
HOUSE BILL 1512

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Takko, Kochmar, Fitzgibbon, Buys, Sullivan, Magendanz, Springer, Van De Wege, and Ryu

Read first time 01/29/13. Referred to Committee on Local Government.

1 AN ACT Relating to fire suppression water facilities and services
2 provided by municipal and other water purveyors; and adding a new
3 chapter to Title 70 RCW.

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

5 NEW SECTION. **Sec. 1.** FINDINGS AND DECLARATION OF PURPOSE. (1)
6 The legislature finds that historically governmental and
7 nongovernmental water purveyors have played two key public service
8 roles: Providing safe drinking water and providing water for fire
9 protection. This dual function approach is a deeply embedded and
10 state-regulated feature of water system planning, engineering,
11 operation, and maintenance. This dual function enables purveyors to
12 provide these critical public services in a cost-effective way that
13 protects public health and safety, promotes economic development, and
14 supports appropriate land use planning.

15 (2) The legislature finds that the provision of integrated, dual
16 function water facilities and services benefits all customers of a
17 purveyor, similar to other benefits provided to water system customers
18 in response to regulation regarding safe drinking water such as
19 treatment and water quality monitoring.

1 (3) The legislature finds that water purveyors plan, construct,
2 acquire, operate, and maintain fire suppression water facilities in
3 response to regulatory requirements, including without limitation the
4 public water system coordination act, RCW 70.116.080, the design of
5 public water systems and water system operations requirements, chapter
6 246-290 WAC, Parts 3 and 5, the state building code, chapter 19.27 RCW,
7 and the international fire code. The availability of infrastructure
8 and water to fight fires allows for the development and habitability of
9 property, increases property values, and benefits customers and
10 property through lower casualty insurance rates.

11 (4) The legislature finds that recent Washington supreme court
12 decisions, including *Lane v. City of Seattle*, 164 Wn.2d 875 (2008), and
13 *City of Tacoma v. City of Bonney Lake, et al.*, 173 Wn.2d 584 (2012),
14 have created uncertainty and confusion as to the role,
15 responsibilities, cost allocation, and recovery authority of water
16 purveyors. If left unresolved, the absence of legal clarity will
17 adversely affect the availability and condition of fire suppression
18 infrastructure necessary to protect life and property.

19 (5) It is the legislature's intent to determine appropriate methods
20 of organizing public services and the authority of water purveyors with
21 respect to critical public services. The legislature further intends
22 this chapter to clarify the authority of water purveyors to provide
23 fire suppression water facilities and services and to recover the costs
24 for those facilities and services. The legislature also intends to
25 provide liability protections appropriate for water purveyors engaged
26 in this vital public service.

27 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
28 section apply throughout this chapter unless the context clearly
29 requires otherwise.

30 (1) "Fire suppression water facilities" means water supply
31 transmission and distribution facilities, interties, pipes, valves,
32 control systems, lines, storage, pumps, fire hydrants, and other
33 facilities, or any part thereof, used or usable for the delivery of
34 water for fire suppression purposes.

35 (2) "Fire suppression water services" or "services" means operation
36 and maintenance of fire suppression water facilities and the delivery
37 of water for fire suppression purposes.

1 (3) "Municipal corporation" means any city, town, county, water-
2 sewer district, port district, public utility district, irrigation
3 district, and any other municipal corporation, quasi-municipal
4 corporation, or political subdivision of the state.

5 (4) "Purveyor" has the same meaning as set forth in RCW
6 70.116.030(4).

7 NEW SECTION. **Sec. 3.** COST ALLOCATION AND RECOVERY. A purveyor
8 may allocate and recover the costs of fire suppression water facilities
9 and services from all customers as costs of complying with state laws
10 and regulations, or from customers based on service to, benefits
11 conferred upon, and burdens and impacts caused by various classes of
12 customers, or both.

13 NEW SECTION. **Sec. 4.** CONTRACTS TO PROVIDE FOR FACILITIES AND
14 SERVICES. A city, town, or county may contract with purveyors for the
15 provision of fire suppression water facilities, services, or both. The
16 contract may take the form of a franchise agreement, an interlocal
17 agreement pursuant to chapter 39.34 RCW, or an agreement under other
18 contracting authority, and may provide for funding or cost recovery of
19 fire suppression water facilities, services, or both, as the parties
20 may agree.

21 NEW SECTION. **Sec. 5.** PAYMENT BY COUNTIES. A county is not
22 required to pay for fire suppression water facilities or services
23 except: (1) As a customer of a purveyor; (2) in areas where a county
24 is acting as a purveyor; or (3) where a county has agreed to do so
25 consistent with section 4 of this chapter.

26 NEW SECTION. **Sec. 6.** LIABILITY PROTECTION FOR FIRE SUPPRESSION
27 WATER FACILITIES AND SERVICES. (1) A purveyor that is a municipal
28 corporation is not liable for any damages that arise out of a fire
29 event and relate to the operation, maintenance, and provision of fire
30 suppression water facilities and services that are located within or
31 outside its corporate boundaries.

32 (2) A purveyor that is not a municipal corporation is not liable
33 for any damages that arise out of a fire event and relate to the
34 operation, maintenance, and provision of fire suppression water

1 facilities and services if the purveyor has a description of fire
2 hydrant maintenance measures, which may be included within its most
3 recently approved water system plan or small water system management
4 program.

5 (3) Consistent with RCW 36.55.060, with respect to counties and
6 notwithstanding the provisions of subsections (1) and (2) of this
7 section, agreements or franchises may, as the parties mutually agree,
8 include indemnification, hold harmless, or other risk management
9 provisions under which purveyors indemnify and hold harmless cities,
10 towns, and counties against damages arising from fire suppression
11 activities during fire events. Such provisions are unaffected by
12 subsections (1) and (2) of this section.

13 NEW SECTION. **Sec. 7.** LIBERAL CONSTRUCTION. This chapter is
14 exempted from the rule of strict construction and must be liberally
15 construed to give full effect to the objectives and purposes for which
16 it was enacted.

17 NEW SECTION. **Sec. 8.** POWERS CONFERRED BY CHAPTER ARE
18 SUPPLEMENTAL. (1) The powers and authority conferred by this chapter
19 are supplemental to powers and authority conferred by other law, and
20 nothing contained in this chapter may be construed as limiting any
21 other powers or authority of any municipal corporation or other entity
22 under applicable law.

23 (2) As to water companies that are regulated by the utilities and
24 transportation commission under Title 80 RCW, nothing in this chapter
25 is intended to change or limit the authority or jurisdiction of the
26 utilities and transportation commission.

27 NEW SECTION. **Sec. 9.** RATIFICATION OF PRIOR ACTS. To the extent
28 that they provide for or address funding, cost allocation, and recovery
29 of fire suppression water facilities and services, all ordinances,
30 resolutions, and contracts adopted, entered, implemented, or performed
31 prior to the effective date of this section are hereby validated,
32 ratified, and confirmed. This chapter must not affect or impair any
33 ordinance, resolution, or contract lawfully entered into prior to the
34 effective date of this section.

1 NEW SECTION. **Sec. 10.** CODIFICATION. Sections 1 through 9 of this
2 act constitute a new chapter in Title 70 RCW.

--- END ---