

SB 845-1
(LC 457)
3/27/25 (CPA/ps)

Requested by SENATE COMMITTEE ON NATURAL RESOURCES AND WILDFIRE

**PROPOSED AMENDMENTS TO
SENATE BILL 845**

1 On page 1 of the printed bill, line 2, after “Commission” insert “; creating
2 new provisions; and amending ORS 757.068”.

3 Delete lines 4 through 28 and delete page 2 and insert:

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

5 **“(a) ‘Incumbent water utility’ means an existing water utility that
6 may be sold to another water utility or other entity.**

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

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

12 **“(2) The Public Utility Commission may order the sale of an
13 incumbent water utility if the commission determines, following no-
14 tice and a contested case under ORS chapter 183, that:**

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

18 **“(b) The incumbent water utility has failed to comply, within a
19 reasonable period of time, with an order from the commission con-
20 cerning the safety and adequacy of the service provided by the
21 incumbent water utility;**

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

3 “(d) Continued operation of service or the water system by the
4 incumbent water utility may create an unreasonable risk to public
5 health or safety by reason of contamination, dilapidated structures,
6 improper or insufficient water or sanitary facilities or any combina-
7 tion of these factors; and

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

11 “(3) If the commission orders the sale of an incumbent water utility
12 under this section, the commission shall establish a process for the
13 sale of the incumbent water utility. The price of the sale shall be de-
14 termined by agreement between the incumbent water utility and ac-
15 quiring entity.

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

19 “(a) Specify the commission’s intent to open a contested case;

20 “(b) Identify the specific reasons and basis for the commission’s
21 intent to open the contested case; and

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

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

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

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

1 “(c) Entering into a contract with another water utility or a man-
2 agement or service company to operate the incumbent water utility;

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

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

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

10 “(6)(a) If an incumbent water utility receives a notice under sub-
11 section (4) of this section and files an application under ORS 757.480
12 for the sale, lease, assignment, mortgage, disposition, encumbrance,
13 merger or consolidation of property of the incumbent water utility, the
14 commission shall set the incumbent water utility’s rate base at no
15 lower than the net book value of the incumbent water utility and no
16 higher than the acquiring entity’s offered purchased price of the
17 incumbent water utility. To determine the value of the incumbent
18 water utility’s rate base, the commission shall consider the merits of
19 the acquiring entity’s application filed under ORS 757.480 based on the
20 benefit to the incumbent water utility’s customers and the public in-
21 terest.

22 “(b) For the purposes of later recovery in rates, an acquiring
23 entity’s transaction costs associated with the acquisition of an
24 incumbent water utility shall be deferred at the incumbent water
25 utility’s weighted average cost of capital. Transaction costs include
26 environmental, engineering and financial due diligence costs, legal
27 costs, financing costs and other costs associated with regulatory ap-
28 proval of the transaction.

29 “(7) When carrying out the provisions of this section, the commis-
30 sion may appoint an independent administrator to represent or protect

1 **the interests of the customers of an incumbent water utility. An order**
2 **appointing an independent administrator must specify the duties and**
3 **responsibilities of the independent administrator.**

4 **“SECTION 2.** ORS 757.068 is amended to read:

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

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

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

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

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

19 **“(3) In addition to or in lieu of expending moneys to make emer-**
20 **gency repairs, the commission may order the utility providing water**
21 **service to make the emergency repairs.”.**