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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5448

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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, 70.119A.110, 70.119.020, 70.119.030, 70.116.050,  
3 70.119A.040, 70.119A.130, and 70.116.070; reenacting and amending RCW  
4 80.04.110; adding new sections to chapter 70.119A RCW; creating a new  
5 section; providing an effective date; and declaring an emergency.

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

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

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

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

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

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) County governments are ultimately responsible to act as  
9 receivers of any failing water systems within their jurisdictions;

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

20 (7) The public health services improvement plan recommends that the  
21 principal public health functions in Washington, including regulation  
22 of public water systems, should be undertaken by local jurisdictions  
23 with the capacity to perform them; and

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

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

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

34 (2) The secretary shall review the coordinated water system plan  
35 and, to the extent the plan is consistent with the requirements of this  
36 chapter and regulations adopted hereunder, shall approve the plan,  
37 provided that the secretary shall not approve those portions of a  
38 coordinated water system plan ((which)) that fail to meet the

1 requirements for future service area boundaries until any boundary  
2 dispute is resolved as set forth in RCW 70.116.070.

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

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

8 (b) No other purveyor shall establish a public water system within  
9 the area covered by the plan, unless the (~~secretary~~) local  
10 legislative authority determines that existing purveyors are unable to  
11 provide the service in a timely and reasonable manner, pursuant to  
12 guidelines developed by the secretary. If such a determination is  
13 made, the (~~secretary may~~) local legislative authority shall require  
14 the new public water system to be constructed in accordance with the  
15 construction standards and specifications embodied in the coordinated  
16 water system plan approved for the area. The service area boundaries  
17 in the coordinated plan for the affected utilities shall be revised to  
18 reflect the decision of the local legislative authority.

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

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

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

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

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

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

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

6       (b) Provide treatment adequate to assure that the public health is  
7 protected;

8       (c) Provide and effectively operate and maintain public water  
9 system facilities;

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

12       (e) Provide the department with the current names, addresses, and  
13 telephone numbers of the owners, operators, and emergency contact  
14 persons for the system, including any changes to this information, and  
15 provide to users the name and twenty-four hour telephone number of an  
16 emergency contact person; and

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

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

21 (a) It is owned or operated by a satellite system management agency  
22 established under RCW 70.116.134 and the satellite system management  
23 system complies with financial viability requirements of the  
24 department; or (b) a satellite management system is not available and  
25 it is determined that the new system has sufficient management and  
26 financial resources to provide safe and reliable service. The approval  
27 of any new system that is not owned by a satellite system management  
28 agency shall be conditioned upon future connection to another system if  
29 such connection may be made with reasonable economy and efficiency, or  
30 upon periodic review of the system's operational history to determine  
31 its ability to meet the department's financial viability and other  
32 operating requirements. The department and local health jurisdictions  
33 shall enforce this requirement under authority provided under this  
34 chapter, chapter 70.116, or 70.05 RCW, or other authority governing the  
35 approval of new water systems by the department or a local  
36 jurisdiction.

37       (3) The department and local health jurisdictions shall carry out  
38 the rules and regulations of the state board of health adopted pursuant

1 to RCW 43.20.050(2)(a) and other rules adopted by the department  
2 relating to public water systems.

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

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

28 **Sec. 5.** RCW 70.119A.110 and 1991 c 304 s 5 are each amended to  
29 read as follows:

30 (1) No person may operate a group A public water system unless the  
31 person first submits an application to the department and receives an  
32 operating permit as provided in this section. A new application must  
33 be submitted upon any change in ownership of the system. Any person  
34 operating a public water system on July 28, 1991, may continue to  
35 operate the system until the department takes final action, including  
36 any time necessary for a hearing under subsection (3) of this section,

1 on a permit application submitted by the person operating the system  
2 under the rules adopted by the department to implement this section.

3 (2) The department may require that each application include the  
4 information that is reasonable and necessary to determine that the  
5 system complies with applicable standards and requirements of the  
6 federal safe drinking water act, state law, and rules adopted by the  
7 department or by the state board of health.

