
SENATE BILL 5307

State of Washington

55th Legislature

1997 Regular Session

By Senators Rasmussen, Swecker and Finkbeiner

Read first time 01/22/97. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to regulation of public water systems; and amending
2 RCW 43.70.195.

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

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

6 (1) In any action brought by the secretary of health or by a local
7 health officer pursuant to chapter 7.60 RCW to place a public water
8 system in receivership, the petition shall include the names of one or
9 more suitable candidates for receiver who have consented to assume
10 operation of the water system. The department shall maintain a list of
11 interested and qualified individuals, municipal entities, special
12 purpose districts, and investor-owned water companies with experience
13 in the provision of water service and a history of satisfactory
14 operation of a water system. If there is no other person willing and
15 able to be named as receiver, the court shall appoint the county in
16 which the water system is located as receiver. The county may
17 designate a county agency to operate the system, or it may contract
18 with another individual or public water system to provide management
19 for the system. If the county is appointed as receiver, the secretary

1 of health and the county health officer shall provide regulatory
2 oversight for the agency or other person responsible for managing the
3 water system.

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

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

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

27 (5) The court shall authorize the receiver to impose reasonable
28 assessments on a water system's customers to recover expenditures for
29 improvements necessary for the public health and safety, to conduct the
30 assessment required under subsection (2) of this section, and to
31 prepare the plan required under subsection (6) of this section.

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

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

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

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

32 (9) Any county that has been appointed to act as a receiver for a
33 system may, beginning three years after the appointment, petition the
34 court to be relieved as receiver of the system. The court shall grant
35 the petition, after hearing, if the county shows:

36 (a) It has explored, in consultation with the department and the
37 local health jurisdiction, all reasonable and feasible alternatives for
38 the long-term ownership and operation of the system, including the use

1 of existing satellite system management agencies or the creation of new
2 ones;

3 (b) It has taken all reasonable and feasible steps, including the
4 provision of available financial assistance and the exercise of powers
5 within the county s jurisdiction, to facilitate or develop long-term
6 ownership and operational alternatives, including the creation of a
7 public entity such as a water district or a local improvement district;

8 (c) Before the filing of the petition, it conducted one or more
9 public meetings with the customers of the water system to discuss the
10 present options available to the customers for ensuring a safe supply
11 of drinking water, the status of the water system, the county s desire
12 to be relieved as the receiver, and the likely consequences of such an
13 action;

14 (d) Being relieved as receiver is consistent with the provisions of
15 any locally adopted coordinated water system plan or other regional
16 water supply plan; and

17 (e) It is requiring the physical connection of proposed new water
18 systems to existing ones, as authorized under RCW 19.27.097, and is
19 ensuring that under RCW 70.119A.060 any new systems within its
20 jurisdiction have sufficient management and financial resources to
21 provide long-term safe and reliable service.

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