
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 15, 1998, establish 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 guidelines and
28 requirements for the sole purpose of ensuring the timely procurement of
29 financial assistance from the federal government under the safe
30 drinking water act. The department and the public works board shall
31 make every reasonable effort to ensure the state's receipt and
32 disbursement of federal funds to eligible public water systems as
33 quickly as possible after the federal government has made them
34 available.

35 (3) If the department, public works board, or any other department,
36 agency, board, or commission of state government participates in
37 providing service under this section, the administering entity shall
38 endeavor to provide cost-effective and timely services. Mechanisms to
39 provide cost-effective and timely services include: (a) Adopting

1 federal guidelines by reference into administrative rules; (b) using
2 existing management mechanisms rather than creating new administrative
3 structures; (c) investigating the use of service contracts, either with
4 other governmental entities or with nongovernmental service providers;
5 (d) the use of joint or combined financial assistance applications; and
6 (e) any other method or practice designed to streamline and expedite
7 the delivery of services and financial assistance.

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

17 (a) Responsibility for developing guidelines for providing
18 assistance to public water systems and related oversight prioritization
19 and oversight responsibilities including requirements for
20 prioritization of loans or other financial assistance to public water
21 systems;

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

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

26 (i) Financial capability of the applicant; and

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

29 (d) A process for determining consistency with existing water
30 resource planning and management, including coordinated water supply
31 plans, regional water resource plans, and comprehensive plans under the
32 growth management act, chapter 36.70A RCW;

33 (e) A determination of:

34 (i) Least-cost solutions, including consolidation and restructuring
35 of small systems, where appropriate, into more economical units;

36 (ii) The provision of regional facilities;

37 (iii) Projects and activities that facilitate compliance with the
38 federal safe drinking water act; and

1 (iv) Projects and activities that are intended to achieve the
2 public health objectives of federal and state drinking water laws;

3 (f) Implementation of water conservation and other demand
4 management measures consistent with state guidelines for water
5 utilities;

6 (g) Assistance for the necessary planning and engineering to assure
7 that consistency, coordination, and proper professional review are
8 incorporated into projects or activities proposed for funding;

9 (h) Minimum standards for water system capacity, financial
10 viability, and water system planning;

11 (i) Testing and evaluation of the water quality of the state's
12 public water system to assure that priority for financial assistance is
13 provided to systems and areas with threats to public health from
14 contaminated supplies and reduce in appropriate cases the substantial
15 increases in costs and rates that customers of small systems would
16 otherwise incur under the monitoring and testing requirements of the
17 federal safe drinking water act;

18 (j) Coordination, to the maximum extent possible, with other state
19 programs that provide financial assistance to public water systems and
20 state programs that address existing or potential water quality or
21 drinking contamination problems;

22 (k) Definitions of "affordability" and "disadvantaged community"
23 that are consistent with these and similar terms in use by other state
24 or federal assistance programs;

25 (l) Criteria for the financial assistance program for public water
26 systems, which shall include, but are not limited to:

27 (i) Determining projects addressing the most serious risk to human
28 health;

29 (ii) Determining the capacity of the system to effectively manage
30 its resources, including meeting state financial viability criteria;
31 and

32 (iii) Determining the relative benefit to the community served; and

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

36 (5) The department and the public works board shall begin the
37 process to disburse funds no later than October 1, 1997, and shall
38 establish such rules as are necessary under chapter 34.05 RCW to
39 administer the program by January 15, 1998.

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

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

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

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

29 (4) Monthly, the state treasurer shall distribute the earnings
30 credited to the treasury income account. The state treasurer shall
31 credit the general fund with all the earnings credited to the treasury
32 income account except:

33 (a) The following accounts and funds shall receive their
34 proportionate share of earnings based upon each account's and fund's
35 average daily balance for the period: The capitol building
36 construction account, the Cedar River channel construction and
37 operation account, the Central Washington University capital projects
38 account, the charitable, educational, penal and reformatory
39 institutions account, the common school construction fund, the county

1 criminal justice assistance account, the county sales and use tax
2 equalization account, the data processing building construction
3 account, the deferred compensation administrative account, the deferred
4 compensation principal account, the department of retirement systems
5 expense account, the drinking water assistance account, the Eastern
6 Washington University capital projects account, the education
7 construction fund, the emergency reserve fund, the federal forest
8 revolving account, the health services account, the public health
9 services account, the health system capacity account, the personal
10 health services account, the highway infrastructure account, the
11 industrial insurance premium refund account, the judges' retirement
12 account, the judicial retirement administrative account, the judicial
13 retirement principal account, the local leasehold excise tax account,
14 the local real estate excise tax account, the local sales and use tax
15 account, the medical aid account, the mobile home park relocation fund,
16 the municipal criminal justice assistance account, the municipal sales
17 and use tax equalization account, the natural resources deposit
18 account, the perpetual surveillance and maintenance account, the public
19 employees' retirement system plan I account, the public employees'
20 retirement system plan II account, the Puyallup tribal settlement
21 account, the resource management cost account, the site closure
22 account, the special wildlife account, the state employees' insurance
23 account, the state employees' insurance reserve account, the state
24 investment board expense account, the state investment board commingled
25 trust fund accounts, the supplemental pension account, the teachers'
26 retirement system plan I account, the teachers' retirement system plan
27 II account, the transportation infrastructure account, the tuition
28 recovery trust fund, the University of Washington bond retirement fund,
29 the University of Washington building account, the volunteer fire
30 fighters' relief and pension principal account, the volunteer fire
31 fighters' relief and pension administrative account, the Washington
32 judicial retirement system account, the Washington law enforcement
33 officers' and fire fighters' system plan I retirement account, the
34 Washington law enforcement officers' and fire fighters' system plan II
35 retirement account, the Washington state patrol retirement account, the
36 Washington State University building account, the Washington State
37 University bond retirement fund, the water pollution control revolving
38 fund, and the Western Washington University capital projects account.
39 Earnings derived from investing balances of the agricultural permanent

1 fund, the normal school permanent fund, the permanent common school
2 fund, the scientific permanent fund, and the state university permanent
3 fund shall be allocated to their respective beneficiary accounts. All
4 earnings to be distributed under this subsection (4)(a) shall first be
5 reduced by the allocation to the state treasurer's service fund
6 pursuant to RCW 43.08.190.

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

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

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

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