
SENATE BILL 6093

State of Washington

56th Legislature

1999 Regular Session

By Senators Fraser and Swecker

Read first time 04/02/1999. Referred to Committee on Environmental Quality & Water Resources.

1 AN ACT Relating to public water supply management; and amending RCW
2 70.116.010, 70.116.020, 70.116.030, 70.116.040, 70.116.050, 70.116.060,
3 70.116.070, 70.116.134, 90.03.255, 90.03.260, 90.03.320, and 90.03.383.

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

5 **Sec. 1.** RCW 70.116.010 and 1991 c 3 s 365 are each amended to read
6 as follows:

7 The legislature hereby finds that an adequate supply of potable
8 water for domestic, commercial, and industrial use ~~((is))~~ and an
9 adequate supply of water for fish habitat use are vital to the health
10 and well-being of the people of the state. Readily available water for
11 use in public water systems is limited and should be developed and used
12 efficiently with a minimum of loss or waste and in a manner that
13 preserves water for fish habitat.

14 In order to maximize efficient and effective development of the
15 state's public water supply systems, the department of health, in
16 coordination with the department of ecology and the department of fish
17 and wildlife shall assist water purveyors by providing a procedure to
18 coordinate the planning of ~~((the))~~ water supply for public water
19 ~~((supply))~~ systems and fish habitat.

1 **Sec. 2.** RCW 70.116.020 and 1977 ex.s. c 142 s 2 are each amended
2 to read as follows:

3 The purposes of this chapter are:

4 (1) To provide for the establishment of ~~((critical))~~ water supply
5 service areas related to water utility planning and development and
6 fish habitat planning, preservation, and restoration;

7 (2) To provide for the development of ~~((minimum))~~ planning and
8 design standards for ~~((critical))~~ water supply service areas to insure
9 that water systems ~~((developed in these areas))~~ are consistent with
10 regional needs for public water supply and fish habitat;

11 (3) To assist in the orderly and efficient administration of state
12 financial assistance programs for public water systems; and

13 (4) To assist public water systems to meet reasonable standards of
14 quality, quantity, and pressure, and contribution to fish habitat.

15 **Sec. 3.** RCW 70.116.030 and 1991 c 3 s 366 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the following terms
18 when used in this chapter shall be defined as follows:

19 (1) "Coordinated water system plan" means a plan for public water
20 systems within a ~~((critical))~~ coordinated water supply service area
21 which identifies the present and future needs of the systems and of the
22 fish habitat that the systems impact and sets forth means for meeting
23 those needs in the most efficient manner possible. Such a plan shall
24 include provisions for subsequently updating the plan. In areas where
25 more than one water system exists, a coordinated plan may consist of
26 either: (a) A new plan developed for the area following its
27 designation as a ~~((critical))~~ coordinated water supply service area; or
28 (b) a compilation of compatible water system plans existing at the time
29 of such designation and containing such supplementary provisions as are
30 necessary to satisfy the requirements of this chapter. Any such
31 coordinated plan must include provisions regarding: ~~((Future))~~
32 Individual service area designations; assessment of the feasibility of
33 shared source, transmission, and storage facilities; ~~((emergency inter-~~
34 ties)) assessment of water supply needs for fish habitat; interties;
35 design standards; and other concerns related to the construction and
36 operation of the water system facilities.

37 (2) "~~((Critical))~~ Coordinated water supply service area" means a
38 geographical area which ~~((is characterized by a proliferation of))~~

1 includes more than one public water system, includes fish habitat, and
2 may also include small, inadequate water systems, or ~~((by))~~ water
3 supply problems which threaten the present or future water quality or
4 reliability of service or supply of water for fish habitat in such a
5 manner that efficient and orderly development may best be achieved
6 through coordinated planning by the water utilities in the area.