8 (3) Following its review of the application, its supporting  
9 material, and any information received by the department in its  
10 investigation of the application, the department shall issue or deny  
11 the operating permit. The department shall act on initial permit  
12 applications as expeditiously as possible, and shall in all cases  
13 either grant or deny the application within one hundred twenty days of  
14 receipt of the application or of any supplemental information required  
15 to complete the application. The applicant for a permit shall be  
16 entitled to file an appeal in accordance with chapter 34.05 RCW if the  
17 department denies the initial or subsequent applications or imposes  
18 conditions or requirements upon the operator. Any operator of a public  
19 water system that requests a hearing may continue to operate the system  
20 until a decision is issued after the hearing.

21 (4) At the time of initial permit application or at the time of  
22 permit renewal the department may impose such permit conditions,  
23 requirements for system improvements, and compliance schedules as it  
24 determines are reasonable and necessary to ensure that the system will  
25 provide a safe and reliable water supply to its users.

26 (5) Operating permits shall be issued for a term of one year, and  
27 shall be renewed annually, unless the operator fails to apply for a new  
28 permit or the department finds good cause to deny the application for  
29 renewal.

30 (6) Each application shall be accompanied by an annual fee as  
31 follows:

32 (a) ~~((The annual fee for public water supply systems serving~~  
33 ~~fifteen to forty nine service connections shall be twenty five dollars.~~

34 (b) ~~The annual fee for public water supply systems serving fifty to~~  
35 ~~three thousand three hundred thirty three service connections shall be~~  
36 ~~based on a uniform per service connection fee of one dollar and fifty~~  
37 ~~cents per service connection.~~

38 (c) ~~The annual fee for public water supply systems serving three~~  
39 ~~thousand three hundred thirty four to fifty three thousand three~~

1 ~~hundred thirty-three service connections shall be based on a uniform~~  
2 ~~per service connection fee of one dollar and fifty cents per service~~  
3 ~~connection plus ten cents for each service connection in excess of~~  
4 ~~three thousand three hundred thirty-three service connections.~~

5 ~~(d) The annual fee for public water supply systems serving fifty-~~  
6 ~~three thousand three hundred thirty-four or more service connections~~  
7 ~~shall be ten thousand dollars.)~~ For community systems, effective July  
8 1, 1996, the fee shall be based on the number of service connections,  
9 and calculated as follows:

10 (i) All systems shall pay a "program capacity" fee of ninety cents  
11 per service connection.

12 (ii) All systems shall pay an additional "program service" fee as  
13 follows:

14 (A) For systems with fewer than one hundred service connections,  
15 the fee shall be five dollars per service connection;

16 (B) For systems with one hundred to one thousand service  
17 connections, the fee shall be ninety-five cents per service connection;

18 (C) For systems with one thousand one to ten thousand service  
19 connections, the fee shall be fifteen cents per service connection;

20 (D) For systems with ten thousand to fifty thousand service  
21 connections, the fee shall be ten cents per service connection; and

22 (E) For systems with over fifty thousand service connections, the  
23 fee shall be five cents per service connection.

24 (b) For community systems, effective July 1, 1997, the fee shall be  
25 based on the number of service connections, and calculated as follows:

26 (i) All systems shall pay a basic capacity fee of one dollar and  
27 fifteen cents per service connection.

28 (ii) All systems shall pay an additional "program service" fee as  
29 follows:

30 (A) For systems with fewer than one hundred service connections,  
31 the fee shall be four dollars and fifty cents per service connection;

32 (B) For systems with one hundred to one thousand service  
33 connections, the fee shall be one dollar and twenty-five cents per  
34 service connection;

35 (C) For systems with one thousand one to ten thousand service  
36 connections, the fee shall be thirty-five cents per service connection;

37 (D) For systems with ten thousand to fifty thousand service  
38 connections, the fee shall be thirty cents per service connection; and

1 (E) For systems with over fifty thousand service connections, the  
2 fee shall be twenty-five cents per service connection.

3 (c) For all noncommunity systems, effective July 1, 1996, the fee  
4 shall be one hundred fifty dollars.

