

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5783

Chapter 445, Laws of 1997
(partial veto)

55th Legislature
1997 Regular Session

PUBLIC WATER SYSTEMS--MUNICIPAL WATER SUPPLIES

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 23, 1997
YEAS 32 NAYS 15

BRAD OWEN

President of the Senate

Passed by the House April 11, 1997
YEAS 69 NAYS 27

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 20, 1997, with the
exception of sections 1, 2, and 4,
which are vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 5783 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MIKE O'CONNELL

Secretary

FILED

May 20, 1997 - 4:28 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5783

AS AMENDED BY THE HOUSE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Swecker, Haugen, Anderson, Rasmussen and Morton)

Read first time 03/05/97.

1 AN ACT Relating to public water systems; amending RCW 90.03.320 and
2 90.03.330; adding a new section to chapter 90.03 RCW; and creating a
3 new section.

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

5 ****NEW SECTION.** Sec. 1. The legislature finds that it is in the*
6 *public interest for water rights held by public water systems to be*
7 *managed and regulated in a manner that:*

8 *(1) Allows such systems to prolong and maximize the use of water*
9 *rights applied to municipal purposes consistent with the population*
10 *demand projections established in state-approved water system plans and*
11 *adopted growth management plans; and*

12 *(2) Promotes water conservation, with enhanced efforts occurring in*
13 *water critical areas, promotes water system efficiencies, and*
14 *eliminates disincentives for investments in water efficient*
15 *technologies.*

16 *The department of ecology is therefore directed to administer water*
17 *rights laws consistent with RCW 90.03.320 and 90.03.330 and section 2*
18 *of this act.*

19 *Sec. 1 was vetoed. See message at end of chapter.

1 ****NEW SECTION.** Sec. 2. A new section is added to chapter 90.03 RCW*
2 *to read as follows:*

3 *(1) For the purposes of this chapter and RCW 90.14.140, "municipal*
4 *water supply purposes" means water distributed by a group A public*
5 *water system as defined by RCW 70.119.020, and includes domestic,*
6 *commercial, and industrial water uses provided as an integral element*
7 *of the public water system and includes industrial water uses provided*
8 *on the effective date of this act under RCW 54.16.030 which are*
9 *included in a comprehensive water system plan. Except as stated above,*
10 *this definition does not include commercial, industrial, irrigation, or*
11 *other water systems that are not designated as a public water system*
12 *for potable water use recognized by a state-approved public water*
13 *system plan or withdrawals of public ground waters exempt from permit*
14 *requirements under RCW 90.44.050.*

15 *(2) For the purposes of RCW 90.14.140, the amount of water held for*
16 *municipal water supply purposes is limited to the water that is deemed*
17 *to be an efficient use and that meets the needs of the public water*
18 *system's service area as determined by plans in RCW 90.03.320. Water*
19 *uses that are deemed as efficient uses of water are those that are in*
20 *full compliance with the department of health's conservation guidelines*
21 *for such systems. This section applies only to those public water*
22 *systems that are required to develop water conservation plans pursuant*
23 *to the department of health's conservation guidelines.*

24 **Sec. 2 was vetoed. See message at end of chapter.*

25 **Sec. 3.** RCW 90.03.320 and 1987 c 109 s 67 are each amended to read
26 as follows:

27 Actual construction work shall be commenced on any project for
28 which permit has been granted within such reasonable time as shall be
29 prescribed by the department, and shall thereafter be prosecuted with
30 diligence and completed within the time prescribed by the department.
31 The department, in fixing the time for the commencement of the work, or
32 for the completion thereof and the application of the water to the
33 beneficial use prescribed in the permit, shall take into consideration
34 the cost and magnitude of the project and the engineering and physical
35 features to be encountered, and shall allow such time as shall be
36 reasonable and just under the conditions then existing, having due
37 regard for the public welfare and public interests affected: and, for
38 good cause shown, it shall extend the time or times fixed as aforesaid,

1 and shall grant such further period or periods as may be reasonably
2 necessary, having due regard to the good faith of the applicant and the
3 public interests affected. In fixing construction schedules and the
4 time, or extension of time, for application of water to beneficial use
5 for municipal water supply purposes, the department shall also take
6 into consideration the term and amount of financing required to
7 complete the project, delays that may result from planned and existing
8 conservation and water use efficiency measures implemented by the
9 public water system, and the supply needs of the public water system's
10 service area, consistent with an approved comprehensive plan under
11 chapter 36.70A RCW, or in the absence of such a plan, a county-approved
12 comprehensive plan under chapter 36.70 RCW or a plan approved under
13 chapter 35.63 RCW, and related water demand projections prepared by
14 public water systems in accordance with state law. An existing
15 comprehensive plan under chapter 36.70A or 36.70 RCW, plan under
16 chapter 35.63 RCW, or demand projection may be used. If the terms of
17 the permit or extension thereof, are not complied with the department
18 shall give notice by registered mail that such permit will be canceled
19 unless the holders thereof shall show cause within sixty days why the
20 same should not be so canceled. If cause ((be)) is not shown, ((said))
21 the permit shall be canceled.

