
HOUSE BILL 1182

State of Washington

56th Legislature

1999 Regular Session

By Representative Kastama

Read first time 01/18/1999. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to coordinated water system plans; amending RCW
2 70.116.010, 70.116.020, 70.116.030, 70.116.050, 70.116.060, and
3 70.116.070; and adding new sections to chapter 70.116 RCW.

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

5 **Sec. 1.** RCW 70.116.010 and 1991 c 3 s 365 are each amended to read
6 as follows:

7 The legislature hereby finds that:

8 (1) An adequate supply of potable water for domestic, commercial,
9 and industrial use is vital to the health and well-being of the people
10 of the state((-))i

11 (2) Readily available water for use in public water systems is
12 limited and should be developed and used efficiently with a minimum of
13 loss or waste((-

14 In order to maximize efficient and effective development of the
15 state's public water supply systems,))i

16 (3) Water service purveyors who designate service area boundaries
17 should be capable of or have planned for the provision of water service
18 within their designated service areas; and

1 (4) Subject to capacity and certain limitations specified in RCW
2 70.116.070, water service purveyors who designate current service area
3 boundaries are responsible to provide water service to residents within
4 the designated current service area in a timely and reasonable manner.

5 The legislature therefore directs the department of health
6 ((shall)) to assist water purveyors by providing a procedure to
7 coordinate the planning of the public water supply systems to maximize
8 efficient and effective development of the state's public water supply
9 systems and to establish responsibilities for water service delivery
10 among water service providers.

11 **Sec. 2.** RCW 70.116.020 and 1977 ex.s. c 142 s 2 are each amended
12 to read as follows:

13 The purposes of this chapter are to:

14 (1) ~~((To))~~ Provide for the establishment of critical water supply
15 service areas related to water utility planning and development;

16 (2) ~~((To))~~ Provide for the development of minimum planning and
17 design standards for critical water supply service areas to insure that
18 water systems developed in these areas are consistent with regional
19 needs;

20 (3) ~~((To))~~ Provide for the identification and assumption of
21 responsibilities for water service delivery within designated service
22 area boundaries;

23 (4) Assist in the orderly and efficient administration of state
24 financial assistance programs for public water systems; and

25 ~~((4) To))~~ (5) Assist public water systems to meet reasonable
26 standards of quality, quantity and pressure.

27 **Sec. 3.** RCW 70.116.030 and 1991 c 3 s 366 are each amended to read
28 as follows:

29 Unless the context clearly requires otherwise, the following terms
30 when used in this chapter shall be defined as follows:

31 (1) "Coordinated water system plan" or "coordinated plan" means a
32 plan for public water systems within a critical water supply service
33 area ~~((which identifies the present and future needs of the systems and~~
34 sets forth means for meeting those needs in the most efficient manner
35 possible. Such a plan shall include provisions for subsequently
36 updating the plan. In areas where more than one water system exists,
37 a coordinated plan may consist of either: (a) A new plan developed for

1 ~~the area following its designation as a critical water supply service~~
2 ~~area; or (b) a compilation of compatible water system plans existing at~~
3 ~~the time of such designation and containing such supplementary~~
4 ~~provisions as are necessary to satisfy the requirements of this~~
5 ~~chapter. Any such coordinated plan must include provisions regarding:~~
6 ~~Future service area designations; assessment of the feasibility of~~
7 ~~shared source, transmission, and storage facilities; emergency inter-~~
8 ~~ties; design standards; and other concerns related to the construction~~
9 ~~and operation of the water system facilities)) that satisfies all the~~
10 requirements of section 4 of this act.

11 (2) "Critical water supply service area" means a geographical area
12 which is characterized by a proliferation of small, inadequate water
13 systems, or by water supply problems which threaten the present or
14 future water quality or reliability of service in such a manner that
15 efficient and orderly development may best be achieved through
16 coordinated planning by the water utilities in the area.