5 (d) Each system may allocate its fee between customer groups, and  
6 may separately identify the fee on customer bills as the amount  
7 collected by the system for maintenance of the state drinking water  
8 program and administration of federal requirements.

9 (e) In addition to the fees under (a) through (d) of this  
10 subsection, the department may charge an additional one-time fee of  
11 five dollars for each service connection in a new water system.

12 (f) For systems in any jurisdiction that has adopted an operating  
13 permit program for group A public water systems, as authorized under  
14 RCW 70.119A.130, the department shall either not collect a fee or shall  
15 reduce its fee, as appropriate, except where the department collects  
16 the fee on behalf of the local jurisdiction.

17 ~~(7) ((The department may phase in the implementation for any group~~  
18 ~~of systems provided the schedule for implementation is established by~~  
19 ~~rule. Prior to implementing the operating permit requirement on water~~  
20 ~~systems having less than five hundred service connections, the~~  
21 ~~department shall form a committee composed of persons operating these~~  
22 ~~systems. The committee shall be composed of the department of health,~~  
23 ~~two operators of water systems having under one hundred connections,~~  
24 ~~two operators of water systems having between one hundred and two~~  
25 ~~hundred service connections, two operators of water systems having~~  
26 ~~between two hundred and three hundred service connections, two~~  
27 ~~operators of water systems having between three hundred and four~~  
28 ~~hundred service connections, two operators of water systems having~~  
29 ~~between four hundred and five hundred service connections, and two~~  
30 ~~county public health officials. The members shall be chosen from~~  
31 ~~different geographic regions of the state. This committee shall~~  
32 ~~develop draft rules to implement this section. The draft rules will~~  
33 ~~then be subject to the rule-making procedures in accordance with~~  
34 ~~chapter 34.05 RCW.~~

35 ~~(8))~~ The department shall notify existing public water systems of  
36 the requirements of RCW 70.119A.030, 70.119A.060, and this section at  
37 least one hundred twenty days prior to the date that an application for  
38 a permit is required pursuant to RCW 70.119A.030, 70.119A.060, and this  
39 section.

1       (~~(9)~~) (8) The department shall issue one operating permit to any  
2 approved satellite system management agency. Operating permit fees for  
3 approved satellite system management agencies shall be one dollar and  
4 fifty cents per connection per year for the total number of connections  
5 under the management of the approved satellite agency. The department  
6 shall define by rule the meaning of the term "satellite system  
7 management agency." If a statutory definition of this term exists,  
8 then the department shall adopt by rule a definition consistent with  
9 the statutory definition.

10       (~~(10)~~) (9) For purposes of this section, "group A public water  
11 system" and "system" mean those water systems with fifteen or more  
12 service connections, regardless of the number of people; or a system  
13 serving an average of twenty-five or more people per day for sixty or  
14 more days within a calendar year, regardless of the number of service  
15 connections. "Community system" means a system serving a residential  
16 population, and "noncommunity system" means a system serving a  
17 nonresidential population.

18       **Sec. 6.** RCW 70.119.020 and 1991 c 305 s 2 are each amended to read  
19 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

30 (10) "Purification plant" means that portion of a public water  
31 system which treats or improves the physical, chemical or  
32 bacteriological quality of the system's water to bring the water into  
33 compliance with state board of health standards.

34 (11) "Secretary" means the secretary of the department of health.

35 (12) "Service" means a connection to a public water system designed  
36 to serve a single-family residence, dwelling unit, or equivalent use.  
37 If the facility has group home or barracks-type accommodations, three  
38 persons will be considered equivalent to one service.

1 (13) "Surface water" means all water open to the atmosphere and  
2 subject to surface runoff.

3 **Sec. 7.** RCW 70.119.030 and 1991 c 305 s 3 are each amended to read  
4 as follows:

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

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

8 (b) It is a ~~((group A))~~ public water system using a surface water  
9 source or a ground water source under the direct influence of surface  
10 water.

