

# SENATE BILL REPORT

## SB 6760

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As Reported By Senate Committee On:  
Environment, Energy & Water, February 8, 2002

**Title:** An act relating to private owners of public water systems not regulated as public utilities.

**Brief Description:** Concerning private owners of public water systems that are not regulated as public utilities.

**Sponsors:** Senators Fraser, Kline and Regala.

**Brief History:**

**Committee Activity:** Environment, Energy & Water: 2/7/02, 2/8/02 [DPS, DNP].

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & WATER

**Majority Report:** That Substitute Senate Bill No. 6760 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fraser, Chair; Regala, Vice Chair; Eide, Hale, Jacobsen, Keiser and Morton.

**Minority Report:** Do not pass.

Signed by Senators Honeyford and McDonald.

**Staff:** Genevieve Pisarski (786-7488)

**Background:** Studies in Washington and other states of regulatory strategies for small public water systems indicate that such systems generally do not generate sufficient revenue to cover the cost of either economic or public health regulatory programs. Alternative regulatory strategies include authority for customers to protect their interests through private action.

**Summary of Substitute Bill:** Those public water systems are addressed that are privately owned, not subject to regulation by the Washington Utilities and Transportation Commission, and are purveyors.

Owners of property can sue for injunctive relief or damages, or both, together with costs and attorney fees, if the property is harmed by the failure of a public water system owner to provide water connections according to subdivision approval, or other applicable land use regulation, or to comply with public health regulations.

Moneys paid to the owner of a public water system for service or for construction or maintenance must be kept in a trust account. The owner can be trustee. Expenditures must be for legitimate and reasonable system expenses. Records must be kept and be available for inspection.

Upon a showing that property is harmed as established by this act, operation of a public water system is included in provision for private condemnation.

**Substitute Bill Compared to Original Bill:** Owners of water systems must also be purveyors. The owner can be trustee of the trust account. Expenditures must be legitimate and reasonable system expenses. Records must be kept and be available for inspection. Forced sale provisions are removed. Provision for private condemnation is added.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Department of Health regulation does not extend to economic or service issues. Public health regulations that stop water service shift the burden from culpable system owners to innocent property owners. There is no oversight of payments made to small private systems. In some cases, ownership of systems has changed and the new owner could not be found. Necessary repairs to systems are not made. Property owners face large assessments to upgrade systems, when they are eventually taken over. Rights of action under common law with recovery of costs are available now, but the bill clarifies the standards. Expenditure from the proposed trust account must be addressed. Forced sale has been held to be unconstitutional in the case of the mobile home tenants' law, on which the forced sale provision in the bill is modeled. The definition of public water system needs to be narrowed to exclude "systems" that do no more than deliver city water from a common connection, such as mobile home parks.

**Testimony Against:** None.

**Testified:** PRO: Frank Hensley; Michael Gusa; Don Nichols; John Woodring, Manufactured Housing Comm. Wash (concerns).