

---

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1969**

---

**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Chandler and Regala; by request of Department of Health)

Read first time 03/10/97.

1       AN ACT Relating to regulation of public water systems; amending RCW  
2 70.119.030, 70.119A.115, 70.119A.170, and 43.84.092; creating a new  
3 section; and declaring an emergency.

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

5       NEW SECTION.   **Sec. 1.** The legislature finds and declares that:

6       (1) The provision of safe and reliable water supplies to the people  
7 of the state of Washington is fundamental to ensuring public health and  
8 continuing economic vitality of this state.

9       (2) The department of health, pursuant to legislative directive in  
10 1995, has provided a report that incorporates the findings and  
11 recommendations of the water supply advisory committee as to progress  
12 in meeting the objectives of the public health improvement plan,  
13 changes warranted by the recent congressional action reauthorizing the  
14 federal safe drinking water act, and new approaches to providing  
15 services under the general principles of regulatory reform.

16       (3) The environmental protection agency has recently completed a  
17 national assessment of public water system capital needs, which has  
18 identified over four billion dollars in such needs in the state of  
19 Washington.

1 (4) The changes to the safe drinking water act offer the  
2 opportunity for the increased ability of the state to tailor federal  
3 requirements and programs to meet the conditions and objectives within  
4 this state.

5 (5) The department of health and local governments should be  
6 provided with adequate authority, flexibility, and resources to be able  
7 to implement the principles and recommendations adopted by the water  
8 supply advisory committee.

9 (6) Statutory changes are necessary to eliminate ambiguity or  
10 conflicting authorities, provide additional information and tools to  
11 consumers and the public, and make necessary changes to be consistent  
12 with federal law.

13 (7) A basic element to the protection of the public's health from  
14 waterborne disease outbreaks is systematic and comprehensive monitoring  
15 of water supplies for all contaminants, including hazardous substances  
16 with long-term health effects, and routine field visits to water  
17 systems for technical assistance and evaluation.

18 (8) The water systems of this state should have prompt and full  
19 access to the newly created federal state revolving fund program to  
20 help meet their financial needs and to achieve and maintain the  
21 technical, managerial, and financial capacity necessary for long-term  
22 compliance with state and federal regulations. This requires authority  
23 for streamlined program administration and the provision of the  
24 necessary state funds required to match the available federal funds.

25 (9) Stable, predictable, and adequate funding is essential to a  
26 state-wide drinking water program that meets state public health  
27 objectives and provides the necessary state resources to utilize the  
28 new flexibility, opportunities, and programs under the safe drinking  
29 water act.

30 **Sec. 2.** RCW 70.119.030 and 1995 c 376 s 6 are each amended to read  
31 as follows:

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

33 (a) It is a group A water system; or

34 (b) It is a public water system using a surface water source or a  
35 ground water source under the direct influence of surface water.

36 (2) The certified operators shall be in charge of the technical  
37 direction of a water system's operation, or an operating shift of such  
38 a system, or a major segment of a system necessary for monitoring or

1 improving the quality of water. The operator shall be certified as  
2 provided in RCW 70.119.050.

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

12 (4) The department shall, in establishing by rule or otherwise the  
13 requirements for public water systems with fewer than one hundred  
14 connections, phase in such requirements in order to assure that (a) an  
15 adequate number of certified operators are available to serve the  
16 additional systems, (b) the systems have adequate notice and time to  
17 plan for securing the services of a certified operator, (c) the  
18 department has the additional data and other administrative capacity,  
19 (d) adequate training is available to certify additional operators as  
20 necessary, and (e) any additional requirements under federal law are  
21 satisfied. The department shall require certified operators for all  
22 Group A systems as necessary to conform to federal law or implementing  
23 rules or guidelines. Unless necessary to conform to federal law,  
24 rules, or guidelines, the department shall not require a certified  
25 operator for a system with fewer than one hundred connections unless  
26 that system is determined by the department to be in significant  
27 noncompliance with operational, monitoring, or water quality standards  
28 ((which)) that would put the public health at risk, as defined by the  
29 department by rule, or has, or is required to have, water treatment  
30 facilities other than simple disinfection.

