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SB 102
Department of Environmental Quality Proponent Testimony
Senate Natural Resources Committee
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The Water Supplies, Distribution, and Treatment Act require a proposed public water or wastewater system to submit plans and specifications for Department review and approval prior to construction. The Act does not specifically require that an operating system maintain the condition of the system after construction. Under the current federal regulations, the Surface Water Treatment Rule (SWTR), the Lead and Copper Rule (LCR), and the Groundwater Rule (GWR), all contain specific requirements for drinking water systems to repair significant deficiencies. The Department's attorneys have determined that the Department does not have clear authority to require repair of significant deficiencies under the existing statutes. SB 102 will correct that problem and allow the state to implement the federal requirements. This would apply only to those systems that have verified deficiencies with the potential to adversely affect public health or the environment.

Although none of the federal rules have specifically defined the term "significant deficiency", the federal GWR does contain the following language; "For the purposes of this subpart, significant deficiencies include, but are not limited to, defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the State determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers." SB 102 uses much of that same language to identify the type of deficiencies that would need to be corrected. The federal regulations also require the state to evaluate 8 specific categories when conducting sanitary surveys (inspections); source water, treatment, distribution system, finished water storage, pumps and controls, monitoring and reporting data, system management and operations, and operator certification to determine whether significant deficiencies exist any of those areas. If a significant deficiency is identified, the system would be required to repair it within 90 days or establish a plan and a timeframe to complete the work if more time is needed.

Because the designation of a significant deficiency has significant consequences to a system, it is important that only those situations which have a high potential for adversely affecting public health be classified as such. For this reason, the Department has already developed a plan to implement a Significant Deficiency Review Committee to make determinations as to whether a deficiency is significant or not. Only those things that the committee reaches consensus on would fall into that category. This will also provide for consistency.