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HOUSE BILL 1998

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Sullivan, Rodne, Simpson, and Anderson

1            AN ACT Relating to public water systems; and amending RCW  
2            70.116.020, 70.116.030, 70.116.040, 70.116.050, and 70.116.060.

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

4            **Sec. 1.** RCW 70.116.020 and 1977 ex.s. c 142 s 2 are each amended  
5            to read as follows:

6            The purposes of this chapter are:

7            (1) To provide for the establishment of critical water supply  
8            service areas related to water utility planning and development;

9            (2) To provide for the development of minimum planning and design  
10           standards for critical water supply service areas to ~~((insure))~~ ensure  
11           that water systems developed in these areas are consistent with  
12           regional needs relating to the provision of a safe and reliable  
13           drinking water supply;

14           (3) To provide that coordinated water system plans and resulting  
15           individual water system plans are consistent with the requirements of  
16           comprehensive plans or development regulations adopted under chapter  
17           36.70A RCW, or other applicable land use plans, or development  
18           regulations adopted by a city, town, or county determined by the  
19           secretary to be reasonably related to the provision of a safe and

1 reliable drinking water supply pursuant to the secretary's authority  
2 under RCW 43.20.050 and consistent with rules adopted by the department  
3 under RCW 43.20.260;

4 (4) To assist in the orderly and efficient administration of state  
5 financial assistance programs for public water systems; (~~and~~

6 ~~(4))~~ (5) To assist public water systems to meet reasonable  
7 standards of quality, quantity and pressure; and

8 (6) To coordinate the administration of this chapter in a manner  
9 consistent with RCW 43.20.260 and implementing rules.

10 **Sec. 2.** RCW 70.116.030 and 1991 c 3 s 366 are each amended to read  
11 as follows:

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise(~~(, the following terms~~  
14 when used in this chapter shall be defined as follows:)).

15 (1) "Coordinated water system plan" means a plan for public water  
16 systems within a critical water supply service area which identifies  
17 the present and future drinking water needs of the systems and sets  
18 forth means for meeting those needs in the most efficient manner  
19 possible. Such a plan shall include provisions for subsequently  
20 updating the plan. In areas where more than one water system exists,  
21 a coordinated plan may consist of either: (a) A new plan developed for  
22 the area following its designation as a critical water supply service  
23 area; or (b) a compilation of compatible water system plans existing at  
24 the time of such designation and containing such supplementary  
25 provisions as are necessary to satisfy the requirements of this  
26 chapter. Any such coordinated plan must include provisions regarding:  
27 Future service area designations; assessment of the feasibility of  
28 shared source, transmission, and storage facilities; emergency inter-  
29 ties; design standards; water use efficiencies; and other concerns  
30 determined by the secretary to be reasonably related to the  
31 construction and operation of the water (~~(system))~~ facilities and the  
32 provision of a safe, reliable drinking water supply pursuant to the  
33 secretary's authority under RCW 43.20.050 and consistent with rules  
34 adopted by the department under RCW 43.20.260.

35 (2) "Critical water supply service area" means a geographical area  
36 which is characterized by a proliferation of small, inadequate water  
37 systems, or by water supply problems which threaten the present or

1 future water quality or reliability of service in such a manner that  
2 efficient and orderly development may best be achieved through  
3 coordinated planning by the water utilities in the area.

4 (3) "Department" means the department of health.

5 (4) "Future service area" means a specific area a public water  
6 system plans to provide water service that fall outside the boundaries  
7 of a purveyor's retail service area described within a water system  
8 plan, but within the area claimed for water service in a written  
9 agreement between purveyors under RCW 70.116.050.

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

21 ((+4)) (6) "Purveyor" means any agency or subdivision of the state  
22 or any municipal corporation, firm, company, mutual or cooperative  
23 association, institution, partnership, or person or any other entity,  
24 that owns or operates for wholesale or retail service a public water  
25 system. It also means the authorized agents of any such entities.

