

Senate Bill 845

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows the PUC to order a water utility that is not able to provide service to be bought. (Flesch Readability Score: 61.6).

Authorizes the Public Utility Commission to order the acquisition of an incumbent water utility by another water utility or entity when the incumbent water utility is not able to provide safe, adequate, efficient and reasonable service.

A BILL FOR AN ACT

1
2 Relating to water utilities regulated by the Public Utility Commission.

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

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

5 (a) **“Incumbent water utility” means an existing water utility that may be acquired by**
6 **another water utility or other entity.**

7 (b) **“Safe, adequate, efficient and reasonable service” includes the ability of a water util-**
8 **ity or other entity to provide to its customers potable and palatable water at sufficient vol-**
9 **ume and pressure.**

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

12 (2) **The Public Utility Commission may order the acquisition of an incumbent water util-**
13 **ity if the commission determines, following notice and a public hearing, that:**

14 (a) **The incumbent water utility is in violation of statutory or regulatory standards and**
15 **the violation affects the safety, adequacy, efficiency or reasonableness of the service pro-**
16 **vided by the incumbent water utility;**

17 (b) **The incumbent water utility has failed to comply, within a reasonable period of time,**
18 **with an order from the commission concerning the safety, adequacy, efficiency or reason-**
19 **ableness of the service provided by the incumbent water utility;**

20 (c) **The incumbent water utility cannot reasonably be expected to furnish and maintain**
21 **safe, adequate, efficient and reasonable service in the reasonably foreseeable future;**

22 (d) **Continued operation of service or the water system by the incumbent water utility**
23 **may create an unreasonable risk to public health or safety by reason of contamination,**
24 **dilapidated structures, improper or insufficient water or sanitary facilities or any combina-**
25 **tion of these factors;**

26 (e) **Alternative actions have been considered under subsection (4) of this section and the**
27 **alternative actions are impractical or economically infeasible;**

28 (f) **The acquiring water utility or entity is financially and technically capable of acquiring**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 and operating the incumbent water utility in compliance with applicable statutory and regu-
2 latory standards;

3 (g) The rates charged by the acquiring water utility or entity to the acquiring water
4 utility's or entity's existing customers will not unreasonably increase because of the acqui-
5 sition; and

6 (h) The price of the acquisition meets the requirements under subsection (5) of this sec-
7 tion.

8 (3) The commission may approve a water utility or entity as an acquiring water utility
9 or entity under subsection (2) of this section if the water utility or entity:

10 (a) Is willing to acquire the incumbent water utility;

11 (b) Is not an affiliated interest of the incumbent water utility;

12 (c) Provides safe, adequate, efficient and reasonable service to its existing customers; and

13 (d) Regularly provides or is capable of regularly providing the same type of service as the
14 incumbent water utility.

15 (4) Prior to ordering an acquisition of an incumbent water utility under subsection (2)
16 of this section, the commission shall discuss with the incumbent water utility, and give the
17 incumbent water utility reasonable opportunity to investigate, alternative actions to the ac-
18 quisition. Alternative actions may include:

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

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

22 (c) Appointment of an independent administrator to oversee and ensure the provision of
23 safe, adequate, efficient and reasonable service by the incumbent water utility;

24 (d) Merger of the incumbent water utility with one or more other water utilities; or

25 (e) Acquisition of the incumbent water utility by a municipality, municipal utility, coop-
26 erative association or people's utility district.

27 (5) The price of an acquisition under subsection (2) of this section shall be determined
28 by agreement between the incumbent water utility and acquiring water utility or entity,
29 subject to a determination by the commission that the price is fair and reasonable. If the
30 incumbent water utility and acquiring water utility or entity are unable to reach an agree-
31 ment on the price of the acquisition, the commission may issue an order directing the ac-
32 quiring water utility or entity to acquire the incumbent water utility by following the
33 procedures for exercising the power of eminent domain under ORS chapter 35.

34 (6) When carrying out the provisions of this section, the commission may appoint an in-
35 dependent administrator to represent or protect the interests of the customers of an
36 incumbent water utility. An order appointing an independent administrator must specify the
37 duties and responsibilities of the independent administrator.

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