

2 **E2SSB 5448** - H AMD 816 ADOPTED 4/13/95

3 By Representative Chandler

4

5 Strike everything after the enacting clause and insert the  
6 following:

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  
19 customers on a long-term basis needs to be assured through proper  
20 management and training of operators;

21 (4) New water quality standards and operational requirements for  
22 public water systems will soon generate higher rates for the customers  
23 of those systems, which may be difficult for customers to afford to  
24 pay. It is in the best interest of the people of this state that small  
25 systems maintain themselves in a financially viable condition;

26 (5) The drinking water 2000 task force has recommended maintaining  
27 a strong and properly funded state-wide drinking water program,  
28 retaining primary responsibility for administering the federal safe  
29 drinking water act in Washington. The task force has further  
30 recommended delegation of as many water system regulatory functions as  
31 possible to local governments, with provision of adequate resources and  
32 elimination of barriers to such delegation. In order to achieve these  
33 objectives, the state shall provide adequate funding from both general  
34 state funds and funding directly from the regulated water system;

35 (6) The public health services improvement plan recommends that the  
36 principal public health functions in Washington, including regulation

1 of public water systems, should be fully funded by state revenues and  
2 undertaken by local jurisdictions with the capacity to perform them;  
3 and

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

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

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

14 (2) The secretary shall review the coordinated water system plan  
15 and, to the extent the plan is consistent with the requirements of this  
16 chapter and regulations adopted hereunder, shall approve the plan,  
17 provided that the secretary shall not approve those portions of a  
18 coordinated water system plan ((which)) that fail to meet the  
19 requirements for future service area boundaries until any boundary  
20 dispute is resolved as set forth in RCW 70.116.070.

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

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

26 (b) No other purveyor shall establish a public water system within  
27 the area covered by the plan, unless the ((secretary)) local  
28 legislative authority determines that existing purveyors are unable to  
29 provide the service in a timely and reasonable manner, pursuant to  
30 guidelines developed by the secretary. An existing purveyor is unable  
31 to provide the service in a timely manner if the water cannot be  
32 provided to an applicant for water within one hundred twenty days  
33 unless specified otherwise by the local legislative authority. If such  
34 a determination is made, the ((secretary may)) local legislative  
35 authority shall require the new public water system to be constructed  
36 in accordance with the construction standards and specifications  
37 embodied in the coordinated water system plan approved for the area.  
38 The service area boundaries in the coordinated plan for the affected

1 utilities shall be revised to reflect the decision of the local  
2 legislative authority.

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

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

13 (6) After adoption of the initial coordinated water system plan,  
14 the local legislative authority or the secretary may determine that the  
15 plan should be updated or revised. The legislative authority may  
16 initiate an update at any time, but the secretary may initiate an  
17 update no more frequently than once every five years. The update may  
18 encompass all or a portion of the plan, with the scope of the update to  
19 be determined by the secretary and the legislative authority. The  
20 process for the update shall be the one prescribed in RCW 70.116.050.

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

24 (8) If the secretary initiates an update or revision of a  
25 coordinated water system plan, the state shall pay for the cost of  
26 updating or revising the plan.

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

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

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

32 (b) Provide treatment adequate to assure that the public health is  
33 protected;

34 (c) Provide and effectively operate and maintain public water  
35 system facilities;

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

1 (e) Provide the department with the current names, addresses, and  
2 telephone numbers of the owners, operators, and emergency contact  
3 persons for the system, including any changes to this information, and  
4 provide to users the name and twenty-four hour telephone number of an  
5 emergency contact person; and

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

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

10 (a) It is owned or operated by a satellite system management agency  
11 established under RCW 70.116.134 and the satellite system management  
12 system complies with financial viability requirements of the  
13 department; or (b) a satellite management system is not available and  
14 it is determined that the new system has sufficient management and  
15 financial resources to provide safe and reliable service. The approval  
16 of any new system that is not owned by a satellite system management  
17 agency shall be conditioned upon future management or ownership by a  
18 satellite system management agency, if such management or ownership can  
19 be made with reasonable economy and efficiency, or upon periodic review  
20 of the system's operational history to determine its ability to meet  
21 the department's financial viability and other operating requirements.  
22 The department and local health jurisdictions shall enforce this  
23 requirement under authority provided under this chapter, chapter  
24 70.116, or 70.05 RCW, or other authority governing the approval of new  
25 water systems by the department or a local jurisdiction.

