FINAL BILL REPORT
SHB 1356

Synopsis as Enacted
C 305 L 93

Brief Description: Modifying penalties and compliance for public water systems.

By House Committee on Environmental Affairs (originally sponsored by Representatives Rust, Horn, Roland and Valle; by request of Department of Health).

House Committee on Environmental Affairs
Senate Committee on Ecology & Parks

Background: Under current state law, the Department of Health and local health departments have regulatory authority over public water systems. A public water system is any system with two or more connections.

The department may assess a penalty of not less than $500 and not more than $5,000 against a person who does not comply with a department order to stop work on a public water system, who fails to eliminate a cross connection, or who continues to violate any other rule of the department. The penalty is imposed in writing by the department. The person against whom the penalty is imposed may request mitigation or remission of the penalty within 14 days after the notice of penalty is sent. The person may also file a request for an adjudicative proceeding to be conducted under the Administrative Procedures Act.

The attorney general may bring an action to collect a penalty which has been assessed by the department.

The Department of Health may delegate enforcement authority, including the authority to assess penalties, to local health departments. Penalties collected by local health departments are deposited in the general fund of the local government.

There is currently no explicit authority for the department to enter the premises of a public water system to carry out an inspection or to request a search warrant if the system owner refuses the department access to the system premises. A number of other state agencies do have explicit authority to conduct inspections and request search warrants when necessary to conduct inspections.

Summary: The Department of Health may impose a maximum penalty of $5,000 for violation of its rules or statutes relating to public water systems. There is no minimum penalty. If the violation creates a public health emergency, the maximum penalty is $10,000.

Construction, alteration, or expansion of a public water system without department approval may result in a penalty of not more than $5,000 per service connection. If the system serves a transient population, such as a hotel or motel, the penalty may be a maximum of $400 per person served by the system. Under either of these circumstances, the total penalty that may be imposed may not exceed $500,000.

The department must seek an informal resolution before it may impose a monetary penalty for violations that do not involve a public health emergency.

The existing procedure for a mitigation hearing prior to an adjudicative proceeding is eliminated.

A person who fails to pay penalties is subject to interest charges at the rate of 1 percent for each month the penalty remains unpaid after the final administrative order has been issued.

If the final administrative order is not appealed to superior court, the department may file the order with the clerk of the superior court and request that judgment be rendered in favor of the department for the amount of the penalty.

In addition to their existing authority to impose civil penalties, local health departments may also collect civil penalties.

The department, and local health departments which have been delegated enforcement powers, may enter upon the premises of a public water system to determine the system's compliance with state law. Prior notice must be given to the water system, unless the inspection is to ensure compliance with a prior order of the department or in response to a serious public health emergency. The department may also request an administrative search warrant from a court of competent jurisdiction.

Votes on Final Passage:

House	95	2	
Senate	28	18	(Senate amended)
House	93	2	(House concurred)

Effective: July 25, 1993