

HOUSE BILL REPORT

HB 1906

As Reported by House Committee On:
Environment & Energy

Title: An act relating to increasing transparency and consumer protection in water system rates.

Brief Description: Increasing transparency and consumer protection in water system rates.

Sponsors: Representatives Tharinger, Shavers, Parshley and Hill.

Brief History:

Committee Activity:

Environment & Energy: 2/13/25, 2/20/25 [DPS].

Brief Summary of Substitute Bill

- Provides that water system plans submitted to the Department of Health (DOH) must include all capital improvement projects necessary for the system for at least the next 10 years and allows the DOH to require water systems to submit updated water plans more frequently.
- Requires the Utilities and Transportation Commission (UTC) to adopt certain rules for determining rates of water companies.
- Prohibits the UTC from approving any transaction that changes the controlling interest in a water company unless the transaction provides net benefits to customers of the company and the company has notified certain entities and provided the customers of the company with a right of first refusal to purchase the water system.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 20 members: Representatives Doglio, Chair; Hunt, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Berry,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Duerr, Fey, Kloba, Ley, Mena, Mendoza, Ramel, Stearns, Street, Stuebe, Wylie and Ybarra.

Staff: Matt Sterling (786-7289).

Background:

Regulation of Public Water Systems.

The State Board of Health adopts rules, administered by the Office of Drinking Water (ODW) under the Department of Health (DOH), that pertain to the operations of public water systems. Local governments are authorized to establish operating permit requirements for public water systems, provided these requirements receive approval from the DOH and lead to an enhanced level of service for the public water system.

The ODW has received delegated primary authority from the United States Environmental Protection Agency to administer and enforce federal regulations for primary drinking water requirements from the federal Safe Drinking Water Act. The ODW may impose penalties for noncompliance with public water system laws and regulations, and may direct water system owners and operators to resolve known or suspected public health threats. These regulations establish primary drinking water requirements for larger public water systems, known as Group A public water systems. Group A public water systems are public water systems that:

- have 15 or more service connections;
- serve an average of 25 or more people per day for at least 60 days within a calendar year, regardless of the number of service connections; or
- serve 1,000 or more people for two or more consecutive days.

In contrast, Group B public water systems encompass all other public water systems.

For Group B public water systems, there is an additional requirement that the local operating permit requirements must be at least as strict as the state regulations. The rules set drinking water standards and requirements for monitoring, reporting, and responding to emergencies.

Satellite Management Agencies.

The Secretary of the DOH adopts rules establishing criteria for designating individuals or water purveyors as qualified satellite system management agencies. A satellite system management agency is a person or entity that is certified by the Secretary to own or operate more than one public water system on a regional or countywide basis, without the necessity for a physical connection between such systems. The criteria establishes minimum standards for designation as a satellite system management agency qualified to assume ownership or operation of an existing or proposed public water system.

Water System Rate Regulation.

The Utilities and Transportation Commission (UTC) regulates the rates and charges of

privately-owned water companies that serve more than 100 customers or have charges that exceed an average of \$557 per customer per year. The UTC does not regulate the rates or services of city, town, or county water systems; Public Utility Districts (PUDs); or cooperative or homeowners' associations.

The UTC may provide for the funding of a reserve account by a regulated water company to perform construction or maintenance required by the Department of Ecology (Ecology) to secure safety to life and property. Expenditures from the fund shall be subject to prior approval by the UTC, and shall be treated for rate-making purposes as customer contributions.

The UTC may not approve any transaction that would result in a person acquiring a controlling interest in a gas or electrical company without finding that the transaction would provide a net benefit to customers of the company.

Water System Plans.

Water system plans are intended to demonstrate system capacity and demonstrate how the system will address present and future needs. Water system plans must address several elements, including:

- description of the water system;
- basic planning data;
- demand forecasts;
- system analysis;
- water resource analysis; and
- other plans and documents.

Summary of Substitute Bill:

Regulation of Public Water Systems.

The DOH must allow the owner or operator of a water system to have their water samples checked by the jurisdictional health department without the requirement of hiring or contracting for services with a satellite management agency.

Water system plans submitted to the DOH must include all capital improvement projects necessary for the system for at least the next 10 years. The DOH may require a water system to update its water system plan more frequently than every 10 years. The DOH may exempt a public water system that is owned and operated by a special purpose district from the requirement to include all capital improvement projects in their water system plan.

