

## **SB 845 -1 STAFF MEASURE SUMMARY**

### **Senate Committee On Natural Resources and Wildfire**

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**Meeting Dates:** 2/18, 4/1

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#### **WHAT THE MEASURE DOES:**

The measure authorizes the Public Utilities Commission (PUC) to order the acquisition of an incumbent water utility if it cannot reasonably be expected to provide safe, adequate, efficient and reasonable service to customers and establishes conditions for acquisition approval.

Fiscal impact: May have fiscal impact, but no statement yet issued.

Revenue impact: May have revenue impact, but no statement yet issued.

#### Detailed Summary:

Defines terms related to water utilities. Authorizes the Public Utilities Commission (PUC) to provide notice and hold a public hearing regarding the acquisition of an incumbent water utility by another, provided the acquiring utility is financially and technically capable of completing the acquisition. Authorizes PUC to order the acquisition of an incumbent water utility if it is found to be in violation of statutory or regulatory standards, fails to comply with a PUC order, or is unable to provide safe, adequate, efficient, and reasonable service. Clarifies that if the incumbent utility's operations pose an unreasonable risk to public health or safety due to contamination, deteriorating infrastructure, or inadequate water or sanitation facilities, alternative solutions are deemed infeasible, and the acquisition would not result in unreasonable rate increases for consumers, the PUC may proceed with the acquisition order. Establishes conditions for acquisition approval and pricing determinations between the incumbent and acquiring water utilities that are subject to PUC determination that the prices are fair and reasonable. Authorizes PUC to appoint an independent administrator to represent or protect the interests of incumbent water utility customers during the acquisition and transition.

#### **ISSUES DISCUSSED:**

- Acquisition process
- Other states that have authority to order the acquisition of a water utility
- Types of companies that are eligible to acquire an incumbent water utility
- Public Utilities Commission's involvement as a last resort

#### **EFFECT OF AMENDMENT:**

-1 replaces the measure and creates new provisions. Authorizes the Public Utilities Commission (PUC) to order the acquisition of an incumbent water utility if it cannot reasonably be expected to provide safe and or adequate service to customers and establishes conditions for acquisition approval.

#### Detailed Summary:

Authorizes PUC to order the sale of an incumbent water utility, if after a notice and contested case, it determines that the utility:

- Violates statutory or regulatory standards that affect the safety and adequacy of its service.
- Fails to comply within a reasonable time with a commission order regarding service safety and adequacy.
- Is unable to provide and maintain safe, adequate service.
- Continued operation poses an unreasonable risk to public health or safety due to contamination, dilapidated infrastructure, or inadequate water or sanitary facilities.

- Alternative actions to a sale have been considered but are impractical or economically unfeasible.

Requires PUC to establish a process for the sale of an incumbent water utility. States that the sale price will be determined through an agreement between the utility and the acquiring entity. Establishes that prior to opening a contested case, PUC shall provide written notice that includes PUC's intent to open a contested case; identifying specific reasons and a basis for the intent and providing the utility a reasonable opportunity to take alternative actions to the sale. Alternative actions PUC finds acceptable include:

- Repairing or addressing the conditions that led to PUC's intent to open a contested case.
- Reorganizing the utility under new management.
- Contracting with another water utility or management company to operate the utility.
- Appointing an independent administrator to ensure safe and adequate service.
- Merging with one or more other water utilities.
- Allowing acquisition by a municipality, municipal utility, cooperative association, or people's utility district.

Requires that if an incumbent water utility receives a notice and files an application for the sale, lease, or other transaction of its utility, PUC will set the utility's rate base between its net book value and the acquiring entity's offered purchase price. The commission will evaluate the value based on the benefit to the utility's customers and the public interest. Additionally, transaction costs incurred by the acquiring entity, such as environmental, legal, and financing costs, can be deferred for later recovery in rates at the incumbent utility's weighted average cost of capital. Authorizes PUC to appoint an independent administrator to represent or protect the interests of incumbent water utility customers during the acquisition and transition.

Amends ORS 756.310 (Annual fees payable by utilities and telecommunications providers) to authorize PUC to use up to \$100,000 of the fees collected to fund emergency repairs to the facilities of public utilities that provide water service and authorizes PUC to order the utility to carry out these emergency repairs.

**BACKGROUND:**

The Oregon Public Utility Commission (PUC) regulates a portion of the state's 3,500 water systems, including some investor-owned water utilities that provide service to Oregonians, ensuring that they offer safe and reliable water at reasonable rates. Regulated water utilities must adhere to PUC service rules and regulations, which cover areas such as water quality, pressure, customer service, and maintenance. PUC also investigates complaints to ensure that customers receive safe and adequate water service. Some regulated utilities are required to follow PUC rules concerning rates to ensure that residents receive water service at fair and reasonable costs.