17 (3) "Public water system" means any system providing water intended
18 for, or used for, human consumption or other domestic uses. It
19 includes, but is not limited to, the source, treatment for purifying
20 purposes only, storage, transmission, pumping, and distribution
21 facilities where water is furnished to any community, or number of
22 individuals, or is made available to the public for human consumption
23 or domestic use, but excluding water systems serving one single family
24 residence. However, systems existing on September 21, 1977 which are
25 owner operated and serve less than ten single family residences or
26 which serve only one industrial plant shall be excluded from this
27 definition and the provisions of this chapter.

28 (4) "Purveyor" means any agency or subdivision of the state or any
29 municipal corporation, firm, company, mutual or cooperative
30 association, institution, partnership, or person or any other entity,
31 that owns or operates for wholesale or retail service a public water
32 system. It also means the authorized agents of any such entities.

33 (5) "Secretary" means the secretary of the department of health or
34 the secretary's authorized representative.

35 (6) "Service area" means a specific geographical area (~~(serviced)~~)
36 that a purveyor is currently servicing (a "current service area") or
37 for which a purveyor has planned for future service ((is planned by a
38 purveyor)) (a "future service area").

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.116 RCW
2 to read as follows:

3 (1) A coordinated plan must include provisions regarding all of the
4 following:

5 (a) Current and future needs of the systems;

6 (b) Plans for meeting all current and future needs of the systems
7 in the most efficient manner possible;

8 (c) Current and future service area designations;

9 (d) Plans for meeting responsibilities for water service within the
10 designated current service areas;

11 (e) Assessment of the feasibility of shared source, transmission,
12 and storage facilities;

13 (f) Emergency inter-ties; design standards; and other concerns
14 related to the construction and operation of the water system
15 facilities; and

16 (g) Requirements and procedures for periodic updating of the
17 coordinated plan.

18 (2) In areas where more than one water system exists, a coordinated
19 plan may consist of either of the following:

20 (a) A new plan developed for the area following its designation as
21 a critical water supply service area; or

22 (b) A compilation of compatible water system plans existing at the
23 time of such designation and containing such supplementary provisions
24 as are necessary to satisfy the requirements of this chapter.

25 **Sec. 5.** RCW 70.116.050 and 1995 c 376 s 7 are each amended to read
26 as follows:

27 (1) Each purveyor within the boundaries of a critical water supply
28 service area shall develop a water system plan for the purveyor's
29 future service area if such a plan has not already been developed:
30 PROVIDED, That nonmunicipally owned public water systems are exempt
31 from the planning requirements of this chapter, except for the
32 establishment of service area boundaries if they have no plans for
33 water service beyond their existing service area: PROVIDED FURTHER,
34 That if the county legislative authority permits a change in
35 development that will increase the demand for water service of such a
36 system beyond the existing system's ability to provide minimum water
37 service, the purveyor shall develop a water system plan in accordance

1 with this section. The establishment of future service area boundaries
2 shall be in accordance with RCW 70.116.070.

3 (2) After the boundaries of a critical water supply service area
4 have been established pursuant to RCW 70.116.040, the committee
5 established in RCW 70.116.040 shall participate in the development of
6 a coordinated water system plan for the designated area. Such a plan
7 shall incorporate all water system plans developed pursuant to
8 subsection (1) of this section. The plan shall provide for maximum
9 integration and coordination of public water system facilities
10 consistent with the protection and enhancement of the public health and
11 well-being. Decisions of the committee shall be by majority vote of
12 those present at meetings of the committee.

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

19 (4) To insure that the plan incorporates the proper designs to
20 protect public health, the secretary shall adopt regulations pursuant
21 to chapter 34.05 RCW concerning the scope and content of coordinated
22 water system plans, and shall ensure, as minimum requirements, that
23 such plans:

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

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

32 (c) Incorporate the fire protection standards developed pursuant to
33 RCW 70.116.080.

34 (d) Identify the future service area boundaries of the public water
35 system or systems included in the plan within the critical water supply
36 service area.

37 (e) Establish the purveyors' responsibility to provide water
38 service within their designated current service areas in a timely and
39 reasonable manner. A purveyor must include a schedule indicating when

1 water service will be available to lands that are located outside the
2 corporate boundaries of the purveyor but within the purveyor's
3 designated current service area.

