

Enrolled Senate Bill 845

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CHAPTER

AN ACT

Relating to water utilities regulated by the Public Utility Commission; creating new provisions; and amending ORS 757.068.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) “Incumbent water utility” means an existing water utility that may be sold to another water utility or other entity.

(b) “Safe and adequate service” includes the ability of a water utility or other entity to provide to its customers potable water at sufficient volume and pressure.

(c) “Water utility” means a public utility, as defined in ORS 757.005, that provides water service.

(2) The Public Utility Commission may order the sale of an incumbent water utility if the commission determines, following notice and a contested case under ORS chapter 183, that:

(a) The incumbent water utility is in violation of statutory or regulatory standards and the violation affects the safety and adequacy of the service provided by the incumbent water utility;

(b) The incumbent water utility has failed to comply, within a reasonable period of time, with an order from the commission concerning the safety and adequacy of the service provided by the incumbent water utility;

(c) The incumbent water utility cannot reasonably be expected to furnish and maintain safe and adequate service;

(d) Continued operation of service or the water system by the incumbent water utility may create an unreasonable risk to public health or safety by reason of contamination, dilapidated structures, improper or insufficient water or sanitary facilities or any combination of these factors; and

(e) Alternative actions to a sale as described under subsection (5) of this section have been considered and the alternative actions are impractical or economically infeasible.

(3) If the commission orders the sale of an incumbent water utility under this section, the commission shall establish a process for the sale of the incumbent water utility. The price of the sale shall be determined by agreement between the incumbent water utility and acquiring entity.

(4) Prior to opening a contested case to determine whether to order the sale of an incumbent water utility, the commission shall provide a written notice to the incumbent water utility. The notice must:

(a) Specify the commission's intent to open a contested case;
(b) Identify the specific reasons and basis for the commission's intent to open the contested case; and

(c) Provide the incumbent water utility reasonable opportunity to take alternative actions to the sale, as described under subsection (5) of this section, that the commission finds acceptable.

(5) Alternative actions to a sale that may be taken include:

(a) The repair, replacement or remedy of all conditions identified as the reasons or basis for the commission's intent to open a contested case in the notice provided under subsection (4) of this section;

(b) Reorganization of the incumbent water utility under new management;

(c) Entering into a contract with another water utility or a management or service company to operate the incumbent water utility;

(d) Appointment of an independent administrator to oversee and ensure the provision of safe and adequate service by the incumbent water utility;

(e) A merger of the incumbent water utility with one or more other water utilities; or

(f) Acquisition of the incumbent water utility by a municipality, municipal utility, cooperative association or people's utility district.

(6)(a) If an incumbent water utility receives a notice under subsection (4) of this section and files an application under ORS 757.480 for the sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation of property of the incumbent water utility, the commission shall set the incumbent water utility's rate base at no lower than the net book value of the incumbent water utility and no higher than the acquiring entity's offered purchased price of the incumbent water utility. To determine the value of the incumbent water utility's rate base, the commission shall consider the merits of the acquiring entity's application filed under ORS 757.480 based on the benefit to the incumbent water utility's customers and the public interest.

(b) For the purposes of later recovery in rates, an acquiring entity's transaction costs associated with the acquisition of an incumbent water utility shall be deferred at the incumbent water utility's weighted average cost of capital. Transaction costs include environmental, engineering and financial due diligence costs, legal costs, financing costs and other costs associated with regulatory approval of the transaction.

(7) When carrying out the provisions of this section, the commission may appoint an independent administrator to represent or protect the interests of the customers of an incumbent water utility. An order appointing an independent administrator must specify the duties and responsibilities of the independent administrator.

SECTION 2. ORS 757.068 is amended to read:

757.068. (1) In each biennium the Public Utility Commission may use not more than [\$5,000] **\$100,000** of the fees collected under ORS 756.310 to make emergency repairs to the plants of public utilities providing water service. The commission may expend moneys under the provisions of this section only if the commission determines that:

(a) Customers of the utility are without service and are likely to remain without service for an unreasonable period of time;

(b) The utility is unwilling or unable to make emergency repairs, or cannot be found after reasonable effort; and

(c) Restoration of the service is necessary for the health and safety of the customers of the utility.

(2) The commission shall attempt to recover fees used under this section from the utility providing water service. The commission may also recover a penalty as provided in ORS 756.350 from the time the fees are expended.

(3) In addition to or in lieu of expending moneys to make emergency repairs, the commission may order the utility providing water service to make the emergency repairs.

Passed by Senate April 10, 2025

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 20, 2025

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Julie Fahey, Speaker of House

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Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State