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

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

32 The department shall create a water supply advisory committee.  
33 Membership on the committee shall reflect a broad range of interests in  
34 the regulation of public water supplies, including water utilities of  
35 all sizes, local governments, business groups, special purpose  
36 districts, local health jurisdictions, other state and federal  
37 agencies, financial institutions, environmental organizations, the  
38 legislature, and other groups substantially affected by the

1 department's role in implementing state and federal requirements for  
2 public water systems. Members shall be appointed for fixed terms of no  
3 less than two years, and may be reappointed. Any members of an  
4 existing advisory committee to the drinking water program may remain as  
5 members of the water supply advisory committee. The committee shall  
6 provide advice to the department on the organization, functions,  
7 service delivery methods, and funding of the drinking water program.  
8 The committee shall also review the adequacy and necessity of the  
9 current and prospective funding for the drinking water program, and the  
10 results of the committees' review shall be forwarded to the department  
11 for inclusion in a report to the appropriate standing committees of the  
12 legislature no later than November 1, 1996. The report shall include  
13 a discussion of the extent to which the drinking water program has  
14 progressed toward achieving the objectives of the public health  
15 improvement plan, and an assessment of any changes to the program  
16 necessitated by modifications to the federal safe drinking water act.

17 **Sec. 5.** RCW 82.16.020 and 1989 c 302 s 204 are each amended to  
18 read as follows:

19 (1) There is levied and there shall be collected from every person  
20 a tax for the act or privilege of engaging within this state in any one  
21 or more of the businesses herein mentioned. The tax shall be equal to  
22 the gross income of the business, multiplied by the rate set out after  
23 the business, as follows:

24 (a) Railroad, express, railroad car, sewerage collection, and  
25 telegraph businesses: Three and six-tenths percent;

26 (b) Light and power business: Three and sixty-two one-hundredths  
27 percent;

28 (c) Gas distribution business: Three and six-tenths percent;

29 (d) Urban transportation business: Six-tenths of one percent;

30 (e) Vessels under sixty-five feet in length, except tugboats,  
31 operating upon the waters within the state: Six-tenths of one percent;

32 (f) Motor transportation and tugboat businesses, and all public  
33 service businesses other than ones mentioned above: One and eight-  
34 tenths of one percent;

35 (g) Water distribution business: Four and seven-tenths percent.

36 (2) An additional tax is imposed equal to the rate specified in RCW  
37 82.02.030 multiplied by the tax payable under subsection (1) of this  
38 section.

1 (3) Twenty percent of the moneys collected under subsection (1) of  
2 this section on water distribution businesses and sixty percent of the  
3 moneys collected under subsection (1) of this section on sewerage  
4 collection businesses shall be deposited in the public works assistance  
5 account created in RCW 43.155.050.

6 (4) Fifteen percent of the moneys collected under subsection (1) of  
7 this section on water distribution businesses shall be deposited in the  
8 safe drinking water account created in RCW 70.119A.120.

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

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

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

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

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

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

25 (5) "Distribution system" means that portion of a public water  
26 system which stores, transmits, pumps and distributes water to  
27 consumers.

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

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

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

35 (7) "Group A water system" means a system with fifteen or more  
36 service connections, regardless of the number of people; or a system  
37 serving an average of twenty-five or more people per day for sixty or  
38 more days within a calendar year, regardless of the number of service

1 connections. Group A water system does not include a system serving  
2 fewer than fifteen single-family residences, regardless of the number  
3 of people.

4 (8) "Nationally recognized association of certification  
5 authorities" shall mean an organization which serves as an information  
6 center for certification activities, recommends minimum standards and  
7 guidelines for classification of potable water treatment plants, water  
8 distribution systems and waste water facilities and certification of  
9 operators, facilitates reciprocity between state programs and assists  
10 authorities in establishing new certification programs and updating  
11 existing ones.

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

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

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

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

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

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

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

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

1 (b) It is a (~~group A~~) public water system using a surface water  
2 source or a ground water source under the direct influence of surface  
3 water.

