

# HOUSE BILL REPORT

## SSB 6428

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As Passed House  
March 8, 1994

**Title:** An act relating to water systems.

**Brief Description:** Changing provisions relating to water systems.

**Sponsors:** Senate Committee on Energy & Utilities (originally sponsored by Senators M. Rasmussen, Newhouse, Fraser, Gaspard and Winsley).

**Brief History:**

Reported by House Committee on:  
Local Government, February 25, 1994, DP.  
Passed House - Amended, March 3, 1994, 95-0;  
House recessed.  
Passed House, March 8, 1994, 89-0.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 10 members:  
Representatives H. Myers, Chair; Springer, Vice Chair;  
Edmondson, Ranking Minority Member; Reams, Assistant Ranking  
Minority Member; Dunshee; R. Fisher; Horn; Moak; Rayburn and  
Zellinsky.

**Minority Report:** Do not pass. Signed by 1 member:  
Representative Van Luven.

**Staff:** Steve Lundin (786-7127).

**Background:** Over 12,000 public water systems exist in this state. Nearly 80 percent of these systems have less than 100 connections. Almost all of the systems with less than 100 connections are investor-owned, or are owned by cooperatives, mutual companies, or homeowner associations.

Most of the publicly owned public water systems are owned and operated by cities and water districts. In some instances irrigation districts, public utility districts, and counties own and operate public water systems.

Legislation enacted in 1990 provided for special proceedings to appoint receivers for failing public water systems. The secretary of the Department of Health or a local health

officer commences these special procedures. The county becomes the receiver if no other entity or person is willing to become the receiver.

The petitioners proposing the creation of a water district may cause a ballot proposition authorizing the water district to impose a single year excess levy of up to \$1.25 per \$1,000 of assessed valuation to be submitted to the voters at the same election when the ballot proposition is submitted authorizing creation of the water district. The state constitution requires an excess levy to be imposed within 12 months of when it is authorized, but statutes establish the boundaries of a taxing district as of the first day in March in the year in which a tax levy is imposed. As a result, a newly created water district may not impose its authorized excess levy unless the election to both create the district and authorize the excess levy was held at the February special election date.

**Summary of Bill:** The special procedures are altered when a receiver is appointed for a failing public water system. Within 12 months after the receiver has been appointed, the agency that initiated the proceeding and the appropriate state and local health agencies must present the court with a plan for the disposition of the failing system. The report must include all reasonable and feasible alternatives.

After receiving the report, the court conducts necessary hearings and orders parties to implement one or more of the alternatives. The court may impose reasonable conditions upon the return of a failed public water system to the owner, but may not terminate the receivership and order the system returned to the owners unless the Department of Health approved this action.

If an eminent domain action is commenced as part of the ultimate disposition of the failed public water system, the court shall oversee the appraisal of the system to assure that the appraisal reflects any reduced value arising from the necessity to make improvements. The court's decision shall be final and only appealable if not supported by substantial evidence.

A county, city, water district, public utility district, irrigation district, or private water company that assumes responsibility for a failing water system is immune from lawsuits or courses of action arising from any preexisting noncompliance with state or federal requirements if the entity has submitted and is complying with a plan of improvements for the water system approved by the Department of Health. This immunity does not apply to intentional

injuries, fraud, or bad faith. This immunity expires on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility.

A ballot proposition to authorize a start-up excess levy for a water district may only be submitted at a special election date other than in September or November. The date when boundaries are established for purposes of imposing an initial start-up excess levy for a new water district is June 15 in the year in which the ballot proposition is submitted to voters.

**Fiscal Note:** Available.

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

**Testimony For:** This bill will greatly enhance efforts to improve the situation regarding small, failing water systems. It will remove impediments to those systems being acquired by larger, better operated systems. This will remove the problems experienced because of the unworkable election laws for creating new water districts. This will expedite the creation of new districts which could take over the failing water systems.

**Testimony Against:** None.

**Witnesses:** Senator Rasmussen, prime sponsor; Paul Parker, Washington State Association of Counties; and Jamie Morin, Washington State Water/Wastewater Association.