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

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

36 **Sec. 3.** RCW 70.119A.115 and 1994 c 252 s 3 are each amended to  
37 read as follows:

1       The department shall develop and implement a voluntary consolidated  
2 source monitoring program sufficient to accurately characterize the  
3 source water quality of the state's drinking water supplies and to  
4 maximize the flexibility allowed in the federal safe drinking water act  
5 to allow public water systems to be waived from full testing  
6 requirements for organic and inorganic chemicals under the federal safe  
7 drinking water act. The department shall ((pay)) arrange for the  
8 initial sampling and provide for testing and programmatic costs ((for  
9 the area-wide waiver program)) to the extent that the legislature  
10 provides funding for this purpose in water system operating permit fees  
11 or through specific appropriation of funds from other sources. The  
12 department shall assess a fee using its authority under RCW 43.20B.020,  
13 sufficient to cover all testing and directly related costs to public  
14 water systems that ((apply for an area-wide waiver)) otherwise are not  
15 funded. The department shall adjust the amount of the fee based on the  
16 size of the public drinking water system. Fees charged by the  
17 department for this purpose may not vary by more than a factor of ten.  
18 The department shall, to the ((maximum)) extent ((possible)) feasible  
19 and cost-effective, use the services of local governments, local health  
20 departments, and private laboratories to implement the ((area-wide))  
21 testing program. The department shall consult with the departments of  
22 agriculture and ecology for the purpose of exchanging water quality and  
23 other information.

24       **Sec. 4.** RCW 70.119A.170 and 1995 c 376 s 10 are each amended to  
25 read as follows:

26       (1) A drinking water assistance account is created in the state  
27 treasury. Such subaccounts as are necessary to carry out the purposes  
28 of this chapter are permitted to be established within the account.  
29 The purpose of the account is to allow the state to ((take advantage  
30 of)) use any federal funds that become available ((for safe drinking  
31 water)) to states from congress to fund a state revolving loan fund  
32 program as part of the reauthorization of the federal safe drinking  
33 water act. Expenditures from the account may only be made by the  
34 secretary ((or)), the public works board, or the department of  
35 community, trade, and economic development, after appropriation.  
36 Moneys in the account may only be used, consistent with federal law, to  
37 assist water systems to provide safe drinking water through a program  
38 administered through the department of health ((and)), the public works

1 board, and the department of community, trade, and economic development  
2 and for other activities authorized under federal law. Money may be  
3 placed in the account from the proceeds of bonds when authorized by the  
4 legislature, transfers from other state funds or accounts, federal  
5 capitalization grants or other financial assistance, all repayments of  
6 moneys borrowed from the account, all interest payments made by  
7 borrowers from the account or otherwise earned on the account, or any  
8 other lawful source. ((Expenditures from the account may only be made  
9 by the secretary or the public works board after appropriation.)) All  
10 interest earned on moneys deposited in the account, including  
11 repayments, shall remain in the account and may be used for any  
12 eligible purpose. Moneys in the account may only be used to assist  
13 local governments and water systems to provide safe and reliable  
14 drinking water, for other services and assistance authorized by federal  
15 law to be funded from these federal funds, and to administer the  
16 program.

17 (2) The department and the public works board shall establish and  
18 maintain a program to use the moneys in the drinking water assistance  
19 account as provided by the federal government under the safe drinking  
20 water act. The department and the public works board, in consultation  
21 with purveyors, local governments, local health jurisdictions,  
22 financial institutions, commercial construction interests, other state  
23 agencies, and other affected and interested parties, shall by January  
24 1, 1999, adopt final joint rules and requirements for the provision of  
25 financial assistance to public water systems as authorized under  
26 federal law. Prior to the effective date of the final rules, the  
27 department and the public works board may establish and utilize  
28 guidelines for the sole purpose of ensuring the timely procurement of  
29 financial assistance from the federal government under the safe  
30 drinking water act, but such guidelines shall be converted to rules by  
31 January 1, 1999. The department and the public works board shall make  
32 every reasonable effort to ensure the state's receipt and disbursement  
33 of federal funds to eligible public water systems as quickly as  
34 possible after the federal government has made them available. By  
35 December 15, 1997, the department and the public works board shall  
36 provide a report to the appropriate committees of the legislature  
37 reflecting the input from the affected interests and parties on the  
38 status of the program. The report shall include significant issues and

1 concerns, the status of rulemaking and guidelines, and a plan for the  
2 adoption of final rules.

3 (3) If the department, public works board, or any other department,  
4 agency, board, or commission of state government participates in  
5 providing service under this section, the administering entity shall  
6 endeavor to provide cost-effective and timely services. Mechanisms to  
7 provide cost-effective and timely services include: (a) Adopting  
8 federal guidelines by reference into administrative rules; (b) using  
9 existing management mechanisms rather than creating new administrative  
10 structures; (c) investigating the use of service contracts, either with  
11 other governmental entities or with nongovernmental service providers;  
12 (d) the use of joint or combined financial assistance applications; and  
13 (e) any other method or practice designed to streamline and expedite  
14 the delivery of services and financial assistance.