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

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

25 (4) The department shall, in establishing by rule or otherwise the  
26 requirements for public water systems with fewer than one hundred  
27 connections, phase in such requirements in order to assure that (a) an  
28 adequate number of certified operators are available to serve the  
29 additional systems, (b) the systems have adequate notice and time to  
30 plan for securing the services of a certified operator, (c) the  
31 department has the additional data and other administrative capacity,  
32 (d) adequate training is available to certify additional operators as  
33 necessary, and (e) any additional requirements under federal law are  
34 satisfied. The department shall waive the requirement for a certified  
35 operator for a system with fewer than one hundred connections if that  
36 system satisfactorily demonstrates to the department that: It has not  
37 had a significant number of violations of any monitoring or water  
38 quality standards; it otherwise meets the requirements of the

1 department with regard to adequacy and financial viability; and it does  
2 not have, or is not required to have, any water treatment facilities.  
3 The waiver shall only be valid while the system meets these  
4 requirements.

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

7 **Sec. 8.** RCW 70.116.050 and 1977 ex.s. c 142 s 5 are each amended  
8 to read as follows:

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

25 (2) After the boundaries of a critical water supply service area  
26 have been established pursuant to RCW 70.116.040, the committee  
27 established in RCW 70.116.040 shall participate in the development of  
28 a coordinated water system plan for the designated area. Such a plan  
29 shall incorporate all water system plans developed pursuant to  
30 subsection (1) of this section. The plan shall provide for maximum  
31 integration and coordination of public water system facilities  
32 consistent with the protection and enhancement of the public health and  
33 well-being. Decisions of the committee shall be by majority vote of  
34 those present at meetings of the committee.

35 (3) Those portions of a critical water supply service area not yet  
36 served by a public water system shall have a coordinated water system  
37 plan developed by existing purveyors based upon permitted densities in  
38 county plans, ordinances, and/or growth policies for a minimum of five

1 years beyond the date of establishment of the boundaries of the  
2 critical water supply service area.

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

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

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

16 (c) Incorporate the fire protection standards developed pursuant to  
17 RCW 70.116.080.

18 (d) Identify the future service area boundaries of the public water  
19 system or systems included in the plan within the critical water supply  
20 service area.

21 (e) Identify feasible emergency inter-ties between adjacent  
22 purveyors.

23 (f) Include satellite system management requirements consistent  
24 with RCW 70.116.134.

25 (g) Include policies and procedures that generally address failing  
26 water systems for which counties may become responsible under RCW  
27 43.70.195.

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

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

36 (7) ~~Prior to the submission of a coordinated water system plan to~~  
37 ~~the secretary for approval ((of the design of the proposed facilities))~~  
38 ~~pursuant to RCW 70.116.060, ((the plan shall be reviewed for~~  
39 ~~consistency with subsection (4) of this section by)) the legislative~~

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

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

30 **Sec. 9.** RCW 70.119A.040 and 1993 c 305 s 2 are each amended to  
31 read as follows:

32 (1)(a) In addition to or as an alternative to any other penalty or  
33 action allowed by law, a person who violates a law or rule regulating  
34 public water systems and administered by the department of health is  
35 subject to a penalty of not more than five thousand dollars per day for  
36 every such violation, or, in the case of a violation that has been  
37 determined to be a public health emergency, a penalty of not more than  
38 ten thousand dollars per day for every such violation. Every such

1 violation shall be a separate and distinct offense. The amount of fine  
2 shall reflect the health significance of the violation and the previous  
3 record of compliance on the part of the public water supplier. In case  
4 of continuing violation, every day's continuance shall be a separate  
5 and distinct violation.

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

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

25 (2) The penalty provided for in this section shall be imposed by a  
26 notice in writing to the person against whom the civil penalty is  
27 assessed and shall describe the violation. The notice shall be  
28 personally served in the manner of service of a summons in a civil  
29 action or in a manner that shows proof of receipt. A penalty imposed  
30 by this section is due twenty-eight days after receipt of notice unless  
31 application for an adjudicative proceeding is filed as provided in  
32 subsection (3) of this section.

33 (3) Within twenty-eight days after notice is received, the person  
34 incurring the penalty may file an application for an adjudicative  
35 proceeding and may pursue subsequent review as provided in chapter  
36 34.05 RCW and applicable rules of the department or board of health.