7 (3) "Public water system" means any system providing water intended
8 for, or used for, human consumption or other domestic uses. It
9 includes, but is not limited to, the source, treatment for purifying
10 purposes only, storage, transmission, pumping, and distribution
11 facilities where water is furnished to any community, or number of
12 individuals, or is made available to the public for human consumption
13 or domestic use, but excluding water systems serving one single family
14 residence. However, systems existing on September 21, 1977 which are
15 owner operated and serve less than ten single family residences or
16 which serve only one industrial plant shall be excluded from this
17 definition and the provisions of this chapter.

18 (4) "Purveyor" means any agency or subdivision of the state or any
19 municipal corporation, firm, company, mutual or cooperative
20 association, institution, partnership, or person or any other entity,
21 that owns or operates for wholesale or retail service a public water
22 system. It also means the authorized agents of any such entities.

23 ~~(5) ("Secretary" means the secretary of the department of health~~
24 ~~or the secretary's authorized representative.~~

25 ~~(6))~~ "Service area" means a specific geographical area ~~((served~~
26 ~~or for which service is planned))~~ served by a purveyor and initially
27 established under a permit to appropriate water for municipal water
28 supply or subsequently established under this chapter and consistent
29 with a permit to appropriate water for municipal water supply.

30 **Sec. 4.** RCW 70.116.040 and 1977 ex.s. c 142 s 4 are each amended
31 to read as follows:

32 (1) The ~~((secretary))~~ department of health, in coordination with
33 the department of ecology, the department of fish and wildlife, and the
34 appropriate local planning agencies and purveyors, shall study
35 geographical areas where water supply problems related to uncoordinated
36 planning, inadequate water quality, insufficient water supply, fish
37 habitat, or unreliable service appear to exist. If the results of the
38 study indicate that such water supply problems do exist, the

1 ((secretary)) department of health or the county legislative authority
2 shall (~~designate the area involved as being a critical~~) establish a
3 coordinated water supply service area, consult with the department of
4 ecology, the department of fish and wildlife, and appropriate local
5 planning agencies and purveyors, and appoint a committee of not less
6 than three representatives therefrom solely for the purpose of
7 establishing the proposed external boundaries of the (~~critical~~)
8 coordinated water supply service area. The committee shall include a
9 representative from each purveyor serving more than fifty customers,
10 the county legislative authority, county planning agency, and health
11 agencies. Such proposed boundaries shall be established within six
12 months of the appointment of the committee.

13 During the six month period following the establishment of the
14 proposed external boundaries of the (~~critical~~) coordinated water
15 supply services areas, the county legislative authority shall conduct
16 public hearings on the proposed boundaries and shall modify or ratify
17 the proposed boundaries in accordance with the findings of the public
18 hearings. The boundaries shall reflect the existing land usage, and
19 permitted densities in county plans, ordinances, and/or growth
20 policies. If the proposed boundaries are not modified during the six
21 month period, the proposed boundaries shall be automatically ratified
22 and be the (~~critical~~) coordinated water supply service area.

23 After establishment of the external boundaries of the (~~critical~~)
24 coordinated water supply service area, no new public water systems may
25 be approved within the boundary area unless an existing water purveyor
26 is unable to provide water service.

27 (2) At the time a (~~critical~~) coordinated water supply service
28 area is established, the external boundaries for such area shall not
29 include any fractional part of a purveyor's existing contiguous service
30 area.

31 (3) The external boundaries of the (~~critical~~) coordinated water
32 supply service area may be amended in accordance with procedures
33 prescribed in subsection (1) of this section for the establishment of
34 the (~~critical~~) coordinated water supply service areas when such
35 amendment is necessary to accomplish the purposes of this chapter.

36 **Sec. 5.** RCW 70.116.050 and 1995 c 376 s 7 are each amended to read
37 as follows:

1 (1) Each purveyor within the boundaries of a ~~((critical))~~
2 coordinated water supply service area shall develop a water system plan
3 for the purveyor's present and future service area if such a plan has
4 not already been developed: PROVIDED, That nonmunicipally owned public
5 water systems are exempt from the planning requirements of this
6 chapter, except for the establishment of service area boundaries and
7 documentation of water supply if they have no plans for water service
8 beyond their existing service area: PROVIDED FURTHER, That if the
9 county legislative authority permits a change in development that will
10 increase the demand for water service of such a system beyond the
11 existing system's ability to provide minimum water service, the
12 purveyor shall develop a water system plan in accordance with this
13 section. The establishment of future service area boundaries shall be
14 in accordance with RCW 70.116.070.