15 (4) The department shall have the authority to establish assistance  
16 priorities and carry out oversight and related activities, other than  
17 financial administration, with respect to assistance provided with  
18 federal funds. The department, the public works board, and the  
19 department of community, trade, and economic development shall jointly  
20 develop, with the assistance of water purveyors and other affected and  
21 interested parties, a memorandum of understanding setting forth  
22 responsibilities and duties for each of the parties. The memorandum of  
23 understanding at a minimum, shall include:

24 (a) Responsibility for developing guidelines for providing  
25 assistance to public water systems and related oversight prioritization  
26 and oversight responsibilities including requirements for  
27 prioritization of loans or other financial assistance to public water  
28 systems;

29 (b) Department submittal of preapplication information to the  
30 public works board for review and comment;

31 (c) Department submittal of a prioritized list of projects to the  
32 public works board for determination of:

33 (i) Financial capability of the applicant; and

34 (ii) Readiness to proceed, or the ability of the applicant to  
35 promptly commence the project;

36 (d) A process for determining consistency with existing water  
37 resource planning and management, including coordinated water supply  
38 plans, regional water resource plans, and comprehensive plans under the  
39 growth management act, chapter 36.70A RCW;

1       (e) A determination of:  
2       (i) Least-cost solutions, including consolidation and restructuring  
3 of small systems, where appropriate, into more economical units;  
4       (ii) The provision of regional facilities;  
5       (iii) Projects and activities that facilitate compliance with the  
6 federal safe drinking water act; and  
7       (iv) Projects and activities that are intended to achieve the  
8 public health objectives of federal and state drinking water laws;  
9       (f) Implementation of water conservation and other demand  
10 management measures consistent with state guidelines for water  
11 utilities;  
12       (g) Assistance for the necessary planning and engineering to assure  
13 that consistency, coordination, and proper professional review are  
14 incorporated into projects or activities proposed for funding;  
15       (h) Minimum standards for water system capacity, financial  
16 viability, and water system planning;  
17       (i) Testing and evaluation of the water quality of the state's  
18 public water system to assure that priority for financial assistance is  
19 provided to systems and areas with threats to public health from  
20 contaminated supplies and reduce in appropriate cases the substantial  
21 increases in costs and rates that customers of small systems would  
22 otherwise incur under the monitoring and testing requirements of the  
23 federal safe drinking water act;  
24       (j) Coordination, to the maximum extent possible, with other state  
25 programs that provide financial assistance to public water systems and  
26 state programs that address existing or potential water quality or  
27 drinking contamination problems;  
28       (k) Definitions of "affordability" and "disadvantaged community"  
29 that are consistent with these and similar terms in use by other state  
30 or federal assistance programs;  
31       (l) Criteria for the financial assistance program for public water  
32 systems, which shall include, but are not limited to:  
33       (i) Determining projects addressing the most serious risk to human  
34 health;  
35       (ii) Determining the capacity of the system to effectively manage  
36 its resources, including meeting state financial viability criteria;  
37 and  
38       (iii) Determining the relative benefit to the community served; and

1 (m) Ensure that each agency fulfills the audit, accounting, and  
2 reporting requirements under federal law for its portion of the  
3 administration of this program.

4 (5) The department and the public works board shall begin the  
5 process to disburse funds no later than October 1, 1997, and shall  
6 adopt such rules as are necessary under chapter 34.05 RCW to administer  
7 the program by January 1, 1999.

8 **Sec. 5.** RCW 43.84.092 and 1996 c 262 s 4 are each amended to read  
9 as follows:

10 (1) All earnings of investments of surplus balances in the state  
11 treasury shall be deposited to the treasury income account, which  
12 account is hereby established in the state treasury.

13 (2) The treasury income account shall be utilized to pay or receive  
14 funds associated with federal programs as required by the federal cash  
15 management improvement act of 1990. The treasury income account is  
16 subject in all respects to chapter 43.88 RCW, but no appropriation is  
17 required for refunds or allocations of interest earnings required by  
18 the cash management improvement act. Refunds of interest to the  
19 federal treasury required under the cash management improvement act  
20 fall under RCW 43.88.180 and shall not require appropriation. The  
21 office of financial management shall determine the amounts due to or  
22 from the federal government pursuant to the cash management improvement  
23 act. The office of financial management may direct transfers of funds  
24 between accounts as deemed necessary to implement the provisions of the  
25 cash management improvement act, and this subsection. Refunds or  
26 allocations shall occur prior to the distributions of earnings set  
27 forth in subsection (4) of this section.

28 (3) Except for the provisions of RCW 43.84.160, the treasury income  
29 account may be utilized for the payment of purchased banking services  
30 on behalf of treasury funds including, but not limited to, depository,  
31 safekeeping, and disbursement functions for the state treasury and  
32 affected state agencies. The treasury income account is subject in all  
33 respects to chapter 43.88 RCW, but no appropriation is required for  
34 payments to financial institutions. Payments shall occur prior to  
35 distribution of earnings set forth in subsection (4) of this section.

