
SUBSTITUTE SENATE BILL 5765

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Madsen and Bailey).

Read first time March 6, 1991.

1 AN ACT Relating to water management; amending RCW 19.27.097; adding
2 new sections to chapter 90.44 RCW; and providing a contingent effective
3 date.

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

5 **Sec. 1.** RCW 19.27.097 and 1990 1st ex.s. c 17 s 63 are each
6 amended to read as follows:

7 Except for buildings requiring individual water supplies in areas
8 designated as areas without significant water resource problems in
9 accordance with section 2 of this act, each applicant for a building
10 permit of a building necessitating potable water shall provide evidence
11 of ((an adequate)) a water supply of sufficient quality and quantity
12 for the intended use of the building. Evidence may be in the form of
13 a ((water right permit from the department of ecology, a)) letter from
14 an approved water purveyor stating the ability to provide water, or
15 another form sufficient to verify the existence of an adequate water

1 supply. ((An application for a water right shall not be sufficient
2 proof of an adequate water supply.))

3 Buildings that do not need potable water facilities are exempt
4 from the provisions of this section. For the purposes of this section,
5 individual water supplies are defined as those providing potable water
6 to one single family residence. The department of ecology ((may)) and
7 the state board of health shall each adopt rules to implement this
8 section.

9 NEW SECTION. Sec. 2. A new section is added to chapter 90.44 RCW
10 to read as follows:

11 As used in sections 2 through 6 of this act and RCW 19.27.097,
12 "areas without significant water resource problems" are areas within
13 counties not required by RCW 36.70A.040 to adopt comprehensive land use
14 plans and development regulations that do not have significant problems
15 associated with the quantity or quality of potable water, either known
16 or probable. To designate areas without significant water resource
17 problems, county governments shall first consult with the department of
18 ecology regarding water supply availability and with the department of
19 health regarding the quality of potable water for areas within the
20 county, based on guidelines developed pursuant to section 6 of this
21 act. County governments shall also consult with federally recognized
22 Indian tribes having interests in the quantity or quality of waters
23 within areas considered for designation.

24 County governments may recommend to the departments of health and
25 ecology areas that the county believes have no significant water
26 quality or quantity problems. Counties shall include sufficient
27 documentation to support their recommendations for designation. The
28 department of health shall review county recommendations to determine
29 if significant water quality problems exist within areas recommended.

1 The department of ecology shall review county recommendations to
2 determine if significant water quantity problems exist within the
3 areas. Review shall be based on the guidelines developed pursuant to
4 section 6 of this act.

5 If both departments determine that significant water resource
6 problems do not exist, the county recommendations shall be adopted and
7 the areas designated by the departments as areas without significant
8 water resource problems. If the department of health determines that
9 one or more significant water quality problems exist, or if the
10 department of ecology determines that one or more significant water
11 quantity problems exist within a recommended area, the recommendation
12 of the county shall be denied. The departments shall issue written
13 findings and conclusions to support the determination that significant
14 water quality or quantity problems exist, and shall send a copy of the
15 decision to the county within sixty days of receipt of the county
16 recommendations and supporting documentation. If the departments fail
17 to issue a determination within sixty days of receiving county
18 recommendations and supporting documentation, the recommendations shall
19 be considered adopted until such time the department of health or
20 ecology comes forward with documentation demonstrating significant
21 water quality or quantity problems for the area at issue together with
22 written findings and conclusions supporting its determination. The
23 departments of health and ecology may make recommendations to counties
24 for adjusting recommended areas to remove significant water resource
25 problems from within their boundaries.

26 Tribal governments having lands within county boundaries that are
27 otherwise not subject to the provisions of sections 2 through 6 of this
28 act, or having interests regarding the quantity or quality of waters
29 within county boundaries, shall be consulted by the departments of
30 health and ecology prior to designation of an area as one without

1 significant water resource problems, and shall be given timely notice
2 in writing when designations occur.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.44 RCW
4 to read as follows:

5 Except for areas designated as areas without significant water
6 resource problems pursuant to section 2 of this act, county governments
7 shall deny building permits where there is insufficient evidence of
8 adequate quantities or quality of available potable water for the
9 intended use of the building, or shall impose conditions or
10 requirements on issuance of permits that address identified water
11 quantity or quality concerns. Those conditions and requirements may
12 include, but are not limited to, well siting requirements, water
13 treatment requirements, and the requirement of connection to an
14 existing public water system where the existing system is willing and
15 able to provide safe and reliable potable water to the applicant with
16 reasonable economy and efficiency. When connection to an existing
17 system is required, applicable public health standards, utility service
18 policies, and approved coordinated water system plans for the area
19 shall be used for guidance in determining who will provide service.
20 The department of health shall establish criteria to determine when
21 connection with an existing public water system is required. For
22 individual water supplies serving one single family residence,
23 conditions and requirements imposed by counties on building permits in
24 order to address water quality problems may at the discretion of the
25 county be limited to disclosure of the quality problems to applicants
26 and to subsequent purchasers or lessees of the building, consistent
27 with rules that may be adopted by the state board of health regarding
28 quality standards for individual water supplies. Nothing in RCW
29 19.27.097 or sections 2 through 6 of this act shall be construed to

1 require an applicant for water service to annex to a city or town
2 unless there is an agreement to do so among relevant land use
3 jurisdictional authorities.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.44 RCW
5 to read as follows:

6 If areas are recommended by counties to the departments of ecology
7 and health for designation as areas without significant water resource
8 problems and those recommendations are not adopted, the county may
9 petition the state board of health to review the department of health's
10 findings and conclusions on water quality in the recommended areas, and
11 may likewise petition the pollution control hearings board to review
12 the department of ecology's findings and conclusions on water quantity
13 for the areas recommended. The county's petitions shall include
14 information and documents that support its recommendation to designate
15 areas without significant water resource problems.

16 The decision of the pollution control hearings board or the state
17 board of health shall determine the administrative designation for the
18 recommended area. Decisions of the pollution control hearings board or
19 the state board of health shall be appealable in the superior court of
20 the county in which the recommended area is located.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.44 RCW
22 to read as follows:

23 Local governments, the department of ecology, and the department of
24 health shall use information that is currently available to them to
25 recommend and designate areas without significant water resource
26 problems. Decisions by the departments of health and ecology to
27 designate an area as one without significant water resource problems
28 shall be subject to periodic review at the departments' discretion but

1 not less than once every five years. Local government, the department
2 of ecology, and the department of health shall not be liable for
3 problems of water availability or water quality that may be found in
4 areas designated as areas without significant water resource problems.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.44 RCW
6 to read as follows:

7 The department of ecology and the department of health, in
8 consultation with representatives from counties, local health
9 departments, county planners, and the state board of health, in
10 consultation with representatives of tribal governments, and with input
11 from interested parties and the general public, shall establish
12 guidelines for determining areas without significant water resource
13 problems. As used in this section and section 7 of this act, the term
14 "guidelines" means "to describe parameters that guide local
15 recommendations for designation of areas without significant water
16 resource problems while at the same time allow the exercise of local
17 government discretion." These guidelines shall be adopted by rule
18 under chapter 34.05 RCW by December 31, 1991.

19 NEW SECTION. **Sec. 7.** Section 1 of this act shall take effect
20 when the guidelines required by section 6 of this act have been
21 adopted.