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

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

32 (4) To insure that the plan incorporates the proper designs to
33 protect public health and distributes water for public water supply and
34 fish habitat, the ~~((secretary))~~ department of health shall adopt
35 ~~((regulations pursuant to))~~ rules under chapter 34.05 RCW concerning
36 the scope and content of coordinated water system plans, and shall
37 ensure, as minimum requirements, that such plans:

38 (a) Are reviewed by the appropriate local governmental agency to
39 insure that the plan ~~((is not inconsistent with))~~ implements the land

1 use plans, shoreline master programs, and/or developmental policies of
2 the general purpose local government or governments whose jurisdiction
3 the water system plan affects.

4 (b) ~~((Recognize))~~ Are reviewed by the relevant governmental agency
5 or entity to insure that the plan implements all water resource plans,
6 water quality plans, ((and)) water pollution control plans, habitat
7 conservation plans, and licensing requirements which have been adopted
8 by entities and units of local, regional, and state government.

9 (c) Incorporate the fire protection standards developed pursuant to
10 RCW 70.116.080.

11 (d) Identify ~~((the future))~~ water rights and the individual service
12 area boundaries of the public water system or systems included in the
13 plan within the ~~((critical))~~ coordinated water supply service area.

14 (e) Identify feasible ~~((emergency inter-ties))~~ conjunctive uses and
15 interties between adjacent purveyors.

16 (f) Include satellite system management requirements consistent
17 with RCW 70.116.134.

18 (g) Include policies and procedures that generally address failing
19 water systems for which counties may become responsible under RCW
20 43.70.195.

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

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

29 ~~((7))~~ (6) Prior to the submission of a coordinated water system
30 plan to the ~~((secretary))~~ department of health for approval pursuant to
31 RCW 70.116.060, the legislative authorities of the counties in which
32 the ~~((critical))~~ coordinated water supply service area is located,
33 together with the departments of ecology and fish and wildlife, shall
34 hold a public hearing thereon and shall determine the plan's
35 consistency with subsection (4) of this section. If within sixty days
36 of receipt of the plan, the legislative authorities and the departments
37 of ecology and fish and wildlife find any segment of a proposed service
38 area of a purveyor's plan or any segment of the coordinated water
39 system plan to be inconsistent with ~~((any current land use plans,~~

1 ~~shoreline master programs, and/or developmental policies of the general~~
2 ~~purpose local government or governments whose jurisdiction the water~~
3 ~~system plan affects)) subsection (4) of this section, the ((secretary))~~
4 department of health shall not approve that portion of the plan until
5 the inconsistency is resolved ((between the local government and the
6 purveyor)). If no comments have been received ((from the legislative
7 authorities)) within sixty days of receipt of the plan, the
8 ((secretary)) department of health may consider the plan for approval.

9 (8) Any county legislative authority may adopt an abbreviated plan
10 for the provision of water supplies within its boundaries that includes
11 provisions for individual service area boundaries, minimum design
12 criteria, and review process. The elements of the abbreviated plan
13 shall conform to the criteria established by the department of health
14 under subsection (4) of this section and shall otherwise be consistent
15 with other adopted land use and resource plans. The county legislative
16 authority may, in lieu of the committee required under RCW 70.116.040,
17 and the procedures authorized in this section, utilize an advisory
18 committee that is representative of the water utilities and local
19 governments within its jurisdiction to assist in the preparation of the
20 abbreviated plan, which may be adopted by resolution and submitted to
21 the ((secretary)) department of health for approval. Purveyors within
22 the boundaries covered by the abbreviated plan need not develop a water
23 system plan, except to the extent required by the ((secretary or state
24 board)) department of health under other authority. Any abbreviated
25 plan adopted by a county legislative authority pursuant to this
26 subsection shall be subject to the same provisions contained in RCW
27 70.116.060 for coordinated water system plans that are approved by the
28 ((secretary)) department of health.

