

FINAL BILL REPORT

SSB 6428

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SYNOPSIS AS ENACTED

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)

SENATE COMMITTEE ON ENERGY & UTILITIES

HOUSE COMMITTEE ON LOCAL GOVERNMENT

BACKGROUND:

There are over 12,000 public water systems in the state of Washington. Nearly 80 percent are systems with fewer than 100 connections. Almost all are investor-owned, cooperatives, mutual companies, or homeowner association-operated.

There has been an increasing failure by these small systems to comply with legal requirements to deliver water of adequate quantity and quality. It is widely accepted by professionals in the drinking water field that small systems commonly have problems with design, financing, operation and management. Often these problems are directly related to the limited capital available from the small rate base, and because privately-operated systems do not have access to funding sources of publicly-operated systems.

The burdens on small systems have increased as a result of new testing and treatment requirements under federal law. On occasions in the past, owners or operators of small systems have refused to meet their legal obligations, or have abandoned the systems entirely, which has created a potential threat to the health of their customers. By law, if no person steps forward to take over a failed water system, the county is appointed as the receiver of that system. Most counties do not operate water systems, so receiving and operating the small, failed systems can become a burden to a county. Solutions to these problems, among which are the creation of new water districts and the takeover of failing systems by larger, well-operated systems, are sometimes complicated by legal barriers.

SUMMARY:

Ballot measures for the creation of a water district are not to appear on September or November ballots and the requirement for a 60 percent majority approval vote is eliminated.

The date for the establishment of the boundaries of a newly-created water district is changed from March 1 to June 15 of the year in which any water district levy is approved.

Cities, counties, water districts, water companies, public utility districts and irrigation districts which acquire a water system are granted immunity from liability for lawsuits based on noncompliance with federal or state requirements that pre-date the assumption of responsibility for the water system. This immunity is only granted if the entity assuming the water system has submitted and is complying with a plan and schedule of improvements approved by the Department of Health. The immunity will expire when the plan of improvements is completed or four years from the date of assuming responsibility, whichever occurs first. The immunity does not cover intentional injuries, fraud or bad faith.

Provisions regarding the appointment of a receiver are modified to: (1) require the development of a plan for the disposition of the failing system within 12 months of the appointment of a receiver; (2) preclude the return of the system to the owner without Department of Health approval, and to permit the imposition of conditions if the system is returned to the owner; and (3) authorize the court to oversee the appraisal of a system to assure that the value reflects the necessity to make improvements, and grants the court the authority to approve the appraisal and determine the proper value of the system.

VOTES ON FINAL PASSAGE:

Senate	45	1	
House	95	0	(House amended)
Senate			(Senate concurred in part; refused to concur in part)
House	89	0	(House receded)
Senate	41	0	

EFFECTIVE: June 9, 1994