26 ((+5)) (7) "Secretary" means the secretary of the department of  
27 health or the secretary's authorized representative.

28 ((+6)) (8) "Service area" means a specific geographical area  
29 serviced or for which service is planned by a purveyor.

30 (9) "Water resource plans" or "resource plans" means plans that  
31 have been developed and adopted by units of local, regional, and state  
32 governments under chapter 90.44, 90.48, or 90.82 RCW.

33 **Sec. 3.** RCW 70.116.040 and 1977 ex.s. c 142 s 4 are each amended  
34 to read as follows:

35 (1)(a) The secretary and the appropriate local planning agencies  
36 and purveyors((7)) shall study geographical areas where drinking water  
37 supply problems related to uncoordinated planning, inadequate water

1 quality, or unreliable service appear to exist. If the local planning  
2 agencies and purveyors agree by majority vote that the results of the  
3 study clearly indicate that such water supply problems do exist, the  
4 secretary or the county legislative authority shall designate the area  
5 involved as being a critical water supply service area, consult with  
6 the appropriate local planning agencies and purveyors, and appoint a  
7 committee of not less than three representatives therefrom solely for  
8 the purpose of establishing the proposed external boundaries of the  
9 critical water supply service area. The committee shall include a  
10 representative from each purveyor serving more than fifty customers,  
11 the county legislative authority, county planning agency, and health  
12 agencies. Such proposed boundaries shall be established within six  
13 months of the appointment of the committee.

14 (b) During the six month period following the establishment of the  
15 proposed external boundaries of the critical water supply services  
16 areas, the county legislative authority shall conduct public hearings  
17 on the proposed boundaries and shall modify or ratify the proposed  
18 boundaries in accordance with the findings of the public hearings. The  
19 boundaries shall reflect the existing land usage, and permitted  
20 densities in county plans, ordinances, ~~((and/or))~~ and growth policies  
21 determined by the secretary to be reasonably related to the provision  
22 of a safe and reliable drinking water supply and consistent with rules  
23 adopted by the department under RCW 43.20.260. If the proposed  
24 boundaries are not modified during the six month period, the proposed  
25 boundaries shall be automatically ratified and be the critical water  
26 supply service area.

27 (c) After establishment of the external boundaries of the critical  
28 water supply service area, no new public water systems may be approved  
29 within the boundary area unless an existing water purveyor is unable  
30 to provide water service.

31 (2) At the time a critical water supply service area is established  
32 or amended, the external boundaries for such area shall not include any  
33 fractional part of a purveyor's existing contiguous service area.

34 (3) The external boundaries of the critical water supply service  
35 area may be amended in accordance with procedures prescribed in  
36 subsection (1) of this section for the establishment of the critical  
37 water supply service areas when such amendment is necessary to  
38 accomplish the purposes of this chapter.

1       **Sec. 4.** RCW 70.116.050 and 1995 c 376 s 7 are each amended to read  
2 as follows:

3       (1) Each purveyor within the boundaries of a critical water supply  
4 service area shall develop a water system plan (~~(for)~~) that identifies  
5 the purveyor's retail service area in accordance with RCW 43.20.260 and  
6 its future service area if such a plan has not already been developed:  
7 PROVIDED, That nonmunicipally owned public water systems are exempt  
8 from the planning requirements of this chapter, except for the  
9 establishment of service area boundaries if they have no plans for  
10 water service beyond their existing service area: PROVIDED FURTHER,  
11 That if the county legislative authority permits a change in  
12 development that will increase the demand for water service of such a  
13 system beyond the existing system's ability to provide minimum water  
14 service, the purveyor shall develop a water system plan in accordance  
15 with this section. The establishment of future service area boundaries  
16 shall be in accordance with RCW 70.116.070.