37 (4) A penalty imposed by a final administrative order is due upon  
38 service of the final administrative order. A person who fails to pay  
39 a penalty assessed by a final administrative order within thirty days

1 of service of the final administrative order shall pay, in addition to  
2 the amount of the penalty, interest at the rate of one percent of the  
3 unpaid balance of the assessed penalty for each month or part of a  
4 month that the penalty remains unpaid, commencing with the month in  
5 which the notice of penalty was served and such reasonable attorney's  
6 fees as are incurred in securing the final administrative order.

7 (5) A person who institutes proceedings for judicial review of a  
8 final administrative order assessing a civil penalty under this chapter  
9 shall place the full amount of the penalty in an interest bearing  
10 account in the registry of the reviewing court. At the conclusion of  
11 the proceeding the court shall, as appropriate, enter a judgment on  
12 behalf of the department and order that the judgment be satisfied to  
13 the extent possible from moneys paid into the registry of the court or  
14 shall enter a judgment in favor of the person appealing the penalty  
15 assessment and order return of the moneys paid into the registry of the  
16 court together with accrued interest to the person appealing. The  
17 judgment may award reasonable attorney's fees for the cost of the  
18 attorney general's office in representing the department.

19 (6) If no appeal is taken from a final administrative order  
20 assessing a civil penalty under this chapter, the department may file  
21 a certified copy of the final administrative order with the clerk of  
22 the superior court in which the public water system is located or in  
23 Thurston county, and the clerk shall enter judgment in the name of the  
24 department and in the amount of the penalty assessed in the final  
25 administrative order.

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

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

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

1       **Sec. 10.** RCW 70.119A.130 and 1991 c 304 s 7 are each amended to  
2 read as follows:

3       (~~Until July 1, 1996, local governments shall be prohibited from~~  
4 ~~administering a separate operating permit requirement for public water~~  
5 ~~systems. After July 1, 1996,~~) Local governments may establish  
6 separate operating permit requirements for public water systems  
7 provided the operating permit requirements have been approved by the  
8 department. The department shall not approve local operating permit  
9 requirements unless the local system will result in an increased level  
10 of service to the public water system. There shall not be duplicate  
11 operating permit requirements imposed by local governments and the  
12 department.

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

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

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

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

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

38 (4) The commission shall, as appropriate, audit a nonmunicipal  
39 water system upon receipt of an administrative order from the

1 department, or the city or county in which the water system is located,  
2 finding that the water delivered by a system does not meet state board  
3 of health standards adopted under RCW 43.20.050(2)(a) or standards  
4 adopted under chapters 70.116 and 70.119A RCW, and the results of the  
5 audit shall be provided to the requesting department, city, or county.  
6 However, the number of nonmunicipal water systems referred to the  
7 commission in any one calendar year shall not exceed twenty percent of  
8 the water companies subject to commission regulation as defined in RCW  
9 80.04.010.

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

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

1 in this title, and may, where appropriate, order a refund to the  
2 customer on a pro rata basis for the substandard water delivered to the  
3 customer, and shall order reimbursement to the customer for the cost  
4 incurred by the customer, if any, in obtaining a water quality test.

5 **Sec. 12.** RCW 70.116.070 and 1977 ex.s. c 142 s 7 are each amended  
6 to read as follows:

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

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

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

4 NEW SECTION. **Sec. 13.** A new section is added to chapter 70.119A  
5 RCW to read as follows:

6 An individual well serving a group domestic use and pumping not  
7 more than five thousand gallons per day that is established under the  
8 small use exemption provided in RCW 90.44.050 may provide water service  
9 for up to twelve housing units unless expressly prohibited by the  
10 county or city with land use jurisdiction. The department shall  
11 require metering of these wells unless it determines that in certain  
12 locations or situations metering is not appropriate. This section  
13 expires on December 31, 1996.

14 NEW SECTION. **Sec. 14.** Section 10 of this act is necessary for the  
15 immediate preservation of the public peace, health, or safety, or  
16 support of the state government and its existing public institutions,  
17 and shall take effect July 1, 1995.

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