Water System Rate Regulation.

In determining the rates to be charged by each water company, the UTC must adopt rules that:

- establish a return on equity ceiling and rate of return ceiling of 7 percent;

- require a detailed analysis and justification for any proposed return on equity, or rate of return greater than 5 percent;
- account for any federal, state, or other external funding sources for system improvements;
- require all capital improvement projects to be included in the water system plan that has been approved by the DOH;
- consider the extent to which the company provided notice of planned capital projects to consumers and the impact of the projects on rates;
- promote rate smoothing and the avoidance of excessive or sudden rate changes;
- require any capital improvement costs for a consolidated system that are attributable to one system that exceed the capital improvement costs of a dissimilar system within the consolidated system by more than 5 percent to not be included in single tariff pricing for the entire consolidated system; and
- consider the ability for a public water system that is owned and operated by a special purpose district to be able to comply with the water system planning requirements.

The UTC may not approve any transaction that would result in a person acquiring a controlling interest in a water company without finding that the transaction would provide a net benefit to customers of the company. Prior to approving any such transaction, the UTC must verify that the water company has provided the customers with a right of first refusal to purchase the water system and provided notification to:

- the customers of the company;
- the county in which any water system of the company is located;
- any water district or PUD operating water systems within such county; and
- any adjacent water system.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the bill:

- It authorizes the DOH to require a water system to update its water system plan more frequently than every 10 years, rather than requiring all water system plans to be updated every three years.
- It allows the DOH to exempt a public water system owned and operated by a special purpose district from the requirement to include all capital improvement projects in their water system plan.
- It requires the UTC, prior to approving any transaction that would result in a change of controlling interest in a water company, to verify that the water company has given notice to:
 - the county in which any water system of the company is located;
 - any water district or PUD operating water systems within such county; and
 - any adjacent water system.
- It requires the UTC, in adopting rules for establishing rates or charges for public water systems, to consider the ability for a public water system that is owned and operated by a special purpose district to be able to comply with the water system

planning requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Safe water systems are a critical need for everyone in the state. In this state, Ecology controls the quantity of water and the DOH control the quality of the water. The UTC controls the systems that provide that water. In many states, there is a separate agency that is the consumer advocacy agency that looks out for the consumer in this process. In Washington, the UTC is that consumer advocacy board. The UTC has been making decisions on water systems based on policies and a sort of historic precedent with the agency. That has led to problems with water rates increasing 90 to 120 percent based on people buying up these systems and looking to get return off those systems. So, this bill tries to put into statute some guidelines for that process and strengthen the UTC's role as a consumer advocacy agency. Currently, water systems are required to submit plans at least every 10 years. In the bill it was shortened to three years. That is problematic, so there will be an amendment to address that which should also drive down the fiscal note because there should be less staff needed to do that work. It would be helpful to add PUDs, water districts, and counties to the types of entities that get notice when a water system is sold. It has generally been the policy of the state to try to consolidate smaller systems into larger systems. These larger systems have a bigger rate base and can be better managed. This change would give customers of water systems a choice of whether to be acquired by a private system or to be acquired by their local PUD. When the Legislature implemented the current policies for utility companies to serve small groups of consumers the intent was good, but it provides for a guaranteed 12 percent profit which is far too much. This bill is fair and provides protection for utility companies while giving consumers transparency. It protects the UTC with concrete information to make informed decisions and protects them from expensive and lengthy lawsuits.

(Opposed) None.

(Other) There is support for the overall goal of this bill. It could lead to better management of these systems within the UTC, but there are concerns about the planning timeline in the bill. Currently, water systems are required to submit plans at least every 10 years. The bill would require an update every 3 years, so this change in frequency would be expensive and borne by ratepayers. The bill should include language that addresses the different sizes and complexities of water systems. Port members manage small water systems and have

concerns about the impacts of the bill on small members.

Persons Testifying: (In support) Representative Steve Tharinger, prime sponsor; Terri DiMartino; Lily Todd; Susan Gilman; Rick Smith; Vicki Colburn; and Bill Clarke, WA PUD Association and Pierce Water Cooperative.

(Other) Eric ffitch, Washington Public Ports Association; and Kelsey Hulse, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.