4 (2) The certified operators shall be in charge of the technical  
5 direction of a water system's operation, or an operating shift of such  
6 a system, or a major segment of a system necessary for monitoring or  
7 improving the quality of water. The operator shall be certified as  
8 provided in RCW 70.119.050.

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

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

36 (5) Any examination required by the department as a prerequisite  
37 for the issuance of a certificate under this chapter shall be offered  
38 in each region where the department has a regional office.



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

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

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

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

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

37       (4) To insure that the plan incorporates the proper designs to  
38 protect public health, the secretary shall adopt regulations pursuant

1 to chapter 34.05 RCW concerning the scope and content of coordinated  
2 water system plans, and shall ensure, as minimum requirements, that  
3 such plans:

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

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

12 (c) Incorporate the fire protection standards developed pursuant to  
13 RCW 70.116.080.

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

17 (e) Identify feasible emergency inter-ties between adjacent  
18 purveyors.

19 (f) Include satellite system management requirements consistent  
20 with RCW 70.116.134.

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

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

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

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

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

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

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

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

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

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

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

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

38 (3) Within twenty-eight days after notice is received, the person  
39 incurring the penalty may file an application for an adjudicative

1 proceeding and may pursue subsequent review as provided in chapter  
2 34.05 RCW and applicable rules of the department or board of health.

3 (4) A penalty imposed by a final administrative order is due upon  
4 service of the final administrative order. A person who fails to pay  
5 a penalty assessed by a final administrative order within thirty days  
6 of service of the final administrative order shall pay, in addition to  
7 the amount of the penalty, interest at the rate of one percent of the  
8 unpaid balance of the assessed penalty for each month or part of a  
9 month that the penalty remains unpaid, commencing with the month in  
10 which the notice of penalty was served and such reasonable attorney's  
11 fees as are incurred in securing the final administrative order.

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

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

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

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

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

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

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

16 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.119A  
17 RCW to read as follows:

18 A drinking water assistance account is created in the state  
19 treasury. The purpose of the account is to allow the state to take  
20 advantage of any federal funds that become available for safe drinking  
21 water. Expenditures from the account may only be made by the secretary  
22 or the public works board after appropriation. Moneys in the account  
23 may only be used to assist water systems to provide safe drinking water  
24 through a program administered through the department of health and the  
25 public works board. Money may be placed in the account from the  
26 proceeds of bonds when authorized by the legislature, transfers from  
27 other state funds or accounts, federal capitalization grants or other  
28 financial assistance, all repayments of moneys borrowed from the  
29 account, all interest payments made by borrowers from the account or  
30 otherwise earned on the account, or any other lawful source.  
31 Expenditures from the account may only be made by the secretary or the  
32 public works board after appropriation. Moneys in the account may only  
33 be used to assist local governments and water systems to provide safe  
34 and reliable drinking water and to administer the program.

35 **Sec. 12.** RCW 43.155.050 and 1993 sp.s. c 24 s 921 are each amended  
36 to read as follows:

1       The public works assistance account is hereby established in the  
2 state treasury. Money may be placed in the public works assistance  
3 account from the proceeds of bonds when authorized by the legislature  
4 or from any other lawful source. Money in the public works assistance  
5 account shall be used to make loans and to give financial guarantees to  
6 local governments for public works projects. Moneys in the account may  
7 also be appropriated to provide for state match requirements under  
8 federal law for projects and activities conducted and financed by the  
9 board under the drinking water assistance account. During the 1993-95  
10 fiscal biennium, moneys in the public works assistance account may be  
11 appropriated for flood control assistance including grants under  
12 chapter 86.26 RCW. To the extent that moneys in the public works  
13 assistance account are not appropriated during the 1993-95 fiscal  
14 biennium for public works or flood control assistance, the legislature  
15 may direct their transfer to the state general fund. In awarding  
16 grants under chapter 86.26 RCW, the department of ecology shall give  
17 strong preference to local governments that have: (1) Implemented, or  
18 are in the process of implementing, an ordinance that establishes a  
19 flood plain policy that is substantially more stringent than minimum  
20 federal requirements; (2) completed a comprehensive flood control plan  
21 meeting the requirements of RCW 86.12.200; or (3) constructed, or are  
22 in the process of constructing, a system of overtopping dikes or levees  
23 that allow public access.