29 **Sec. 6.** RCW 70.116.060 and 1995 c 376 s 2 are each amended to read
30 as follows:

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

35 (2) The ((secretary)) department of health shall review the
36 coordinated water system plan and, to the extent the plan is consistent
37 with the requirements of this chapter and ((regulations)) rules adopted
38 ((hereunder)) under it, shall approve the plan, provided that the

1 ((secretary)) department of health shall not approve those portions of
2 a coordinated water system plan that fail to meet the requirements for
3 future service area boundaries until any boundary dispute is resolved
4 as set forth in RCW 70.116.070.

5 (3) Following the approval of a coordinated water system plan ((by
6 the secretary)):

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

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

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

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

35 (6) After adoption of the initial coordinated water system plan,
36 the local legislative authority or the ((secretary)) department of
37 health may determine that the plan should be updated or revised. The
38 legislative authority may initiate an update at any time, but the
39 ((secretary)) department of health may initiate an update no more

1 frequently than once every five years. The update may encompass all or
2 a portion of the plan, with the scope of the update to be determined by
3 the ~~((secretary))~~ department of health, in coordination with the
4 department of ecology and the department of fish and wildlife, and the
5 legislative authority. The process for the update shall be the one
6 prescribed in RCW 70.116.050.

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

10 ~~((8) If the secretary initiates an update or revision of a
11 coordinated water system plan, the state shall pay for the cost of
12 updating or revising the plan.))~~

13 **Sec. 7.** RCW 70.116.070 and 1995 c 376 s 13 are each amended to
14 read as follows:

15 (1) The proposed service area boundaries of public water systems
16 within the ~~((critical))~~ coordinated water supply service area that are
17 required to submit water system plans under this chapter shall be
18 identified in the system's plan. The local legislative authority, or
19 its planning department or other designee, shall review the proposed
20 boundaries to determine whether the proposed boundaries of one or more
21 systems overlap. The boundaries determined by the local legislative
22 authority not to overlap shall be incorporated into the coordinated
23 water system plan. Where any overlap exists, the local legislative
24 authority may attempt to resolve the conflict through procedures
25 established under RCW 70.116.060(5).

26 (2) Any final decision by a local legislative authority regarding
27 overlapping service areas, or any unresolved disputes regarding service
28 area boundaries, may be appealed or referred to the ~~((secretary))~~
29 department of health in writing for resolution. After receipt of an
30 appeal or referral, the ~~((secretary))~~ department of health shall hold
31 a public hearing thereon. The ~~((secretary))~~ department of health shall
32 provide notice of the hearing by certified mail to each purveyor
33 involved in the dispute, to each county legislative authority having
34 jurisdiction in the area and to the public. The ~~((secretary))~~
35 department of health shall provide public notice pursuant to the
36 provisions of chapter 65.16 RCW. Such notice shall be given at least
37 twenty days prior to the hearing. The hearing may be continued from
38 time to time and, at the termination thereof, the ~~((secretary))~~

1 department of health may restrict the expansion of service of any
2 purveyor within the area if the ((~~secretary~~)) department of health
3 finds such restriction is necessary to provide the greatest protection
4 of the public health and well-being.

5 **Sec. 8.** RCW 70.116.134 and 1991 c 18 s 1 are each amended to read
6 as follows:

7 (1) The ((~~secretary~~)) department of health, in coordination with
8 the department of ecology shall adopt rules pursuant to chapter 34.05
9 RCW establishing criteria for designating individuals or water
10 purveyors as qualified satellite system management agencies. The
11 criteria shall set forth minimum standards for designation as a
12 satellite system management agency qualified to assume ownership,
13 operation, or both, of an existing or proposed public water system.
14 The criteria shall include demonstration of sufficient water supply and
15 financial integrity and operational capability, and may require
16 demonstration of previous experience in successful operation and
17 management of a public water system.