17       (2) After the boundaries of a critical water supply service area  
18 have been established pursuant to RCW 70.116.040, the committee  
19 established in RCW 70.116.040 shall participate in the development of  
20 a coordinated water system plan for the designated area. Such a plan  
21 shall incorporate all water system plans developed pursuant to  
22 subsection (1) of this section. The plan shall provide for maximum  
23 integration and coordination of public water system facilities  
24 consistent with the protection and enhancement of the public health and  
25 well-being. Decisions of the committee shall be by majority vote of  
26 those (~~(present at meetings of the committee)~~) purveyors located within  
27 the boundaries of the proposed critical water supply service area.

28       (3) Those portions of a critical water supply service area not yet  
29 served by a public water system shall have a coordinated water system  
30 plan developed by existing purveyors based upon permitted densities in  
31 county plans, ordinances, and/or growth policies that are determined by  
32 the secretary to be reasonably related to the provision of a safe and  
33 reliable drinking water supply and consistent with rules adopted by the  
34 department under RCW 43.20.260, for a minimum of five years beyond the  
35 date of establishment of the boundaries of the critical water supply  
36 service area.

37       (4) To (~~(insure)~~) ensure that the plan incorporates the proper  
38 designs to protect public health, the secretary shall adopt

1 ((regulations)) rules pursuant to chapter 34.05 RCW concerning the  
2 scope and content of coordinated water system plans, and shall ensure,  
3 as minimum requirements, that such plans:

4 (a) Are reviewed by the appropriate local governmental agency to  
5 ((insure)) ensure that the plan is not inconsistent with the ((~~land use~~  
6 ~~plans,~~) shoreline master programs ((~~, and/or~~)) and the requirements of  
7 land use plans and developmental policies, which the secretary has  
8 determined are reasonably related to the provision of a safe and  
9 reliable drinking water supply and consistent with rules adopted by the  
10 department under RCW 43.20.260 of the general purpose local government  
11 or governments whose jurisdiction the water system plan affects.  
12 Except as specifically provided in this section, the authority of a  
13 local government in relation to other statutory and regulatory  
14 authority is neither expanded or reduced by this chapter.

15 (b) Recognize all water resource plans, water quality plans, and  
16 water pollution control plans which have been prepared under chapter  
17 90.44, 90.48, or 90.82 RCW and adopted by units of local, regional, and  
18 state government.

19 (c) Incorporate the fire protection standards developed pursuant to  
20 RCW 70.116.080.

21 (d) Identify the future service area boundaries of the public water  
22 system or systems included in the plan within the critical water supply  
23 service area.

24 (e) Identify feasible emergency inter-ties between adjacent  
25 purveyors.

26 (f) Include satellite system management requirements consistent  
27 with RCW 70.116.134.

28 (g) Include policies and procedures that generally address failing  
29 water systems for which counties may become responsible under RCW  
30 43.70.195.

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

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

1 (7) Prior to the submission of a coordinated water system plan to  
2 the secretary for approval pursuant to RCW 70.116.060, the legislative  
3 authorities of the counties in which the critical water supply service  
4 area is located shall hold a public hearing thereon and shall determine  
5 the plan's consistency with subsection (4) of this section. If within  
6 sixty days of receipt of the plan, the legislative authorities find any  
7 segment of a proposed service area of a purveyor's plan or any segment  
8 of the coordinated water system plan to be inconsistent with ~~((any~~  
9 ~~current land use plans,))~~ shoreline master programs ~~((, and/or))~~ or  
10 requirements of current land use plans and developmental policies of  
11 the general purpose local government or governments whose jurisdiction  
12 the water system plan affects that the secretary has determined to be  
13 reasonably related to the provision of a safe and reliable drinking  
14 water supply and consistent with rules adopted by the department under  
15 RCW 43.20.260, the secretary shall ~~((not))~~ approve only that portion of  
16 the plan that is consistent until the inconsistency is resolved between  
17 the local government and the purveyor. If no comments have been  
18 received from the legislative authorities within sixty days of receipt  
19 of the plan, the secretary may consider the plan for approval.

