
SUBSTITUTE SENATE BILL 6760

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Fraser, Kline and Regala)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to private owners of public water systems not
2 regulated as public utilities; amending RCW 90.03.040; and adding a new
3 chapter to Title 19 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The owner of a public water system, as
6 the term public water system is defined in RCW 70.119A.020, that is not
7 subject to regulation or jurisdiction under Title 80 RCW and that is
8 not a municipal corporation or special purpose district, but who is a
9 purveyor, as the term purveyor is defined in RCW 70.116.030, must
10 provide potable water to every connection indicated in the approved
11 subdivision, short subdivision, or other applicable land use regulation
12 in which the public water system was indicated as the means of meeting
13 requirements to provide potable water supplies.

14 (2) The owner of property that is harmed by the failure of an owner
15 of a public water system, as identified in subsection (1) of this
16 section, to provide potable water supply under subsection (1) of this
17 section may bring a civil action for either injunctive relief or to
18 recover the actual damages sustained, or both, together with reasonable

1 costs, including but not limited to investigative costs and reasonable
2 attorneys' fees and other litigation-related costs.

3 NEW SECTION. **Sec. 2.** (1) The owner of a public water system, as
4 the term public water system is defined in RCW 70.119A.020, that is not
5 subject to regulation or jurisdiction under Title 80 RCW and that is
6 not a municipal corporation or special purpose district, but who is a
7 purveyor, as the term purveyor is defined in RCW 70.116.030, must
8 comply with all requirements imposed under chapters 43.20, 70.116,
9 70.119, and 70.119A RCW.

10 (2) The owner of property that is harmed by the failure of an owner
11 of a public water system, as identified in subsection (1) of this
12 section, to comply with the requirements of subsection (1) of this
13 section may bring a civil action for either injunctive relief or to
14 recover the actual damages sustained, or both, together with reasonable
15 costs including but not limited to investigative costs and reasonable
16 attorneys' fees and other litigation-related costs.

17 NEW SECTION. **Sec. 3.** (1) All moneys paid to the owner of a public
18 water system, as identified in sections 1(1) and 2(1) of this act, for
19 providing potable water supply or for construction or maintenance of
20 the public water system must promptly be deposited by the owner in a
21 trust account, maintained for the purpose of holding the moneys, in a
22 bank, savings and loan association, mutual savings bank, or licensed
23 escrow agent located in Washington. Any interest paid to the trust
24 account accrues to the account. The owner may act as trustee.
25 Expenditures from the account must be for legitimate and reasonable
26 water system expenses. Records of such expenditures must be kept and
27 be available for inspection by customers of the system.

28 (2) The owner must provide written notice of the name, address, and
29 location of the depository and any subsequent change thereof. If
30 ownership of the public water system is transferred to another, any
31 moneys in the trust account affected by the transfer are simultaneously
32 transferred to an equivalent trust account of the successor owner, and
33 the successor owner must promptly provide notice of the transfer and
34 the name, address, and location of the new depository.

35 NEW SECTION. **Sec. 4.** The remedies provided under this chapter are
36 cumulative and are in addition to any other remedies provided by law.

1 NEW SECTION. **Sec. 5.** Every duty under this chapter and every act
2 that must be performed as a condition precedent to the exercise of a
3 right or remedy under this chapter imposes an obligation of good faith
4 in its performance or enforcement.

5 **Sec. 6.** RCW 90.03.040 and 1917 c 117 s 4 are each amended to read
6 as follows:

7 The beneficial use of water is hereby declared to be a public use,
8 and any person may exercise the right of eminent domain to acquire any
9 property or rights now or hereafter existing when found necessary for
10 the storage of water for, or the application of water to, any
11 beneficial use, including the right to enlarge existing structures
12 employed for the public purposes mentioned in this chapter and use the
13 same in common with the former owner, and including the right and power
14 to condemn an inferior use of water for a superior use, and including
15 operation of a public water system upon a showing that property served
16 by the system is being harmed as established by sections 1 and 2 of
17 this act. In condemnation proceedings the court shall determine what
18 use will be for the greatest public benefit, and that use shall be
19 deemed a superior one: PROVIDED, That no property right in water or
20 the use of water shall be acquired hereunder by condemnation for
21 irrigation purposes, which shall deprive any person of such quantity of
22 water as may be reasonably necessary for the irrigation of his or her
23 land then under irrigation to the full extent of the soil, by the most
24 economical method of artificial irrigation applicable to such land
25 according to the usual methods of artificial irrigation employed in the
26 vicinity where such land is situated. In any case, the court shall
27 determine what is the most economical method of irrigation. Such
28 property or rights shall be acquired in the manner provided by law for
29 the taking of private property for public use by private corporations.

30 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
31 a new chapter in Title 19 RCW.

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