18 (2) Each county shall identify potential satellite system
19 management agencies to the ((~~secretary~~)) department of health for areas
20 where: (a) No purveyor has been designated a future service area
21 pursuant to this chapter, or (b) an existing purveyor is unable or
22 unwilling to provide service. Preference shall be given to public
23 utilities or utility districts or to investor-owned utilities under the
24 jurisdiction of the utilities and transportation commission.

25 (3) The ((~~secretary~~)) department of health shall approve satellite
26 system management agencies meeting the established criteria and shall
27 maintain and make available to counties a list of approved agencies.
28 Prior to the construction of a new public water system, the
29 individual(s) proposing the new system or requesting service shall
30 first be directed by the local agency responsible for issuing the
31 construction or building permit to one or more qualified satellite
32 system management agencies designated for the service area where the
33 new system is proposed for the purpose of exploring the possibility of
34 a satellite agency either owning or operating the proposed new water
35 system.

36 (4) Approved satellite system management agencies shall be reviewed
37 periodically by the ((~~secretary~~)) department of health for continued
38 compliance with established criteria. The ((~~secretary~~)) department of

1 health may require status reports and other information necessary for
2 such review. Satellite system management agencies shall be subject to
3 reapproval at the discretion of the ((~~secretary~~)) department of health
4 but not less than once every five years.

5 (5) The ((~~secretary~~)) department of health may assess reasonable
6 fees to process applications for initial approval and for periodic
7 review of satellite system management agencies. A satellite system
8 management account is hereby created in the custody of the state
9 treasurer. All receipts from satellite system management agencies or
10 applicants under subsection (4) of this section shall be deposited into
11 the account. Funds in this account may be used only for administration
12 of the satellite system management program. Expenditures from the
13 account shall be authorized by the ((~~secretary or the secretary's~~
14 ~~designee~~)) department of health. The account is subject to allotment
15 procedures under chapter 43.88 RCW, but no appropriation is required
16 for expenditures.

17 (6) For purposes of this section, "satellite system management
18 agency" and "satellite agency" shall mean a person or entity that is
19 certified by the ((~~secretary~~)) department of health to own or operate
20 more than one public water system on a regional or county-wide basis,
21 without the necessity for a physical connection between such systems.

22 **Sec. 9.** RCW 90.03.255 and 1997 c 360 s 2 are each amended to read
23 as follows:

24 The department shall, when evaluating an application for a water
25 right, transfer, or change filed pursuant to RCW 90.03.250 or 90.03.380
26 that includes provision for any water impoundment or other resource
27 management technique, take into consideration the benefits and costs,
28 including environmental effects, of any water impoundment or other
29 resource management technique, including a coordinated water system
30 plan adopted under chapter 70.116 RCW, that is included as a component
31 of the application. The department's consideration shall extend to any
32 increased water supply that results from the impoundment or other
33 resource management technique, including but not limited to any
34 recharge of ground water that may occur, as a means of making water
35 available or otherwise offsetting the impact of the diversion of
36 surface water proposed in the application for the water right,
37 transfer, or change. Provision for an impoundment or other resource
38 management technique in an application shall be made solely at the

1 discretion of the applicant and shall not otherwise be made by the
2 department as a condition for approving an application that does not
3 include such provision.

4 This section does not lessen, enlarge, or modify the rights of any
5 riparian owner, or any existing water right acquired by appropriation
6 or otherwise.

7 **Sec. 10.** RCW 90.03.260 and 1987 c 109 s 84 are each amended to
8 read as follows:

9 Each application for permit to appropriate water shall set forth
10 the name and post office address of the applicant, the source of water
11 supply, the nature and amount of the proposed use, the time during
12 which water will be required each year, the location and description of
13 the proposed ditch, canal, or other work, the time within which the
14 completion of the construction and the time for the complete
15 application of the water to the proposed use. If for agricultural
16 purposes, it shall give the legal subdivision of the land and the
17 acreage to be irrigated, as near as may be, and the amount of water
18 expressed in acre feet to be supplied per season. If for power
19 purposes, it shall give the nature of the works by means of which the
20 power is to be developed, the head and amount of water to be utilized,
21 and the uses to which the power is to be applied. If for construction
22 of a reservoir, it shall give the height of the dam, the capacity of
23 the reservoir, and the uses to be made of the impounded waters. If for
24 municipal water supply, it shall give the present population (~~(to be~~
25 ~~served, and, as near as may be, the future requirement of the~~
26 ~~municipality)) and service area, and the service area assigned in an
27 approved coordinated water system plan under chapter 70.116 RCW. If
28 for mining purposes, it shall give the nature of the mines to be served
29 and the method of supplying and utilizing the water; also their
30 location by legal subdivisions. All applications shall be accompanied
31 by such maps and drawings, in duplicate, and such other data, as may be
32 required by the department, and such accompanying data shall be
33 considered as a part of the application.~~

34 **Sec. 11.** RCW 90.03.320 and 1997 c 445 s 3 are each amended to read
35 as follows:

36 (1) Actual construction work shall be commenced on any project for
37 which permit has been granted within such reasonable time as shall be

1 prescribed by the department, and shall thereafter be prosecuted with
2 diligence and completed within the time prescribed by the department.
3 The department, in fixing the time for the commencement of the work, or
4 for the completion thereof and the application of the water to the
5 beneficial use prescribed in the permit, shall take into consideration
6 the cost and magnitude of the project and the engineering and physical
7 features to be encountered, and shall allow such time as shall be
8 reasonable and just under the conditions then existing, having due
9 regard for the public welfare and public interests affected: and, for
10 good cause shown, it shall extend the time or times fixed as aforesaid,
11 and shall grant such further period or periods as may be reasonably
12 necessary, having due regard to the good faith of the applicant and the
13 public interests affected.

14 (2) In fixing construction schedules and the time, or extension of
15 time, for application of water to beneficial use for municipal water
16 supply purposes, the department shall also take into consideration the
17 term and amount of financing required to complete the project, delays
18 that may result from planned and existing conservation and water use
19 efficiency measures implemented by the public water system, and the
20 supply needs of the public water system's initial service area and the
21 service area assigned in an approved coordinated water system plan
22 under chapter 70.116 RCW, consistent with an approved comprehensive
23 plan under chapter 36.70A RCW, or in the absence of such a plan, a
24 county-approved comprehensive plan under chapter 36.70 RCW or a plan
25 approved under chapter 35.63 RCW, and related water demand projections
26 prepared by public water systems in accordance with state law. An
27 existing comprehensive plan under chapter 36.70A or 36.70 RCW, plan
28 under chapter 35.63 RCW, or demand projection may be used.

29 (3) If the terms of the permit or extension thereof, are not
30 complied with the department shall give notice by registered mail that
31 such permit will be canceled unless the holders thereof shall show
32 cause within sixty days why the same should not be so canceled. If
33 cause is not shown, the permit shall be canceled.

34 **Sec. 12.** RCW 90.03.383 and 1991 c 350 s 1 are each amended to read
35 as follows:

36 (1) The legislature recognizes the value of interties for improving
37 the reliability of public water systems, enhancing their management,
38 and more efficiently utilizing the increasingly limited resource.

1 Given the continued growth in the most populous areas of the state, the
2 increased complexity of public water supply management, and the trend
3 toward regional planning and regional solutions to resource issues,
4 interconnections of public water systems through interties provide a
5 valuable tool to ensure reliable public water supplies for the citizens
6 of the state and adequate supplies of water for fish habitat. Public
7 water systems have been encouraged in the past to utilize interties to
8 achieve public health and resource management objectives. The
9 legislature finds that it is in the public interest to recognize
10 interties existing and in use as of January 1, ~~((1991))~~ 2000, and to
11 have associated water rights modified by the department of ecology to
12 reflect current use of water through those interties, pursuant to
13 subsection (3) of this section. The legislature further finds it in
14 the public interest to ~~((develop a coordinated process to review~~
15 ~~proposals for))~~ allow interties commencing use after January 1,
16 ~~((1991))~~ 2000, if they implement an approved coordinated water system
17 plan under chapter 70.116 RCW.