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

26       (1) Complaint may be made by the commission of its own motion or by  
27 any person or corporation, chamber of commerce, board of trade, or any  
28 commercial, mercantile, agricultural or manufacturing society, or any  
29 body politic or municipal corporation, or by the public counsel section  
30 of the office of the attorney general, or its successor, by petition or  
31 complaint in writing, setting forth any act or thing done or omitted to  
32 be done by any public service corporation in violation, or claimed to  
33 be in violation, of any provision of law or of any order or rule of the  
34 commission: PROVIDED, That no complaint shall be entertained by the  
35 commission except upon its own motion, as to the reasonableness of the  
36 schedule of the rates or charges of any gas company, electrical  
37 company, water company, or telecommunications company, unless the same  
38 be signed by the mayor, council or commission of the city or town in

1 which the company complained of is engaged in business, or not less  
2 than twenty-five consumers or purchasers of such gas, electricity,  
3 water or telecommunications service, or at least twenty-five percent of  
4 the consumers or purchasers of the company's service: PROVIDED,  
5 FURTHER, That when two or more public service corporations, (meaning to  
6 exclude municipal and other public corporations) are engaged in  
7 competition in any locality or localities in the state, either may make  
8 complaint against the other or others that the rates, charges, rules,  
9 regulations or practices of such other or others with or in respect to  
10 which the complainant is in competition, are unreasonable,  
11 unremunerative, discriminatory, illegal, unfair or intending or tending  
12 to oppress the complainant, to stifle competition, or to create or  
13 encourage the creation of monopoly, and upon such complaint or upon  
14 complaint of the commission upon its own motion, the commission shall  
15 have power, after notice and hearing as in other cases, to, by its  
16 order, subject to appeal as in other cases, correct the abuse  
17 complained of by establishing such uniform rates, charges, rules,  
18 regulations or practices in lieu of those complained of, to be observed  
19 by all of such competing public service corporations in the locality or  
20 localities specified as shall be found reasonable, remunerative,  
21 nondiscriminatory, legal, and fair or tending to prevent oppression or  
22 monopoly or to encourage competition, and upon any such hearing it  
23 shall be proper for the commission to take into consideration the  
24 rates, charges, rules, regulations and practices of the public service  
25 corporation or corporations complained of in any other locality or  
26 localities in the state.

27 (2) All matters upon which complaint may be founded may be joined  
28 in one hearing, and no motion shall be entertained against a complaint  
29 for misjoinder of complaints or grievances or misjoinder of parties;  
30 and in any review of the courts of orders of the commission the same  
31 rule shall apply and pertain with regard to the joinder of complaints  
32 and parties as herein provided: PROVIDED, All grievances to be  
33 inquired into shall be plainly set forth in the complaint. No  
34 complaint shall be dismissed because of the absence of direct damage to  
35 the complainant.

36 (3) Upon the filing of a complaint, the commission shall cause a  
37 copy thereof to be served upon the person or corporation complained of,  
38 which shall be accompanied by a notice fixing the time when and place  
39 where a hearing will be had upon such complaint. The time fixed for



1 such hearing shall not be less than ten days after the date of the  
2 service of such notice and complaint, excepting as herein provided.  
3 The commission shall enter its final order with respect to a complaint  
4 filed by any entity or person other than the commission within ten  
5 months from the date of filing of the complaint, unless the date is  
6 extended for cause. Rules of practice and procedure not otherwise  
7 provided for in this title may be prescribed by the commission. Such  
8 rules may include the requirement that a complainant use informal  
9 processes before filing a formal complaint.

10 (4) The commission shall, as appropriate, audit a nonmunicipal  
11 water system upon receipt of an administrative order from the  
12 department, or the city or county in which the water system is located,  
13 finding that the water delivered by a system does not meet state board  
14 of health standards adopted under RCW 43.20.050(2)(a) or standards  
15 adopted under chapters 70.116 and 70.119A RCW, and the results of the  
16 audit shall be provided to the requesting department, city, or county.  
17 However, the number of nonmunicipal water systems referred to the  
18 commission in any one calendar year shall not exceed twenty percent of  
19 the water companies subject to commission regulation as defined in RCW  
20 80.04.010.

