

HOUSE BILL REPORT

HB 1969

As Reported By House Committee On:

Agriculture & Ecology
Appropriations

Title: An act relating to regulation of public water systems.

Brief Description: Regulating public water systems.

Sponsors: Representatives Chandler and Regala; by request of Department of Health.

Brief History:

Committee Activity:

Agriculture & Ecology: 3/3/97 [DPS];

Appropriations: 3/8/97 [DP2S(w/o sub AGECE)].

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Chandler, Chairman; Parlette, Vice Chairman; Schoesler, Vice Chairman; Linville, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Cooper; Delvin; Koster; Mastin; Regala and Sump.

Staff: Bill Lynch (786-7092).

Background: Group A water systems are generally required to have a certified operator. The Department of Health (DOH) is required to phase in the requirements for certified operators for public water systems with less than 100 connections in order to assure that there are enough certified operators available to serve these systems, and to give these systems time to obtain a certified operator. Changes in federal law may require all Group A water systems to have certified operators.

The DOH is required to develop and implement a voluntary program to allow public water systems to be waived from the full testing requirements for chemicals under the federal Safe Drinking Water Act (SDWA). There is no current authority for the DOH to operate a consolidated source monitoring program.

In 1995, the Legislature created a drinking water assistance account to allow the state to use federal funds that became available under the SDWA. The account is

administered by the DOH and the Public Works Board (PWB) and is used to provide funding for water systems to assist them in providing safe drinking water. Money may only be expended from the account by the DOH or the PWB after appropriation. Congress approved funding under the SDWA in 1996, and implementing legislation is needed to distribute the funds on a timely basis.

Summary of Substitute Bill: The Department of Health (DOH) must require all Group A water systems to have a certified operator if it is necessary to conform to federal law, rules, or guidelines.

The DOH is authorized to monitor source water quality on a consolidated statewide basis, rather than by individual water systems, to allow public water systems to be waived from full federal testing requirements for chemicals.

Expenditures from the drinking water assistance account may only be made by the DOH, the Public Works Board (PWB), or the Department of Community, Trade and Economic Development (DCTED) after appropriation. The money may only be used to assure water systems provide safe drinking water and other activities authorized under federal law. Interest earned on the account, including repayments, remain in the account and may be used for eligible purposes.

The DOH, PWB, and DCTED must establish and maintain a program to use moneys in the drinking water assistance account in accordance with provisions under the federal SDWA. The DOH, PWB, and DCTED must establish guidelines and requirements for providing financial assistance to public water systems in consultation with purveyors and other affected and interested parties. The guidelines and other requirements shall be developed promptly to ensure the quick disbursement of the funds. Any guidelines or requirements must be converted to rules by January 1, 1999. After December 31, 1998, any requirements must be established by rule.

Any state agency participating in providing service under the drinking water assistance account must provide cost-effective and timely services. These mechanisms include (1) when allowed by law, using policy statements or guidelines, including federal guidelines, rather than rules; (2) using existing management mechanisms rather than creating new ones; (3) investigating the use of service contracts with governmental and nongovernmental service providers; (4) using joint or combined financial assistance applications; and (5) other methods designed to expedite the delivery of service and financial assistance. Any guidelines or policy statements must be converted to rules by January 1, 1999. After December 31, 1998, any requirements must be adopted as rules.

The DOH shall determine assistance priorities and oversee activities related to the assistance other than financial administration.

After consulting with interested parties, the DOH, the PWB, and the DCTED must develop a memorandum of understanding setting forth the duties of each. The memo must (1) establish guidelines for the provision of financial assistance to public water systems; (2) determine responsibility for assuring consistency with existing water resource planning and management; (3) determine least-cost solutions, the provision of regional facilities, projects and activities that facilitate compliance with the SDWA, and projects and activities that are intended to achieve public health objectives under the drinking water laws; (4) assure implementation of water conservation consistent with state guidelines; (5) provide assistance for necessary planning and engineering for the projects; (6) include minimum standards for water system capacity, financial viability, and water system planning to ensure prudent use of funds; (7) provide for testing and evaluation of water quality of public water systems to assure priority for financial assistance is provided to systems with public health threats, and to reduce substantial increases in cost to small systems that would be incurred under the requirements of the SDWA; (8) coordinate with other state programs that provide financial assistance to public water systems or that address water quality or drinking water contamination problems; (9) utilize definitions of affordability and disadvantaged community that are consistent with how these terms are used in other state and federal assistance programs; (10) ensure that each agency fulfills the audit, accounting, and reporting requirements under federal law; and (11) establish criteria for the financial assistance program that includes the capacity of the system, the ability to promptly begin the project, and the benefit to the community.

The PWB, the DCTED, and the DOH shall begin making disbursements of funds from the drinking water assistance account no later than October 1, 1997.

Substitute Bill Compared to Original Bill: The modification to the seller's disclosure statement for real estate transactions is deleted. Agencies must convert initial policy statements for dispersing funds into rules. Responsibilities between agencies are set forth in a memo of understanding. Technical changes are made.

Appropriation: None.

Fiscal Note: Requested on February 24, 1997.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This testimony is a product of one and one-half years of work by the full range of stakeholders. This allows implementation of the federal law and ensures that federal money is available to assist in providing safe and reliable drinking water.

Testimony Against (original bill): Agencies should use the rule-making process to ensure public participation. The language contained in the seller's disclosure statement is confusing and might not be necessary. Modifications to the seller's disclosure statement should be studied.

Testified: Alen Rowe, Department of Health (pro); Skip Richards, Water Supply Advisory Committee (pro); John Kounts, Washington Public Utility Department Association (pro); Glen Hudson, Washington Association of Realtors (con); Don Leaf, Washington State Association of Local Public Health Officials (pro); Pete Butkus, Department of Community, Trade and Economic Development and Public Works Board (pro); Scott Barr (concerns); Willy O'Neil, Association of General Contractors (pro w/amendments); and Dick Ducharme, Building Industry Association of Washington (amendments).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Ecology. Signed by 31 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Dyer; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Beth Redfield (786-7130).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Agriculture & Ecology: Instead of requiring the guidelines to be converted into rules by January 1, 1999, joint rules must be established— by January 15, 1998. Other agencies may adopt federal guidelines by reference in the rule-making process, but no longer have the authority to use guidelines to provide timely services. DCTED is removed from the responsibility for adopting rules, but remains part of the memorandum of understanding which assigns responsibilities under the legislation. Language is added regarding pre-application information to the Public Works Board. Other minor changes are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date The bill contains an emergency clause and takes effect immediately.

Testimony For: None.

Testimony Against: None.

Testified: None.