4 ~~(f)~~ (f) Identify feasible emergency inter-ties between adjacent
5 purveyors.

6 ~~((f))~~ (g) Include satellite system management requirements
7 consistent with RCW 70.116.134.

8 ~~((g))~~ (h) Include policies and procedures that generally address
9 failing water systems for which counties may become responsible under
10 RCW 43.70.195.

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

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

19 (7) Prior to the submission of a coordinated water system plan to
20 the secretary for approval pursuant to RCW 70.116.060, the legislative
21 authorities of the counties in which the critical water supply service
22 area is located shall hold a public hearing thereon and shall determine
23 the plan's consistency with subsection (4) of this section. If within
24 sixty days of receipt of the plan, the legislative authorities find any
25 segment of a proposed service area of a purveyor's plan or any segment
26 of the coordinated water system plan to be inconsistent with any
27 current land use plans, shoreline master programs, and/or developmental
28 policies of the general purpose local government or governments whose
29 jurisdiction the water system plan affects, the secretary shall not
30 approve that portion of the plan until the inconsistency is resolved
31 between the local government and the purveyor. If no comments have
32 been received from the legislative authorities within sixty days of
33 receipt of the plan, the secretary may consider the plan for approval.

34 (8) Any county legislative authority may adopt an abbreviated plan
35 for the provision of water supplies within its boundaries that includes
36 provisions for service area boundaries, minimum design criteria, and
37 review process. The elements of the abbreviated plan shall conform to
38 the criteria established by the department under subsection (4) of this
39 section and shall otherwise be consistent with other adopted land use

1 and resource plans. The county legislative authority may, in lieu of
2 the committee required under RCW 70.116.040, and the procedures
3 authorized in this section, utilize an advisory committee that is
4 representative of the water utilities and local governments within its
5 jurisdiction to assist in the preparation of the abbreviated plan,
6 which may be adopted by resolution and submitted to the secretary for
7 approval. Purveyors within the boundaries covered by the abbreviated
8 plan need not develop a water system plan, except to the extent
9 required by the secretary or state board of health under other
10 authority. Any abbreviated plan adopted by a county legislative
11 authority pursuant to this subsection shall be subject to the same
12 provisions contained in RCW 70.116.060 for coordinated water system
13 plans that are approved by the secretary.

14 **Sec. 6.** RCW 70.116.060 and 1995 c 376 s 2 are each amended to read
15 as follows:

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

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

26 (3) Following the approval of a coordinated water system plan by
27 the secretary:

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

31 (b) Purveyors shall serve their designated service areas and future
32 areas according to the plan and no other purveyor shall establish a
33 public water system within the area covered by the plan, unless the
34 local legislative authority or the secretary, under (b)(ii) of this
35 subsection, determines that existing purveyors are unable to provide
36 the service in a timely and reasonable manner, pursuant to guidelines
37 developed by the secretary. An existing purveyor is unable to provide
38 the service in a timely manner if:

1 (i) The water cannot be provided to an applicant for water within
2 one hundred twenty days unless specified otherwise by the local
3 legislative authority. If such a determination is made, the local
4 legislative authority shall require the new public water system to be
5 constructed in accordance with the construction standards and
6 specifications embodied in the coordinated water system plan approved
7 for the area. The service area boundaries in the coordinated plan for
8 the affected utilities shall be revised to reflect the decision of the
9 local legislative authority; or

10 (ii) The secretary determines that service is not being provided in
11 a timely and reasonable manner.

12 (4) The secretary may deny proposals to establish or to expand any
13 public water system within a critical water supply service area for
14 which there is not an approved coordinated water system plan at any
15 time after two years of the establishment of the critical water supply
16 service area(~~(:—PROVIDED, That)~~). However, service connections shall
17 not be considered expansions.