18 (2) For the purposes of this section, the following definitions
19 shall apply:

20 (a) "Interties" are interconnections between public water systems
21 permitting exchange or delivery of water between those systems for
22 other than emergency supply purposes, where such exchange or delivery
23 is within established instantaneous and annual withdrawal rates
24 specified in the systems' existing water right permits or certificates,
25 or contained in claims filed pursuant to chapter 90.14 RCW, and which
26 results in better management of public water supply consistent with
27 existing rights and obligations and resource management needs.
28 Interties include interconnections between public water systems
29 permitting exchange or delivery of water to serve as primary or
30 secondary sources of supply~~((, but do not include development of new~~
31 ~~sources of supply to meet future demand))~~ for the place of use or
32 service area given in the application to appropriate water or the
33 service area assigned in an approved coordinated water system plan
34 under chapter 70.116 RCW.

35 (b) "Service area" is the area designated in a water system plan or
36 a coordinated water system plan pursuant to chapter 43.20 or 70.116 RCW
37 respectively. When a public water system does not have a designated
38 service area subject to the approval process of those chapters, the
39 service area shall be the designated place of use contained in the

1 water right permit or certificate, or contained in the claim filed
2 pursuant to chapter 90.14 RCW.

3 (3) Public water systems with interties existing and in use as of
4 January 1, (~~(1991)~~) 2000, or that have received written approval from
5 the department of health prior to that date, shall file written notice
6 of those interties with the department of health and the department of
7 ecology. The notice may be incorporated into the public water system's
8 next five-year update of its water system plan(~~(, but shall be filed no~~
9 ~~later than June 30, 1996)~~). The notice shall identify the location of
10 the intertie; the dates of its first use; the purpose, capacity, and
11 current use; the intertie agreement of the parties and the service
12 areas assigned; and other information reasonably necessary to modify
13 the water right permit. Notwithstanding the provisions of RCW
14 90.03.380 and 90.44.100, for public water systems with interties
15 existing and in use as of January 1, (~~(1991)~~) 2000, the department of
16 ecology, upon receipt of notice meeting the requirements of this
17 subsection, shall, as soon as practicable, modify the place of use
18 descriptions in the water right permits, certificates, or claims to
19 reflect the actual use through such interties, provided that the place
20 of use is within service area designations established in a water
21 system plan approved pursuant to chapter 43.20 RCW, or a coordinated
22 water system plan approved pursuant to chapter 70.116 RCW, and further
23 provided that the water used is within the instantaneous and annual
24 withdrawal rates specified in the water right permit (~~(and)~~), that no
25 outstanding complaints of impairment to existing water rights have been
26 filed with the department of ecology prior to September 1, (~~(1991)~~)
27 2000, and conditions to assure preservation of fish habitat are
28 included. Where (~~(such)~~) complaints of impairment have been received,
29 the department of ecology shall make all reasonable efforts to resolve
30 them in a timely manner through agreement of the parties or through
31 available administrative remedies.

32 (4) Notwithstanding the provisions of RCW 90.03.380 and 90.44.100,
33 exchange or delivery of water through interties commencing use after
34 January 1, (~~(1991)~~) 2000, shall be permitted when the intertie
35 implements an approved coordinated water system plan under chapter
36 70.116 RCW and improves overall system reliability, enhances the
37 manageability of the systems, provides opportunities for conjunctive
38 use, or delays or avoids the need to develop new water sources, and
39 otherwise meets the requirements of this section, provided that each

1 public water system's water use shall not exceed the instantaneous or
2 annual withdrawal rate specified in its water right authorization,
3 shall not adversely affect existing water rights, and shall ((not))
4 otherwise be ((inconsistent)) consistent with state-approved plans
5 ((~~such as water system plans or other plans which include specific~~
6 ~~proposals for construction of interties~~)). Interties commencing use
7 after January 1, 1991, shall not be inconsistent with regional water
8 resource plans developed pursuant to chapter 90.54 RCW.

