
SECOND SUBSTITUTE SENATE BILL 5448

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 a new section 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 **Sec. 3.** RCW 70.119A.060 and 1991 c 304 s 4 are each amended to
38 read as follows:

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

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

4 (b) Provide treatment adequate to assure that the public health is
5 protected;

6 (c) Provide and effectively operate and maintain public water
7 system facilities;

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

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

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

18 (2) No new public water system may be approved or created within an
19 urban growth area established under RCW 36.70A.110 unless it is owned
20 or operated by a satellite system management agency established under
21 RCW 70.116.134. No new public water system may be approved or created
22 in other areas of the state unless it is owned or operated by a
23 satellite system management agency established under RCW 70.116.134,
24 where available, and where the satellite system management system
25 complies with financial viability requirements of the department. The
26 approval of any new system that is not owned by a satellite system
27 management agency shall be conditioned upon future connection to
28 another system if such connection may be made with reasonable economy
29 and efficiency, or upon periodic review of the system's operational
30 history to determine its ability to meet the department's financial
31 viability and other operating requirements. The department and local
32 health jurisdictions shall enforce this requirement under authority
33 provided under this chapter, chapter 70.116, or 70.05 RCW, or other
34 authority governing the approval of new water systems by the department
35 or a local jurisdiction.

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

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

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

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

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

37 (2) The department may require that each application include the
38 information that is reasonable and necessary to determine that the

1 system complies with applicable standards and requirements of the
2 federal safe drinking water act, state law, and rules adopted by the
3 department or by the state board of health.

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

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

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

26 (6) Each application shall be accompanied by an annual fee as
27 follows:

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

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

34 (c) ~~The annual fee for public water supply systems serving three
35 thousand three hundred thirty four to fifty three thousand three
36 hundred thirty three service connections shall be based on a uniform
37 per service connection fee of one dollar and fifty cents per service
38 connection plus ten cents for each service connection in excess of
39 three thousand three hundred thirty three service connections.~~

1 ~~(d) The annual fee for public water supply systems serving fifty-~~
2 ~~three thousand three hundred thirty four or more service connections~~
3 ~~shall be ten thousand dollars.)~~ For community systems, effective July
4 1, 1996, the fee shall be based on the number of service connections,
5 and calculated as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~((9))~~ (8) The department shall issue one operating permit to any
37 approved satellite system management agency. Operating permit fees for
38 approved satellite system management agencies shall be one dollar and
39 fifty cents per connection per year for the total number of connections

1 under the management of the approved satellite agency. The department
2 shall define by rule the meaning of the term "satellite system
3 management agency." If a statutory definition of this term exists,
4 then the department shall adopt by rule a definition consistent with
5 the statutory definition.

6 ~~((10))~~ (9) For purposes of this section, "group A public water
7 system" and "system" mean those water systems with fifteen or more
8 service connections, regardless of the number of people; or a system
9 serving an average of twenty-five or more people per day for sixty or
10 more days within a calendar year, regardless of the number of service
11 connections. "Community system" means a system serving a residential
12 population, and "noncommunity system" means a system serving a
13 nonresidential population.

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

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

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

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

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

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

30 (5) "Distribution system" means that portion of a public water
31 system which stores, transmits, pumps and distributes water to
32 consumers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 The waiver shall only be valid while the system meets these
2 requirements.

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

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

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

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

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

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

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

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

14 (c) Incorporate the fire protection standards developed pursuant to
15 RCW 70.116.080.

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

19 (e) Identify feasible emergency inter-ties between adjacent
20 purveyors.

21 (f) Include satellite system management requirements consistent
22 with RCW 70.116.134.

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

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

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

34 (7) Prior to the submission of a coordinated water system plan to
35 the secretary for approval ((of the design of the proposed facilities))
36 pursuant to RCW 70.116.060, ((the plan shall be reviewed for
37 consistency with subsection (4) of this section by)) the legislative
38 authorities of the counties in which the critical water supply service
39 area is located shall hold a public hearing thereon and shall determine

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

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

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

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

1 record of compliance on the part of the public water supplier. In case
2 of continuing violation, every day's continuance shall be a separate
3 and distinct violation.

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

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

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

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

35 (4) A penalty imposed by a final administrative order is due upon
36 service of the final administrative order. A person who fails to pay
37 a penalty assessed by a final administrative order within thirty days
38 of service of the final administrative order shall pay, in addition to
39 the amount of the penalty, interest at the rate of one percent of the

1 unpaid balance of the assessed penalty for each month or part of a
2 month that the penalty remains unpaid, commencing with the month in
3 which the notice of penalty was served and such reasonable attorney's
4 fees as are incurred in securing the final administrative order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 NEW SECTION. **Sec. 13.** Section 10 of this act is necessary for the
4 immediate preservation of the public peace, health, or safety, or
5 support of the state government and its existing public institutions,
6 and shall take effect July 1, 1995.

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