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SENATE BILL 6378

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State of Washington

54th Legislature

1996 Regular Session

By Senators Rasmussen, Swecker, Goings, Morton and Haugen

Read first time 01/12/96. Referred to Committee on Energy,  
Telecommunications & Utilities.

1 AN ACT Relating to limiting the receivership responsibility of a  
2 county for public water systems; and amending RCW 43.70.195 and  
3 43.155.065.

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

5 **Sec. 1.** RCW 43.70.195 and 1994 c 292 s 3 are each amended to read  
6 as follows:

7 (1) In any action brought by the secretary of health or by a local  
8 health officer pursuant to chapter 7.60 RCW to place a public water  
9 system in receivership, the petition shall include the names of one or  
10 more suitable candidates for receiver who have consented to assume  
11 operation of the water system. The department shall maintain a list of  
12 interested and qualified individuals, municipal entities, special  
13 purpose districts, and investor-owned water companies with experience  
14 in the provision of water service and a history of satisfactory  
15 operation of a water system. If there is no other person willing and  
16 able to be named as receiver, the court shall appoint the county in  
17 which the water system is located as receiver for a time not to exceed  
18 three years. The county may designate a county agency to operate the  
19 system, or it may contract with another individual or public water

1 system to provide management for the system. If the county is  
2 appointed as receiver, the secretary of health and the county health  
3 officer shall provide regulatory oversight for the agency or other  
4 person responsible for managing the water system.

5 (2) In any petition for receivership under subsection (1) of this  
6 section, the department shall recommend that the court grant to the  
7 receiver full authority to act in the best interests of the customers  
8 served by the public water system. The receiver shall assess the  
9 capability, in conjunction with the department and local government,  
10 for the system to operate in compliance with health and safety  
11 standards, and shall report to the court and the petitioning agency its  
12 recommendations for the system's future operation, including the  
13 formation of a water district or other public entity, or ownership by  
14 another existing water system capable of providing service.

15 (3) If a petition for receivership and verifying affidavit executed  
16 by an appropriate departmental official allege an immediate and serious  
17 danger to residents constituting an emergency, the court shall set the  
18 matter for hearing within three days and may appoint a temporary  
19 receiver ex parte upon the strength of such petition and affidavit  
20 pending a full evidentiary hearing, which shall be held within fourteen  
21 days after receipt of the petition.

22 (4) A bond, if any is imposed upon a receiver, shall be minimal and  
23 shall reasonably relate to the level of operating revenue generated by  
24 the system. Any receiver appointed pursuant to this section shall not  
25 be held personally liable for any good faith, reasonable effort to  
26 assume possession of, and to operate, the system in compliance with the  
27 court's orders.

28 (5) The court shall authorize the receiver to impose reasonable  
29 assessments on a water system's customers to recover expenditures for  
30 improvements necessary for the public health and safety.

31 (6) No later than twelve months after appointment of a receiver,  
32 the petitioning agency, in conjunction with the county in which the  
33 system is located, and the appropriate state and local health agencies,  
34 shall develop and present to the court a plan for the disposition of  
35 the system. The report shall include the recommendations of the  
36 receiver made pursuant to subsection (2) of this section. The report  
37 shall include all reasonable and feasible alternatives. After  
38 receiving the report, the court shall provide notice to interested  
39 parties and conduct such hearings as are necessary. The court shall

1 then order the parties to implement one of the alternatives, or any  
2 combination thereof, for the disposition of the system. Such order  
3 shall include a date, or proposed date, for the termination of the  
4 receivership. Nothing in this section authorizes a court to require a  
5 city, town, public utility district, water district, or irrigation  
6 district to accept a system that has been in receivership unless the  
7 city, town, public utility district, water district, or irrigation  
8 district agrees to the terms and conditions outlined in the plan  
9 adopted by the court.

10 (7) The court shall not terminate the receivership, and order the  
11 return of the system to the owners, unless the department of health  
12 approves of such an action. The court may impose reasonable conditions  
13 upon the return of the system to the owner, including the posting of a  
14 bond or other security, routine performance and financial audits,  
15 employment of qualified operators and other staff or contracted  
16 services, compliance with financial viability requirements, or other  
17 measures sufficient to ensure the ongoing proper operation of the  
18 system.

19 (8) If, as part of the ultimate disposition of the system, an  
20 eminent domain action is commenced by a public entity to acquire the  
21 system, the court shall oversee any appraisal of the system conducted  
22 under Title 7 RCW to assure that the appraised value properly reflects  
23 any reduced value because of the necessity to make improvements to the  
24 system. The court shall have the authority to approve the appraisal,  
25 and to modify it based on any information provided at an evidentiary  
26 hearing. The court's determination of the proper value of the system,  
27 based on the appraisal, shall be final, and only appealable if not  
28 supported by substantial evidence. If the appraised value is appealed,  
29 the court may order that the system's ownership be transferred upon  
30 payment of the approved appraised value.

31 **Sec. 2.** RCW 43.155.065 and 1990 c 133 s 7 are each amended to read  
32 as follows:

33 The board may make low-interest or interest-free loans to local  
34 governments for emergency public works projects. Emergency public  
35 works projects shall include the construction, repair, reconstruction,  
36 replacement, rehabilitation, or improvement of a public water system as  
37 defined by RCW 70.119A.020 that is in violation of health and safety  
38 standards and is being operated by a local government on a temporary

1 basis. The loans may be used to help fund all or part of an emergency  
2 public works project less any reimbursement from any of the following  
3 sources: (1) Federal disaster or emergency funds, including funds from  
4 the federal emergency management agency; (2) state disaster or  
5 emergency funds; (3) insurance settlements; or (4) litigation.  
6 Emergency loans may be made only from those funds specifically  
7 appropriated from the public works assistance account for such purpose  
8 by the legislature. The amount appropriated from the public works  
9 assistance account for emergency loan purposes shall not exceed five  
10 percent of the total amount appropriated from this account in any  
11 biennium.

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