CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6428

Chapter 292, Laws of 1994

53rd Legislature
1994 Regular Session

PUBLIC WATER SYSTEMS IN RECEIVERSHIP--ACQUISITION BY OTHER SYSTEMS

EFFECTIVE DATE: 6/9/94

Passed by the Senate March 8, 1994
YEAS 41 NAYS 0

JOEL PRITCHARD
President of the Senate

Passed by the House March 8, 1994
YEAS 89 NAYS 0

BRIAN EBERSOLE
Speaker of the House of Representatives

Approved April 1, 1994

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 6428 as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN
Secretary

MIKE LOWRY
Governor of the State of Washington

FILED

April 1, 1994 - 2:40 p.m.
NEW SECTION.  Sec. 1. The legislature finds that the monitoring and treatment requirements of the federal safe drinking water act place increasing burdens and cost on public water supply systems, especially smaller systems and rural systems. Across the state, those systems are turning to existing systems and their county governments for help, which may include assumption of the system.

It is the intent of the legislature to encourage larger existing systems to assist or acquire troubled systems or those systems burdened by federal requirements, to provide financial protection for that assistance, and to protect receivers of failed water systems.
Sec. 2. RCW 57.04.050 and 1990 c 259 s 28 are each amended to read as follows:

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

Water District ..................... Y E S
Water District ..................... N O

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

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

One year . . . . . . dollars and . . . . . cents per
  thousand dollars of assessed value tax . . . . . . YES
One year . . . . . . dollars and . . . . . cents per
  thousand dollars of assessed value tax . . . . . . NO

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

SSB 6428.SL p. 2
in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended.

Sec. 3. RCW 43.70.195 and 1990 c 133 s 4 are each amended to read as follows:

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

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

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

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

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

(6) No later than twelve months after appointment of a receiver,
the petitioning agency, in conjunction with the county in which the
system is located, and the appropriate state and local health agencies,
shall develop and present to the court a plan for the disposition of
the system. The report shall include the recommendations of the
receiver made pursuant to subsection (2) of this section. The report
shall include all reasonable and feasible alternatives. After
receiving the report, the court shall provide notice to interested
parties and conduct such hearings as are necessary. The court shall
then order the parties to implement one of the alternatives, or any
combination thereof, for the disposition of the system. Such order
shall include a date, or proposed date, for the termination of the
receivership. Nothing in this section authorizes a court to require a
city, town, public utility district, water district, or irrigation
district to accept a system that has been in receivership unless the
city, town, public utility district, water district, or irrigation
district agrees to the terms and conditions outlined in the plan
adopted by the court.

(7) The court shall not terminate the receivership, and order the
return of the system to the owners, unless the department of health
approves of such an action. The court may impose reasonable conditions
upon the return of the system to the owner, including the posting of a
bond or other security, routine performance and financial audits,
employment of qualified operators and other staff or contracted
services, compliance with financial viability requirements, or other
measures sufficient to ensure the ongoing proper operation of the
system.
(8) If, as part of the ultimate disposition of the system, an eminent domain action is commenced by a public entity to acquire the system, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court shall have the authority to approve the appraisal, and to modify it based on any information provided at an evidentiary hearing. The court’s determination of the proper value of the system, based on the appraisal, shall be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system’s ownership be transferred upon payment of the approved appraised value.

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

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

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

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

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

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

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

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

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

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

A city assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying
with a plan and schedule of improvements approved by the department of
health. This immunity shall expire on the earlier of the date the plan
of improvements is completed or four years from the date of assuming
responsibility. This immunity does not apply to intentional injuries,

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

A code city assuming responsibility for a water system that is not in
compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or
causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

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

A county assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the county has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

NEW SECTION.  Sec. 8.  A new section is added to chapter 57.24 RCW
to read as follows:
A water district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the water district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

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

A water company assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the water company has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

NEW SECTION. Sec. 10. A new section is added to chapter 54.16 RCW to read as follows:

A public utility district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the public utility district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on
the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

NEW SECTION. Sec. 11. A new section is added to chapter 87.03 RCW to read as follows:

An irrigation district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the irrigation district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

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