20 (8) Any county legislative authority may adopt an abbreviated plan  
21 for the provision of drinking water supplies within its boundaries that  
22 includes provisions for service area boundaries, minimum design  
23 criteria, and review process. The elements of the abbreviated plan  
24 shall conform to the criteria established by the department under  
25 subsection (4) of this section, the purposes expressed in RCW  
26 70.116.020, and shall otherwise be consistent with other applicable  
27 provisions of adopted land use and resource plans determined by the  
28 secretary to be reasonably related to the provision of a safe and  
29 reliable drinking water supply and consistent with rules adopted by the  
30 department under RCW 43.20.260. The county legislative authority may,  
31 in lieu of the committee required under RCW 70.116.040, and the  
32 procedures authorized in this section, utilize an advisory committee  
33 that is representative of the water utilities and local governments  
34 within its jurisdiction to assist in the preparation of the abbreviated  
35 plan, which may be adopted by resolution and submitted to the secretary  
36 for approval. However, the scope of the adopted plan must be prepared  
37 in a manner that is consistent with the purposes expressed in RCW  
38 70.116.020. Purveyors within the boundaries covered by the abbreviated

1 plan need not develop a water system plan, except to the extent  
2 required by the secretary or state board of health under other  
3 authority. Any abbreviated plan adopted by a county legislative  
4 authority pursuant to this subsection shall be subject to the same  
5 provisions contained in RCW 70.116.060 for coordinated water system  
6 plans that are approved by the secretary.

7 **Sec. 5.** RCW 70.116.060 and 1995 c 376 s 2 are each amended to read  
8 as follows:

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

12 (2) The secretary shall review the coordinated water system plan  
13 and, to the extent the plan is consistent with the purposes and  
14 requirements of this chapter (~~(and regulations)~~), rules adopted  
15 (~~(hereunder)~~) under this chapter, and pursuant to RCW 43.20.260, shall  
16 approve the plan, provided that the secretary shall not approve those  
17 portions of a coordinated water system plan that fail to meet the  
18 requirements for future service area boundaries until any boundary  
19 dispute is resolved as set forth in RCW 70.116.070.

20 (3) Following the approval of a coordinated water system plan by  
21 the secretary:

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

25 (b) No other purveyor shall establish a public water system within  
26 the area covered by the plan, unless the local legislative authority  
27 determines that existing purveyors are unable to provide the service in  
28 a timely and reasonable manner, pursuant to guidelines developed by the  
29 secretary. An existing purveyor is unable to provide the service in a  
30 timely manner if the water cannot be provided to an applicant for water  
31 within one hundred twenty days unless specified otherwise by the local  
32 legislative authority. If such a determination is made, the local  
33 legislative authority shall require the new public water system to be  
34 constructed in accordance with the construction standards and  
35 specifications embodied in the coordinated water system plan approved  
36 for the area. The service area boundaries in the coordinated plan for



1 the affected utilities shall be revised to reflect the decision of the  
2 local legislative authority.

3 (4) The secretary may deny proposals to establish or to expand any  
4 public water system within a critical water supply service area for  
5 which there is not an approved coordinated water system plan at any  
6 time after two years of the establishment of the critical water supply  
7 service area: PROVIDED, That service connections shall not be  
8 considered expansions.

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

13 (6) After adoption of the initial coordinated water system plan,  
14 the local legislative authority or the secretary may determine that the  
15 plan should be updated or revised. The legislative authority may  
16 initiate an update at any time, but the secretary may initiate an  
17 update no more frequently than once every five years. The update may  
18 encompass all or a portion of the plan(~~(, with the scope of the update~~  
19 ~~to be determined by the secretary and the legislative authority)) as  
20 determined by the secretary and the legislative authority. However,  
21 the purpose of the update must be to address the provision of a safe  
22 and reliable drinking water supply and must otherwise be consistent  
23 with the purposes expressed in RCW 70.116.020 and rules adopted by the  
24 department under RCW 43.20.260. The process for the update shall be  
25 the one prescribed in RCW 70.116.050.~~

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

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

32 (9) If a county initiates an update or revision of a coordinated  
33 water system plan, the county shall pay for the cost of updating or  
34 revising the plan.

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