
HOUSE BILL 2817

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Linville, Pruitt and Campbell

Read first time 01/24/94. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to water systems; amending RCW 57.04.050 and
2 43.70.195; reenacting and amending RCW 84.09.030; adding a new section
3 to chapter 35.13A RCW; adding a new section to chapter 35A.21 RCW;
4 adding a new section to chapter 36.94 RCW; adding a new section to
5 chapter 57.24 RCW; adding a new section to chapter 80.28 RCW; and
6 creating a new section.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the monitoring
9 and treatment requirements of the federal safe drinking water act place
10 increasing burdens and cost on public water supply systems, especially
11 smaller systems and rural systems. Across the state, those systems are
12 turning to existing systems and their county governments for help,
13 which may include assumption of the system.

14 It is the intent of the legislature to encourage larger existing
15 systems to assist or acquire troubled systems or those systems burdened
16 by federal requirements, to provide financial protection for that
17 assistance, and to protect receivers of failed water systems.

1 **Sec. 2.** RCW 57.04.050 and 1990 c 259 s 28 are each amended to read
2 as follows:

3 Upon entry of the findings of the final hearing on the petition if
4 one or more county legislative authorities find that the proposed
5 district will be conducive to the public health, welfare, and
6 convenience and be of special benefit to the land therein, they shall
7 call a special election by presenting a resolution to the county
8 auditor at least forty-five days prior to the proposed election date.
9 A special election will be held on a date decided by the commissioners
10 in accordance with RCW 29.13.010 and 29.13.020. The commissioners
11 shall cause to be published a notice of the election for four
12 successive weeks in a newspaper of general circulation in the proposed
13 district, which notice shall state the hours during which the polls
14 will be open, the boundaries of the district as finally adopted and the
15 object of the election, and the notice shall also be posted for ten
16 days in ten public places in the proposed district. In submitting the
17 proposition to the voters, it shall be expressed on the ballots in the
18 following terms:

19 Water District YES 1
20 Water District NO 1

21 giving the name of the district as provided in the petition.

22 At the same election a proposition shall be submitted to the
23 voters, for their approval or rejection, authorizing the water
24 district, if formed, to levy at the earliest time permitted by law on
25 all property located in the district a general tax for one year, in
26 excess of the limitations provided by law, in the amount specified in
27 the petition to create the district, not to exceed one dollar and
28 twenty-five cents per thousand dollars of assessed value, for general
29 preliminary expenses of the district(~~(, the proposition to)~~). The
30 proposition may not appear at the September or November election. The
31 proposition shall be expressed on the ballots in the following terms:

32 One year dollars and cents per
33 thousand dollars of assessed value tax YES 1
34 One year dollars and cents per
35 thousand dollars of assessed value tax NO 1

36 Such proposition to be effective must be approved (~~(by a majority of at~~
37 ~~least three-fifths of the registered voters thereof voting on the~~

1 proposition)) in the manner set forth in Article VII, section 2(a) of
2 the Constitution of this state, as amended by Amendment 59 and as
3 thereafter amended.

4 **Sec. 3.** RCW 43.70.195 and 1990 c 133 s 4 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
20 of health and the county health officer shall provide regulatory
21 oversight for the agency or other person responsible for managing the
22 water system.

23 (2) In any petition for receivership under subsection (1) of this
24 section, the department shall recommend that the court grant to the
25 receiver full authority to act in the best interests of the customers
26 served by the public water system. The receiver shall assess the
27 capability, in conjunction with the department and local government,
28 for the system to operate in compliance with health and safety
29 standards, and shall report to the court and the petitioning agency its
30 recommendations for the system's future operation, including the
31 formation of a water district or other public entity, or ownership by
32 another existing water system capable of providing service.

33 (3) If a petition for receivership and verifying affidavit executed
34 by an appropriate departmental official allege an immediate and serious
35 danger to residents constituting an emergency, the court shall set the
36 matter for hearing within three days and may appoint a temporary
37 receiver ex parte upon the strength of such petition and affidavit

1 pending a full evidentiary hearing, which shall be held within fourteen
2 days after receipt of the petition.

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

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

12 (6) No later than twelve months after appointment of a receiver,
13 the petitioning agency, in conjunction with the county in which the
14 system is located, and the appropriate state and local health agencies,
15 shall develop and present to the court a plan for the disposition of
16 the system. The report shall include the recommendations of the
17 receiver made pursuant to subsection (2) of this section. The report
18 shall include all reasonable and feasible alternatives. After
19 receiving the report, the court shall provide notice to interested
20 parties and conduct such hearings as are necessary. The court shall
21 then order the parties to implement one of the alternatives, or any
22 combination thereof, for the disposition of the system. Such order
23 shall include a date, or proposed date, for the termination of the
24 receivership.

25 (7) The court shall not terminate the receivership, and order the
26 return of the system to the owners, unless the department of health
27 approves of such an action. The court may impose reasonable conditions
28 upon the return of the system to the owner, including the posting of a
29 bond or other security, routine performance and financial audits,
30 employment of qualified operators and other staff or contracted
31 services, compliance with financial viability requirements, or other
32 measures sufficient to ensure the ongoing proper operation of the
33 system.

