
HOUSE BILL 1948

State of Washington

67th Legislature

2022 Regular Session

By Representative Steele

1 AN ACT Relating to failing water system receivership and
2 rehabilitation; and amending RCW 43.70.195 and 70A.125.180.

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

4 **Sec. 1.** RCW 43.70.195 and 1999 c 153 s 57 are each amended to
5 read as follows:

6 (1) In any action brought by the secretary of health or by a
7 local health officer pursuant to chapter 7.60 RCW to place a public
8 water system in receivership, the petition shall include the names of
9 one or more suitable candidates for receiver who have consented to
10 assume operation of the water system. The department shall maintain a
11 list of interested and qualified individuals, municipal entities,
12 special purpose districts, and investor-owned water companies with
13 experience in the provision of water service and a history of
14 satisfactory operation of a water system. If there is no other person
15 willing and able to be named as receiver, the court shall appoint the
16 ~~((county in which the water system is located as receiver))~~
17 department. The ~~((county))~~ department may designate a county agency
18 to operate the system, or it may contract with another individual or
19 public water system to provide management for the system. If the
20 ~~((county))~~ department or another public entity is appointed as
21 receiver, the secretary of health and the county health officer shall

1 provide regulatory oversight for the agency or other person
2 responsible for managing the water system.

3 (2) In any petition for receivership under subsection (1) of this
4 section, the department shall recommend that the court grant to the
5 receiver full authority to act in the best interests of the customers
6 served by the public water system. The receiver shall assess the
7 capability, in conjunction with the department and local government,
8 for the system to operate in compliance with health and safety
9 standards, and shall report to the court and the petitioning agency
10 its recommendations for the system's future operation, including the
11 formation of a water-sewer district or other public entity, or
12 ownership by another existing water system capable of providing
13 service.

14 (3) If a petition for receivership and verifying affidavit
15 executed by an appropriate departmental official allege an immediate
16 and serious danger to residents constituting an emergency, the court
17 shall set the matter for hearing within three days and may appoint a
18 temporary receiver ex parte upon the strength of such petition and
19 affidavit pending a full evidentiary hearing, which shall be held
20 within fourteen days after receipt of the petition.

21 (4) A bond, if any is imposed upon a receiver, shall be minimal
22 and shall reasonably relate to the level of operating revenue
23 generated by the system. Any receiver appointed pursuant to this
24 section shall not be held personally liable for any good faith,
25 reasonable effort to assume possession of, and to operate, the system
26 in compliance with the court's orders.

27 (5) The court shall authorize the receiver to impose reasonable
28 assessments on a water system's customers to recover expenditures for
29 improvements necessary for the public health and safety. The
30 department shall consider the federal environmental protection agency
31 guidance on evaluating water system rate affordability for customers.
32 If reasonable assessments are insufficient to recover improvement
33 expenditures or temporary water provision, then the water system
34 receiver shall be reimbursed by the water system acquisition and
35 rehabilitation program pursuant to RCW 70A.125.180 upon approval of a
36 water system plan.

37 (6) No later than twelve months after appointment of a receiver,
38 the petitioning agency, (~~in conjunction with the county in which the~~
39 ~~system is located,~~) and the appropriate state and local health
40 agencies, shall develop and present to the court a plan for the

1 disposition of the system. The report shall include the
2 recommendations of the receiver made pursuant to subsection (2) of
3 this section. The report shall include all reasonable and feasible
4 alternatives. After receiving the report, the court shall provide
5 notice to interested parties and conduct such hearings as are
6 necessary. The court shall then order the parties to implement one of
7 the alternatives, or any combination thereof, for the disposition of
8 the system. Such order shall include a date, or proposed date, for
9 the termination of the receivership. Nothing in this section
10 authorizes a court to require a city, town, public utility district,
11 water-sewer district, or irrigation district to accept a system that
12 has been in receivership unless the city, town, public utility
13 district, water-sewer district, or irrigation district agrees to the
14 terms and conditions outlined in the plan adopted by the court.

15 (7) The court shall not terminate the receivership, and order the
16 return of the system to the owners, unless the department of health
17 approves of such an action. The court may impose reasonable
18 conditions upon the return of the system to the owner, including the
19 posting of a bond or other security, routine performance and
20 financial audits, employment of qualified operators and other staff
21 or contracted services, compliance with financial viability
22 requirements, or other measures sufficient to ensure the ongoing
23 proper operation of the system.

24 (8) If, as part of the ultimate disposition of the system, an
25 eminent domain action is commenced by a public entity to acquire the
26 system, the court shall oversee any appraisal of the system conducted
27 under Title 7 RCW to assure that the appraised value properly
28 reflects any reduced value because of the necessity to make
29 improvements to the system. The court shall have the authority to
30 approve the appraisal, and to modify it based on any information
31 provided at an evidentiary hearing. The court's determination of the
32 proper value of the system, based on the appraisal, shall be final,
33 and only appealable if not supported by substantial evidence. If the
34 appraised value is appealed, the court may order that the system's
35 ownership be transferred upon payment of the approved appraised
36 value.

37 **Sec. 2.** RCW 70A.125.180 and 2020 c 20 s 1359 are each amended to
38 read as follows:

1 Subject to the availability of amounts appropriated for this
2 specific purpose, the department shall provide financial assistance
3 through a water system acquisition and rehabilitation program, hereby
4 created. The program shall be jointly administered with the public
5 works board and the department of commerce. The agencies shall adopt
6 guidelines for the program using as a model the procedures and
7 criteria of the drinking water revolving loan program authorized
8 under RCW 70A.125.160. All financing provided through the program
9 must be in the form of grants that partially cover project costs. The
10 maximum grant to any eligible entity may not exceed twenty-five
11 percent of the funds allocated to the appropriation in any fiscal
12 year except for those systems in receivership pursuant to RCW
13 43.70.195.

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