36 (4) Monthly, the state treasurer shall distribute the earnings  
37 credited to the treasury income account. The state treasurer shall



1 credit the general fund with all the earnings credited to the treasury  
2 income account except:

3 (a) The following accounts and funds shall receive their  
4 proportionate share of earnings based upon each account's and fund's  
5 average daily balance for the period: The capitol building  
6 construction account, the Cedar River channel construction and  
7 operation account, the Central Washington University capital projects  
8 account, the charitable, educational, penal and reformatory  
9 institutions account, the common school construction fund, the county  
10 criminal justice assistance account, the county sales and use tax  
11 equalization account, the data processing building construction  
12 account, the deferred compensation administrative account, the deferred  
13 compensation principal account, the department of retirement systems  
14 expense account, the drinking water assistance account, the Eastern  
15 Washington University capital projects account, the education  
16 construction fund, the emergency reserve fund, the federal forest  
17 revolving account, the health services account, the public health  
18 services account, the health system capacity account, the personal  
19 health services account, the highway infrastructure account, the  
20 industrial insurance premium refund account, the judges' retirement  
21 account, the judicial retirement administrative account, the judicial  
22 retirement principal account, the local leasehold excise tax account,  
23 the local real estate excise tax account, the local sales and use tax  
24 account, the medical aid account, the mobile home park relocation fund,  
25 the municipal criminal justice assistance account, the municipal sales  
26 and use tax equalization account, the natural resources deposit  
27 account, the perpetual surveillance and maintenance account, the public  
28 employees' retirement system plan I account, the public employees'  
29 retirement system plan II account, the Puyallup tribal settlement  
30 account, the resource management cost account, the site closure  
31 account, the special wildlife account, the state employees' insurance  
32 account, the state employees' insurance reserve account, the state  
33 investment board expense account, the state investment board commingled  
34 trust fund accounts, the supplemental pension account, the teachers'  
35 retirement system plan I account, the teachers' retirement system plan  
36 II account, the transportation infrastructure account, the tuition  
37 recovery trust fund, the University of Washington bond retirement fund,  
38 the University of Washington building account, the volunteer fire  
39 fighters' relief and pension principal account, the volunteer fire

1 fighters' relief and pension administrative account, the Washington  
2 judicial retirement system account, the Washington law enforcement  
3 officers' and fire fighters' system plan I retirement account, the  
4 Washington law enforcement officers' and fire fighters' system plan II  
5 retirement account, the Washington state patrol retirement account, the  
6 Washington State University building account, the Washington State  
7 University bond retirement fund, the water pollution control revolving  
8 fund, and the Western Washington University capital projects account.  
9 Earnings derived from investing balances of the agricultural permanent  
10 fund, the normal school permanent fund, the permanent common school  
11 fund, the scientific permanent fund, and the state university permanent  
12 fund shall be allocated to their respective beneficiary accounts. All  
13 earnings to be distributed under this subsection (4)(a) shall first be  
14 reduced by the allocation to the state treasurer's service fund  
15 pursuant to RCW 43.08.190.

16 (b) The following accounts and funds shall receive eighty percent  
17 of their proportionate share of earnings based upon each account's or  
18 fund's average daily balance for the period: The aeronautics account,  
19 the aircraft search and rescue account, the central Puget Sound public  
20 transportation account, the city hardship assistance account, the  
21 county arterial preservation account, the department of licensing  
22 services account, the economic development account, the essential rail  
23 assistance account, the essential rail banking account, the ferry bond  
24 retirement fund, the gasohol exemption holding account, the grade  
25 crossing protective fund, the high capacity transportation account, the  
26 highway bond retirement fund, the highway construction stabilization  
27 account, the highway safety account, the marine operating fund, the  
28 motor vehicle fund, the motorcycle safety education account, the  
29 pilotage account, the public transportation systems account, the Puget  
30 Sound capital construction account, the Puget Sound ferry operations  
31 account, the recreational vehicle account, the rural arterial trust  
32 account, the safety and education account, the small city account, the  
33 special category C account, the state patrol highway account, the  
34 transfer relief account, the transportation capital facilities account,  
35 the transportation equipment fund, the transportation fund, the  
36 transportation improvement account, the transportation revolving loan  
37 account, and the urban arterial trust account.

1           (5) In conformance with Article II, section 37 of the state  
2 Constitution, no treasury accounts or funds shall be allocated earnings  
3 without the specific affirmative directive of this section.

4           NEW SECTION.   **Sec. 6.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and takes effect  
7 immediately.

--- END ---