

2
3 **SSB 6428** - H AMD
4 By Representative Appelwick

5
6 On page 6, after line 29, strike the remainder of the bill and
7 insert the following new sections:

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

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

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

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

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

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

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

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

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

31 A water company assuming responsibility for a water system that is
32 not in compliance with state or federal requirements for public
33 drinking water systems, and its agents and employees, are immune from
34 lawsuits or causes of action, based on non-compliance with state or
35 federal requirements for public drinking water systems, which pre-date
36 the date of assuming responsibility and continue after the date of
37 assuming responsibility, provided that the water company has submitted

1 and is complying with a plan and schedule of improvements approved by
2 the department of health. This immunity shall expire on the earlier of
3 the date the plan of improvements is completed or four years from the
4 date of assuming responsibility. This immunity does not apply to
5 intentional injuries, fraud, or bad faith.

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

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

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

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

34 EFFECT: Alters the immunity for assuming responsibility for a
35 failing water system to lawsuits based on non-compliance with state or
36 federal requirements that pre-date the assumption of responsibility and

1 continues for the earlier of the date the plan for improvements is
2 completed or four years after assuming responsibility for the system.

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4 **SSB 6428** - H AMD

5 By Representative Holly Myers

6 ADOPTED 3/3/94

7 On page 8, after line 22, insert:

8 "Sec. 12. RCW 35.92.010 and 1991 c 347 s 18 are each amended to
9 read as follows:

10 A city or town may construct, condemn and purchase, purchase,
11 acquire, add to, alter, maintain and operate waterworks, within or
12 without its limits, for the purpose of furnishing the city and its
13 inhabitants, and any other persons, with an ample supply of water for
14 all purposes, public and private, including water power and other power
15 derived therefrom, with full power to regulate and control the use,
16 distribution, and price thereof: PROVIDED, That the rates charged must
17 be uniform for the same class of customers or service. Such waterworks
18 may include facilities for the generation of electricity as a byproduct
19 and such electricity may be used by the city or town or sold to an
20 entity authorized by law to distribute electricity. Such electricity
21 is a byproduct when the electrical generation is subordinate to the
22 primary purpose of water supply.

23 "Rates" as used in this section includes all lawful charges
24 assessed by the utility, including, but not limited to, consumption
25 charges, connection charges, contributions provided for by state law,
26 charges for meters and other equipment provided to the customer, and
27 charges in connection with repair, replacement or location of customer
28 facilities.

29 In classifying customers served or service furnished, the city or
30 town governing body may in its discretion consider any or all of the
31 following factors: The difference in cost of service to the various
32 customers; location of the various customers within and without the
33 city or town; the difference in cost of maintenance, operation, repair,
34 and replacement of the various parts of the system; the different
35 character of the service furnished various customers; the quantity and
36 quality of the water furnished; the time of its use; the achievement of
37 water conservation goals and the discouragement of wasteful water use

1 practices; capital contributions made to the system including, but not
2 limited to, assessments; and any other matters which present a
3 reasonable difference as a ground for distinction. No rate shall be
4 charged that is less than the cost of the water and service to the
5 class of customers served.

6 For such purposes any city or town may take, condemn and purchase,
7 purchase, acquire, and retain water from any public or navigable lake
8 or watercourse, surface or ground, and, by means of aqueducts or pipe
9 lines, conduct it to the city or town; and it may erect and build dams
10 or other works across or at the outlet of any lake or watercourse in
11 this state for the purpose of storing and retaining water therein up to
12 and above high water mark; and for all the purposes of erecting such
13 aqueducts, pipe lines, dams, or waterworks or other necessary
14 structures in storing and retaining water, or for any of the purposes
15 provided for by this chapter, the city or town may occupy and use the
16 beds and shores up to the high water mark of any such watercourse or
17 lake, and acquire the right by purchase, or by condemnation and
18 purchase, or otherwise, to any water, water rights, easements or
19 privileges named in this chapter, or necessary for any of said
20 purposes, and the city or town may acquire by purchase or condemnation
21 and purchase any properties or privileges necessary to be had to
22 protect its water supply from pollution. Should private property be
23 necessary for any such purposes or for storing water above high water
24 mark, the city or town may condemn and purchase, or purchase and
25 acquire such private property. For the purposes of waterworks which
26 include facilities for the generation of electricity as a byproduct,
27 nothing in this section may be construed to authorize a city or town
28 that does not own or operate an electric utility system to condemn
29 electric generating, transmission, or distribution rights or facilities
30 of entities authorized by law to distribute electricity, or to acquire
31 such rights or facilities without the consent of the owner."

32 EFFECT: Defines rates, for purposes of city and town water
33 systems, as including all lawful assessed by the utility.

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