22 **Sec. 4. RCW 90.03.330 and 1987 c 109 s 89 are each amended to*
23 *read as follows:*

24 *(1) Upon a showing satisfactory to the department that any*
25 *appropriation has been perfected in accordance with the provisions of*
26 *this chapter, it shall be the duty of the department to issue to the*
27 *applicant a certificate stating such facts in a form to be prescribed*
28 *by ((him)) the director, and such certificate shall thereupon be*
29 *recorded with the department.*

30 *(2) For those public water supplies that fulfill municipal water*
31 *supply purposes and are designed to accommodate future growth as*
32 *defined by a state-approved water system plan, the amount of*
33 *instantaneous diversion or withdrawal considered to be applied to*
34 *beneficial use at the time of perfection of the certificate shall be*
35 *based upon the design capacity of the diversion structures and*
36 *mainlines or withdrawal facilities and mainlines installed at such*
37 *time. Further, the amount of annual appropriation considered to be*
38 *applied to beneficial use at the time of perfection shall be based on*

1 the growth projection contained in the most current state-approved
2 water system plan. However, the department may not issue a certificate
3 for quantities of water in excess of those contained in a permit if a
4 permit has been issued. This subsection shall apply to the
5 administration of water rights existing on the effective date of this
6 section and prospectively issued water rights, but shall not apply to
7 water rights subject to the terms of final adjudication decrees entered
8 in accordance with this chapter. Withdrawal of ground water shall be
9 in compliance with RCW 90.44.100.

10 (3) Any original water right certificate issued, as provided by
11 this chapter, shall be recorded with the department and thereafter, at
12 the expense of the party receiving the same, be by the department
13 transmitted to the county auditor of the county or counties where the
14 distributing system or any part thereof is located, and be recorded in
15 the office of such county auditor, and thereafter be transmitted to the
16 owner thereof.

17 *Sec. 4 was vetoed. See message at end of chapter.

Passed the Senate April 23, 1997.

Passed the House April 11, 1997.

Approved by the Governor May 20, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 20, 1997.

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

2 "I am returning herewith, without my approval as to sections 1, 2,
3 and 4, Substitute Senate Bill No. 5783 entitled:

4 "AN ACT Relating to public water systems;"

5 I have vetoed most of Substitute Senate Bill No. 5783, which
6 affects water rights for public water systems. I do, however,
7 recognize the need for and importance of providing adequate water
8 supplies to support responsible growth. It is unfortunate that a
9 compromise was not reached between the bill proponents and state
10 agencies that addressed such an important issue in a balanced manner
11 that also protected instream resources. I encourage the water
12 purveyors and local government to return to the negotiating table and
13 work with state agencies to resolve these issues in a balanced fashion.

14 Sections 2 and 4 would work together to provide an unfair advantage
15 to public water systems by creating great uncertainty in trying to
16 determine what water is available for other water rights, new
17 applications, and the protection of instream resources. This would
18 make it increasingly difficult to effectively and efficiently manage
19 the public waters of the state. Section 1 directs the Department of
20 Ecology to administer water rights laws consistent with sections 2, 3,
21 and 4.

1 For these reasons, I have vetoed sections 1, 2, and 4 of Substitute
2 Senate Bill No. 5783.

3 I have approved section 3, which amends the existing statute that
4 fixes and grants extensions to the construction schedules for
5 application of water to a beneficial use. These changes provide
6 certainty for the water purveyors as to which conditions the Department
7 of Ecology is required to consider. The term and amount of financing
8 are major issues for water utilities and this language provides them
9 assurance in their efforts to construct major capital facilities.
10 Consideration for conservation and efficiency underscores and supports
11 stretching existing water supplies. Finally, section 3 makes a
12 positive step toward coordinating public water system supply with
13 Growth Management Act provisions and population projections.

14 With the exception of sections 1, 2, and 4, Substitute Senate Bill
15 No. 5783 is approved."