9 (5) For public water systems subject to the approval process of
10 chapter 43.20 RCW or chapter 70.116 RCW, proposals for interties
11 commencing use after January 1, ((1991)) 2000, shall ((~~be incorporated~~
12 ~~into water system plans pursuant to chapter 43.20 RCW or~~)) implement
13 coordinated water system plans pursuant to chapter 70.116 RCW and shall
14 be submitted to the department of health and the department of ecology
15 for review and approval as provided for in subsections (5) through (9)
16 of this section. ((~~The plan shall state how the proposed intertie will~~
17 ~~improve overall system reliability, enhance the manageability of the~~
18 ~~systems, provide opportunities for conjunctive use, or delay or avoid~~
19 ~~the need to develop new water sources.~~))

20 (6) The department of health, in coordination with the department
21 of ecology shall be responsible for review and approval of proposals
22 for new interties. In ((~~its review~~)) coordination with the department
23 of ecology, the department of health shall hold public hearings and
24 consider public comments and shall determine whether the intertie
25 satisfies the criteria of subsection (4) of this section, with the
26 exception of water rights considerations, which are the responsibility
27 of the department of ecology, and shall determine whether the intertie
28 is necessary to address emergent public health or safety concerns
29 associated with public water supply and implement an approved
30 coordinated water system plan under chapter 70.116 RCW.

31 (7) If the intertie is determined by the department of health to be
32 necessary to address emergent public health or safety concerns
33 associated with public water supply and implement an approved
34 coordinated water system plan under chapter 70.116 RCW, the public
35 water system shall amend its water system plan as required and shall
36 file an application with the department of ecology to change its
37 existing water right to reflect the proposed use of the water as
38 described in the approved water system plan. The department of ecology
39 shall process the application for change pursuant to RCW 90.03.380 or

1 90.44.100 as appropriate, except that, notwithstanding the requirements
2 of those sections regarding notice and protest periods, applicants
3 shall be required to publish notice one time, and the comment period
4 shall be fifteen days from the date of publication of the notice.
5 Within sixty days of receiving the application, the department of
6 ecology shall issue findings and advise the department of health if
7 existing water rights are determined to be adversely affected. If no
8 determination is provided by the department of ecology within the
9 sixty-day period, the department of health shall proceed as if existing
10 rights are not adversely affected by the proposed intertie. The
11 department of ecology may obtain an extension of the sixty-day period
12 by submitting written notice to the department of health and to the
13 applicant indicating a definite date by which its determination will be
14 made. No additional extensions shall be granted, and in no event shall
15 the total review period for the department of ecology exceed one
16 hundred eighty days.

17 ~~(8) ((If the department of health determines the proposed intertie~~
18 ~~appears to meet the requirements of subsection (4) of this section but~~
19 ~~is not necessary to address emergent public health or safety concerns~~
20 ~~associated with public water supply, the department of health shall~~
21 ~~instruct the applicant to submit to the department of ecology an~~
22 ~~application for change to the underlying water right or claim as~~
23 ~~necessary to reflect the new place of use. The department of ecology~~
24 ~~shall consider the applications pursuant to the provisions of RCW~~
25 ~~90.03.380 and 90.44.100 as appropriate.))~~ If in its review of proposed
26 interties and associated water rights the department of ecology
27 determines that additional information is required to act on the
28 application, the department may request applicants to provide
29 information necessary for its decision, consistent with agency rules
30 and written guidelines. Parties disagreeing with the decision of the
31 department of ecology on the application for change in place of use may
32 appeal the decision to the pollution control hearings board.

33 (9) The department of health may not approve plans containing
34 intertie proposals prior to the department of ecology's decision on the
35 water right application for change in place of use. ~~((However,~~
36 ~~notwithstanding such approval, construction work on the intertie shall~~

- 1 ~~not begin until the department of ecology issues the appropriate water~~
- 2 ~~right document to the applicant consistent with the approved plan.))~~

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