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

22 (6) After adoption of the initial coordinated water system plan,
23 the local legislative authority or the secretary may determine that the
24 plan should be updated or revised. The legislative authority may
25 initiate an update at any time, but the secretary may initiate an
26 update no more frequently than once every five years. The update may
27 encompass all or a portion of the plan, with the scope of the update to
28 be determined by the secretary and the legislative authority. The
29 process for the update shall be the one prescribed in RCW 70.116.050.

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

33 (b) If the secretary determines that an existing purveyor is
34 unable, unwilling, or is failing to provide service in a timely and
35 reasonable manner, the secretary may initiate an update or revision of
36 the plan to allow another purveyor to provide service to the area.

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

1 **Sec. 7.** RCW 70.116.070 and 1995 c 376 s 13 are each amended to
2 read as follows:

3 (1) The proposed current service area boundaries and any future
4 service area boundaries of public water systems within the critical
5 water supply service area that are required to submit water system
6 plans under this chapter shall be identified in the system's plan. The
7 local legislative authority, or its planning department or other
8 designee, shall review the proposed boundaries to determine whether the
9 proposed boundaries of one or more systems overlap. The boundaries
10 determined by the local legislative authority not to overlap shall be
11 incorporated into the coordinated water system plan. Where any overlap
12 exists, the local legislative authority may attempt to resolve the
13 conflict through procedures established under RCW 70.116.060(5).

14 (2) Any final decision by a local legislative authority regarding
15 overlapping service areas, or any unresolved disputes regarding service
16 area boundaries, may be appealed or referred to the secretary in
17 writing for resolution. After receipt of an appeal or referral, the
18 secretary shall hold a public hearing thereon. The secretary shall
19 provide notice of the hearing by certified mail to each purveyor
20 involved in the dispute, to each county legislative authority having
21 jurisdiction in the area and to the public. The secretary shall
22 provide public notice pursuant to the provisions of chapter 65.16 RCW.
23 Such notice shall be given at least twenty days prior to the hearing.
24 The hearing may be continued from time to time and, at the termination
25 thereof, the secretary may restrict the expansion of service of any
26 purveyor within the area if the secretary finds such restriction is
27 necessary to provide the greatest protection of the public health and
28 well-being.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.116 RCW
30 to read as follows:

31 Regardless of the source of authority used by a purveyor for the
32 operation of utility services, a purveyor of any water system must
33 comply with the following:

34 (1) Purveyors of any water systems for which current service areas
35 have been designated and incorporated into a coordinated water system
36 plan pursuant to RCW 70.116.070 shall provide water service to property
37 within the designated current service area subject to the provisions of
38 this section.

1 (2) A purveyor may restrict or deny extensions of water service to
2 property within the purveyor's service area based upon any of the
3 following constraints:

4 (a) Unforeseen capacity constraints not addressed in the purveyor's
5 comprehensive plan or the coordinated water system plan;

6 (b) Unforeseen financial inability to provide infrastructure
7 necessary to serve the property not addressed in the purveyor's
8 comprehensive plan or the coordinated water system plan;

9 (c) Water quality constraints which limit the purveyors' ability to
10 provide water service to a property or properties within the purveyors'
11 current service area;

12 (d) Local, state, or federal regulations restricting or prohibiting
13 water service to a property or properties within the current service
14 area; or

15 (e) Other restrictions upon the purveyor that make service delivery
16 within the service area impossible or impracticable.

17 (3) Subject to the restrictions in subsection (2) of this section,
18 no purveyor may refuse to serve property within its jurisdiction on the
19 basis of existing or proposed land use if the land use existing or
20 proposed on the property complies with the regulations of the
21 jurisdiction in which the property is located or is a valid
22 nonconforming use according to the regulations of the jurisdiction in
23 which the property is located.

24 (4) The requirement to furnish water under this section is deemed
25 to be met by a purveyor when:

26 (a) The purveyor allows property owners to connect to existing
27 water lines located near the owners' property when the purveyor is
28 already providing such a service to other property in the general
29 vicinity; and

30 (b) The purveyor has filed a schedule under RCW 70.116.050
31 committing to a reasonable date when water service will be available to
32 areas where there are no existing water lines, as well as areas where
33 there are existing water lines but no property owners connected to
34 these services.

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