
SENATE BILL 6760

State of Washington 57th Legislature

2002 Regular Session

By Senator Fraser

Read first time 02/01/2002. Referred to Committee on Environment,
Energy & Water.

1 AN ACT Relating to private owners of public water systems not
2 regulated as public utilities; and adding a new chapter to Title 19
3 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 defined in RCW 70.119A.020, that is not subject to regulation or
7 jurisdiction under chapter 80.04 RCW and that is not a municipal
8 corporation or special purpose district, must provide potable water to
9 every connection indicated in the approved subdivision, short
10 subdivision, or other applicable land use regulation in which the
11 public water system was indicated as the means of meeting requirements
12 to provide potable water supplies.

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

1 NEW SECTION. **Sec. 2.** (1) The owner of a public water system, as
2 defined in RCW 70.119A.020, that is not subject to regulation or
3 jurisdiction under chapter 80.04 RCW and that is not a municipal
4 corporation or special purpose district, must comply with all
5 requirements imposed under chapters 43.20, 70.116, 70.119, and 70.119A
6 RCW.

7 (2) The owner of property that is harmed by the failure of an owner
8 of a public water system to comply with the requirements of subsection
9 (1) of this section may bring a civil action in the superior court for
10 either injunctive relief or to recover the actual damages sustained, or
11 both, together with the cost of the suit, including reasonable
12 attorneys' fees.

13 NEW SECTION. **Sec. 3.** All moneys paid to the owner of a public
14 water system, as defined in RCW 70.119A.020, that is not subject to
15 regulation or jurisdiction under chapter 80.04 RCW and that is not a
16 municipal corporation or special purpose district for providing potable
17 water supply or for construction or maintenance of the public water
18 system must promptly be deposited by the owner in a trust account,
19 maintained for the purpose of holding the moneys, in a bank, savings
20 and loan association, mutual savings bank, or licensed escrow agent
21 located in Washington. Any interest paid to the trust account accrues
22 to the account. The owner must provide a written receipt for the
23 moneys and provide written notice of the name, address, and location of
24 the depository and any subsequent change thereof. If ownership of the
25 public water system is transferred to another, any moneys in the trust
26 account affected by the transfer are simultaneously transferred to an
27 equivalent trust account of the successor owner, and the successor
28 owner must promptly provide notice of the transfer and the name,
29 address, and location of the new depository. The claim of the
30 customers of the public water system to any moneys paid under this
31 section shall be prior to that of any creditor of the owner, including
32 a trustee in bankruptcy or receiver, even if the moneys are commingled.

33 NEW SECTION. **Sec. 4.** (1) The definitions in this subsection apply
34 throughout this section unless the context clearly requires otherwise.

35 (a) "Notice" means a writing signed by sixty percent of the
36 customers of the public water system indicating that they desire to
37 participate in the purchase of the public water system and that they

1 are contractually bound to the other signators of the notice to
2 participate by virtue of an ownership interest in property that is
3 served or is entitled to be served by the public water system.

4 (b) "Qualified customers' organization" means a formal organization
5 of owners of property served or entitled to be served by the public
6 water system in question, organized for the purpose of purchasing the
7 public water system.

8 (2) If a qualified customers' organization gives written notice to
9 the owner of a public water system, as defined in RCW 70.119A.020, that
10 is not subject to regulation or jurisdiction under chapter 80.04 RCW
11 and that is not a municipal corporation or special purpose district,
12 that the organization has a present and continuing desire to purchase
13 the public water system, the public water system must be sold to the
14 qualified customers' organization for fair market value, unless
15 otherwise agreed in writing, and except as provided in subsections (3)
16 and (4) of this section.

17 (3) If notice of a desire to purchase has been given under
18 subsection (2) of this section, a public water system owner must notify
19 the qualified customers' organization if any agreement to purchase and
20 sell has been reached and the terms of the agreement, before closing a
21 sale with another person or entity. If, within thirty days after the
22 actual notice has been received, the qualified customers' organization
23 tenders to the public water system owner an amount equal to two percent
24 of the agreed purchase price, together with a fully executed purchase
25 and sale agreement at least as favorable to the public water system
26 owner as the original agreement, the public water system owner must
27 sell the public water system to the qualified customers' organization.
28 The qualified customers' organization must then close the sale on the
29 same terms as outlined in the original agreement between the public
30 water system owner and the prospective purchaser.

31 (4) Prior to acting under this section, a qualified customers'
32 organization may enter into an agreement with a satellite system
33 management agency approved pursuant to RCW 70.116.134 to transfer
34 ownership of the public water system from the qualified customers'
35 organization to the satellite system management agency, and the
36 satellite system management agency may act on behalf of the qualified
37 customers' organization under this section.

1 NEW SECTION. **Sec. 5.** The remedies provided under this chapter are
2 cumulative and are in addition to any other remedies provided by law.

3 NEW SECTION. **Sec. 6.** Every duty under this chapter and every act
4 that must be performed as a condition precedent to the exercise of a
5 right or remedy under this chapter imposes an obligation of good faith
6 in its performance or enforcement.

7 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
8 a new chapter in Title 19 RCW.

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