
SUBSTITUTE SENATE BILL 5841

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Energy & Utilities (originally sponsored by Senators Hochstatter, Finkbeiner and Winsley; by request of Department of Health)

Read first time 03/05/97.

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

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

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

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

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

15 (3) The environmental protection agency has recently completed a
16 national assessment of public water system capital needs, which has
17 identified over three billion dollars in such needs in the state of
18 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. The purpose of the account is to allow the state to ((take
28 advantage of)) use any federal funds that become available ((for safe
29 drinking water)) to states from congress to fund a state revolving loan
30 fund as part of the reauthorization of the federal safe drinking water
31 act. Expenditures from the account may only be made by the secretary
32 ((or)), the public works board, or the department of community, trade,
33 and economic development, after appropriation. Moneys in the account
34 may only be used to assist water systems to provide safe drinking water
35 through a program administered through the department of health
36 ((and)), the public works board, and the department of community,
37 trade, and economic development and for other activities authorized
38 under federal law. Money may be placed in the account from the

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

14 (2) The department, the public works board, and the department of
15 community, trade, and economic development shall establish and maintain
16 a program to use the moneys in the drinking water assistance account as
17 provided by the federal government under the safe drinking water act.
18 The department, the public works board, and the department of
19 community, trade, and economic development shall, in consultation with
20 purveyors, local governments, local health jurisdictions, financial
21 institutions, other state agencies, and other affected and interested
22 parties, establish guidelines and requirements for the provision of
23 financial assistance to public water systems as authorized under
24 federal law. The department, the public works board and the department
25 of community, trade, and economic development shall make every
26 reasonable effort to ensure that the guidelines or other requirements
27 are developed promptly to ensure the state's receipt and disbursement
28 of federal funds to eligible public water systems as quickly as
29 possible after the federal government has made them available.

30 (3) If the department, public works board, or any other department,
31 agency, board, or commission of state government participates in
32 providing service under this section, the administering entity shall
33 endeavor to provide cost-effective and timely services. Mechanisms to
34 provide cost-effective and timely services include: (a) Whenever
35 allowed by law, the use of policy statements or guidelines, including
36 federal guidelines, rather than administrative rules; (b) using
37 existing management mechanisms rather than creating new administrative
38 structures; (c) investigating the use of service contracts, either with
39 other governmental entities or with nongovernmental service providers;

1 (d) the use of joint or combined financial assistance applications; and
2 (e) any other method or practice designed to streamline and expedite
3 the delivery of services and financial assistance.

4 (4) The department shall establish and maintain a program to use
5 the moneys in the drinking water assistance account as provided by the
6 federal government under the safe drinking water act. The department
7 shall determine assistance priorities and carry out oversight and
8 activities related to such assistance. The department shall, in
9 consultation with the board, the department of community, trade, and
10 economic development, purveyors, local health departments, and other
11 interested parties, establish guidelines and requirements for the
12 provision of grants, loans, or other financial assistance to public
13 water systems that are consistent with the purposes and guidelines
14 authorized in this chapter. The department shall ensure that
15 guidelines and requirements:

16 (a) Utilize, to the maximum extent, all available federal financial
17 assistance and are consistent with federal requirements;

18 (b) Are consistent with existing water resource planning and
19 management, including coordinated water supply plans, regional water
20 resource plans, and comprehensive plans under the growth management
21 act, chapter 36.70A RCW;

22 (c) Prioritize (i) least-cost solutions, including consolidation
23 and restructuring of small systems, where appropriate, into more
24 economical units; (ii) the provision of regional facilities; (iii)
25 projects and activities that facilitate compliance with the federal
26 safe drinking water act; and (iv) projects and activities that are
27 intended to achieve the public health objectives of federal and state
28 drinking water laws;

29 (d) Assure implementation of water conservation and other demand
30 management measures consistent with state guidelines for water
31 utilities;

32 (e) Provide assistance for the necessary planning and engineering
33 to assure that consistency, coordination, and proper professional
34 review are incorporated into projects or activities proposed for
35 funding;

36 (f) Include minimum standards for water system capacity, financial
37 viability, and water system planning;

38 (g) Provide for testing and evaluation of the water quality of the
39 state's public water systems to assure that priority for financial

1 assistance is provided to systems and areas with threats to public
2 health from contaminated supplies and reduce in appropriate cases the
3 substantial increases in costs and rates that customers of small
4 systems would otherwise incur under the monitoring and testing
5 requirements of the federal safe drinking water act;

6 (h) Are coordinated, to the maximum extent possible, with other
7 state programs that provide financial assistance to public water
8 systems and state programs that address existing or potential water
9 quality or drinking water contamination problems; and

10 (i) Utilize definitions of "affordability" and "disadvantaged
11 community" that are consistent with these and similar terms in use by
12 other state and federal assistance programs.

13 (5) The public works board shall develop a financial assistance
14 program using appropriated funds from the drinking water assistance
15 account to meet the purposes and guidelines authorized in this chapter.
16 The board shall consult with the department and water purveyors in
17 developing the financial assistance program. The board shall, to the
18 extent necessary to meet federal requirements, administer the program
19 in order to ensure that all federal capitalization grants, together
20 with loan repayments and interest, are separately accounted for and
21 used solely for the purposes prescribed by federal law.

22 The board shall develop, in conjunction with the department,
23 criteria for financial assistance to be made to public water systems.
24 The criteria shall emphasize public water systems with the most
25 critical public health needs; the capacity of the water system to
26 effectively manage its resources; the ability to promptly commence the
27 project; and the relative benefit to the community served. Priority
28 shall be given to those systems that are ready to proceed, that will
29 provide water system improvements to the greatest number of people, and
30 that meet any other criteria that the board develops in consultation
31 with the department and water system purveyors or that may be required
32 under federal law or guidance.

33 (6) The board and department shall begin disbursement of funds to
34 eligible water systems no later than October 1, 1997.

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