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

25 (5) Any customer or purchaser of service from a water system or  
26 company that is subject to commission regulation may file a complaint  
27 with the commission if he or she has reason to believe that the water  
28 delivered by the system to the customer does not meet state drinking  
29 water standards under chapter 43.20 or 70.116 RCW. The commission  
30 shall investigate such a complaint, and shall request that the state  
31 department of health or local health department of the county in which  
32 the system is located test the water for compliance with state drinking  
33 water standards, and provide the results of such testing to the  
34 commission. The commission may decide not to investigate the complaint  
35 if it determines that the complaint has been filed in bad faith, or for  
36 the purpose of harassment of the water system or company, or for other  
37 reasons has no substantial merit. The water system or company shall  
38 bear the expense for the testing. After the commission has received  
39 the complaint from the customer and during the pendency of the

1 commission investigation, the water system or company shall not take  
2 any steps to terminate service to the customer or to collect any  
3 amounts alleged to be owed to the company by the customer. The  
4 commission may issue an order or take any other action to ensure that  
5 no such steps are taken by the system or company. The customer may, at  
6 the customer's option and expense, obtain a water quality test by a  
7 licensed or otherwise qualified water testing laboratory, of the water  
8 delivered to the customer by the water system or company, and provide  
9 the results of such a test to the commission. If the commission  
10 determines that the water does not meet state drinking water standards,  
11 it shall exercise its authority over the system or company as provided  
12 in this title, and may, where appropriate, order a refund to the  
13 customer on a pro rata basis for the substandard water delivered to the  
14 customer, and shall order reimbursement to the customer for the cost  
15 incurred by the customer, if any, in obtaining a water quality test.

16 **Sec. 14.** RCW 70.116.070 and 1977 ex.s. c 142 s 7 are each amended  
17 to read as follows:

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

34 (2) ~~((If no service area boundary agreement has been established~~  
35 ~~within a reasonable period of time, or if the legislative authority has~~  
36 ~~filed with the secretary objections in writing as provided in~~  
37 ~~subsection (1) of this section)) Any final decision by a local  
38 legislative authority regarding overlapping service areas, or any~~

1 unresolved disputes regarding service area boundaries, may be appealed  
2 or referred to the secretary in writing for resolution. After receipt  
3 of an appeal or referral, the secretary shall hold a public hearing  
4 thereon. The secretary shall provide notice of the hearing by  
5 certified mail to each purveyor (~~((providing service in the critical~~  
6 ~~water supply service area))~~ involved in the dispute, to each county  
7 legislative authority having jurisdiction in the area and to the  
8 public. The secretary shall provide public notice pursuant to the  
9 provisions of chapter 65.16 RCW. Such notice shall be given at least  
10 twenty days prior to the hearing. The hearing may be continued from  
11 time to time and, at the termination thereof, the secretary may  
12 restrict the expansion of service of any purveyor within the area if  
13 the secretary finds such restriction is necessary to provide the  
14 greatest protection of the public health and well-being.

15 **Sec. 15.** RCW 56.08.200 and 1991 c 190 s 1 are each amended to read  
16 as follows:

17 It is unlawful and a misdemeanor to make, or cause to be made, or  
18 to maintain any (~~sewer~~) connection with any sewer or water system of  
19 any sewer district, or with any sewer or water system which is  
20 connected directly or indirectly with any sewer or water system of any  
21 sewer district without having permission from the sewer district.

22 **Sec. 16.** RCW 57.08.180 and 1991 c 190 s 5 are each amended to read  
23 as follows:

24 It is unlawful and a misdemeanor to make, or cause to be made, or  
25 to maintain any (~~sewer~~) connection with any sewer or water system of  
26 any water district, or with any sewer or water system which is  
27 connected directly or indirectly with any sewer or water system of any  
28 water district without having permission from the water district.

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

1 **E2SSB 5448** - H AMD  
2 By Representative Chandler

3

4 On page 1, line 1 of the title, after "systems;" strike the  
5 remainder of the title and insert "amending RCW 70.116.060,  
6 70.119A.060, 82.16.020, 70.119.020, 70.119.030, 70.116.050,  
7 70.119A.040, 70.119A.130, 43.155.050, 70.116.070, 56.08.200, and  
8 57.08.180; reenacting and amending RCW 80.04.110; adding new sections  
9 to chapter 70.119A RCW; creating a new section; prescribing penalties;  
10 providing an effective date; and declaring an emergency."

--- END ---