34 (8) If, as part of the ultimate disposition of the system, an
35 eminent domain action is commenced by a public entity to acquire the
36 system, the court shall oversee any appraisal of the system conducted
37 under Title 7 RCW to assure that the appraised value properly reflects
38 any reduced value because of the necessity to make improvements to the
39 system. The court shall have the authority to approve the appraisal,

1 and to modify it based on any information provided at an evidentiary
2 hearing. The court's determination of the proper value of the system,
3 based on the appraisal, shall be final, and only appealable if not
4 supported by substantial evidence. If the appraised value is appealed,
5 the court may order that the system's ownership be transferred upon
6 payment of the approved appraised value.

7 **Sec. 4.** RCW 84.09.030 and 1989 c 378 s 8 and 1989 c 217 s 1 are
8 each reenacted and amended to read as follows:

9 Except as follows, the boundaries of counties, cities and all other
10 taxing districts, for purposes of property taxation and the levy of
11 property taxes, shall be the established official boundaries of such
12 districts existing on the first day of March of the year in which the
13 property tax levy is made.

14 The official boundaries of a newly incorporated taxing district
15 shall be established at a different date in the year in which the
16 incorporation occurred as follows:

17 (1) Boundaries for a newly incorporated city shall be established
18 on the last day of March of the year in which the initial property tax
19 levy is made, and the boundaries of a road district, library district,
20 or fire protection district or districts, that include any portion of
21 the area that was incorporated within its boundaries shall be altered
22 as of this date to exclude this area, if the budget for the newly
23 incorporated city is filed pursuant to RCW 84.52.020 and the levy
24 request of the newly incorporated city is made pursuant to RCW
25 84.52.070. Whenever a proposed city incorporation is on the March
26 special election ballot, the county auditor shall submit the legal
27 description of the proposed city to the department of revenue on or
28 before the first day of March;

29 (2) Boundaries for a newly incorporated port district shall be
30 established on the first day of October if the boundaries of the newly
31 incorporated port district are coterminous with the boundaries of
32 another taxing district, as they existed on the first day of March of
33 that year;

34 (3) Boundaries of any other newly incorporated taxing district
35 shall be established on the first day of June of the year in which the
36 property tax levy is made if the taxing district has boundaries
37 coterminous with the boundaries of another taxing district, as they
38 existed on the first day of March of that year;

1 (4) Boundaries for a newly incorporated water district shall be
2 established on the fifteenth of June of the year in which the
3 proposition under RCW 57.04.050 authorizing a water district excess
4 levy is approved.

5 The boundaries of a taxing district shall be established on the
6 first day of June if territory has been added to, or removed from, the
7 taxing district after the first day of March of that year with
8 boundaries coterminous with the boundaries of another taxing district
9 as they existed on the first day of March of that year. However, the
10 boundaries of a road district, library district, or fire protection
11 district or districts, that include any portion of the area that was
12 annexed to a city or town within its boundaries shall be altered as of
13 this date to exclude this area. In any case where any instrument
14 setting forth the official boundaries of any newly established taxing
15 district, or setting forth any change in such boundaries, is required
16 by law to be filed in the office of the county auditor or other county
17 official, said instrument shall be filed in triplicate. The officer
18 with whom such instrument is filed shall transmit two copies to the
19 county assessor.

20 No property tax levy shall be made for any taxing district whose
21 boundaries are not established as of the dates provided in this
22 section.

23 NEW SECTION. Sec. 5. A new section is added to chapter 35.13A RCW
24 to read as follows:

25 A city assuming responsibility for a water system that is not in
26 compliance with state or federal requirements for public drinking water
27 systems, and its agents and employees, is immune from liability for any
28 civil action or suit arising from its operation of that system if it
29 has submitted a plan and schedule of improvements approved by the
30 department of health, unless actual malice, fraud, or bad faith is
31 shown.

32 NEW SECTION. Sec. 6. A new section is added to chapter 35A.21 RCW
33 to read as follows:

34 A code city assuming responsibility for a water system that is not
35 in compliance with state or federal requirements for public drinking
36 water systems, and its agents and employees, is immune from liability
37 for any civil action or suit arising from its operation of that system

1 if it has submitted a plan and schedule of improvements approved by the
2 department of health, unless actual malice, fraud, or bad faith is
3 shown.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.94 RCW
5 to read as follows:

6 A county assuming responsibility for a water system that is not in
7 compliance with state or federal requirements for public drinking water
8 systems, and its agents and employees, is immune from liability for any
9 civil action or suit arising from its operation of that system if it
10 has submitted a plan and schedule of improvements approved by the
11 department of health, unless actual malice, fraud, or bad faith is
12 shown.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 57.24 RCW
14 to read as follows:

15 A water district assuming responsibility for a water system that is
16 not in compliance with state or federal requirements for public
17 drinking water systems, and its agents and employees, is immune from
18 liability for any civil action or suit arising from its operation of
19 that system if it has submitted a plan and schedule of improvements
20 approved by the department of health, unless actual malice, fraud, or
21 bad faith is shown.

22 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.28 RCW
23 to read as follows:

24 A water company assuming responsibility for a water system that is
25 not in compliance with state or federal requirements for public
26 drinking water systems, and its agents and employees, is immune from
27 liability for any civil action or suit arising from its operation of
28 that system if it has submitted a plan and schedule of improvements
29 approved by the department of health, unless actual malice, fraud, or
30 bad faith is shown.

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