, but no appropriation is required for
35 payments to financial institutions. Payments shall occur prior to
36 distribution of earnings set forth in subsection (4) of this section.

37 (4) Monthly, the state treasurer shall distribute the earnings
38 credited to the treasury income account. The state treasurer shall

1 credit the general fund with all the earnings credited to the treasury
2 income account except:

3 (a) The following accounts and funds shall receive their
4 proportionate share of earnings based upon each account's and fund's
5 average daily balance for the period: The capitol building
6 construction account, the Cedar River channel construction and
7 operation account, the Central Washington University capital projects
8 account, the charitable, educational, penal and reformatory
9 institutions account, the common school construction fund, the county
10 criminal justice assistance account, the county sales and use tax
11 equalization account, the data processing building construction
12 account, the deferred compensation administrative account, the deferred
13 compensation principal account, the department of retirement systems
14 expense account, the drinking water assistance account, the Eastern
15 Washington University capital projects account, the education
16 construction fund, the emergency reserve fund, the federal forest
17 revolving account, the health services account, the public health
18 services account, the health system capacity account, the personal
19 health services account, the highway infrastructure account, the
20 industrial insurance premium refund account, the judges' retirement
21 account, the judicial retirement administrative account, the judicial
22 retirement principal account, the local leasehold excise tax account,
23 the local real estate excise tax account, the local sales and use tax
24 account, the medical aid account, the mobile home park relocation fund,
25 the municipal criminal justice assistance account, the municipal sales
26 and use tax equalization account, the natural resources deposit
27 account, the perpetual surveillance and maintenance account, the public
28 employees' retirement system plan I account, the public employees'
29 retirement system plan II account, the Puyallup tribal settlement
30 account, the resource management cost account, the site closure
31 account, the special wildlife account, the state employees' insurance
32 account, the state employees' insurance reserve account, the state
33 investment board expense account, the state investment board commingled
34 trust fund accounts, the supplemental pension account, the teachers'
35 retirement system plan I account, the teachers' retirement system plan
36 II account, the transportation infrastructure account, the tuition
37 recovery trust fund, the University of Washington bond retirement fund,
38 the University of Washington building account, the volunteer fire
39 fighters' relief and pension principal account, the volunteer fire

1 fighters' relief and pension administrative account, the Washington
2 judicial retirement system account, the Washington law enforcement
3 officers' and fire fighters' system plan I retirement account, the
4 Washington law enforcement officers' and fire fighters' system plan II
5 retirement account, the Washington state patrol retirement account, the
6 Washington State University building account, the Washington State
7 University bond retirement fund, the water pollution control revolving
8 fund, and the Western Washington University capital projects account.
9 Earnings derived from investing balances of the agricultural permanent
10 fund, the normal school permanent fund, the permanent common school
11 fund, the scientific permanent fund, and the state university permanent
12 fund shall be allocated to their respective beneficiary accounts. All
13 earnings to be distributed under this subsection (4)(a) shall first be
14 reduced by the allocation to the state treasurer's service fund
15 pursuant to RCW 43.08.190.

16 (b) The following accounts and funds shall receive eighty percent
17 of their proportionate share of earnings based upon each account's or
18 fund's average daily balance for the period: The aeronautics account,
19 the aircraft search and rescue account, the central Puget Sound public
20 transportation account, the city hardship assistance account, the
21 county arterial preservation account, the department of licensing
22 services account, the economic development account, the essential rail
23 assistance account, the essential rail banking account, the ferry bond
24 retirement fund, the gasohol exemption holding account, the grade
25 crossing protective fund, the high capacity transportation account, the
26 highway bond retirement fund, the highway construction stabilization
27 account, the highway safety account, the marine operating fund, the
28 motor vehicle fund, the motorcycle safety education account, the
29 pilotage account, the public transportation systems account, the Puget
30 Sound capital construction account, the Puget Sound ferry operations
31 account, the recreational vehicle account, the rural arterial trust
32 account, the safety and education account, the small city account, the
33 special category C account, the state patrol highway account, the
34 transfer relief account, the transportation capital facilities account,
35 the transportation equipment fund, the transportation fund, the
36 transportation improvement account, the transportation revolving loan
37 account, and the urban arterial trust account.

1 (5) In conformance with Article II, section 37 of the state
2 Constitution, no treasury accounts or funds shall be allocated earnings
3 without the specific affirmative directive of this section.

4 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 immediately.

 Passed the House March 15, 1997.

 Passed the Senate April 15, 1997.

 Approved by the Governor April 25, 1997.

 Filed in Office of Secretary of State April 25, 1997.