
Local Government Committee

HB 1948

Brief Description: Concerning failing water system receivership and rehabilitation.

Sponsors: Representative Steele.

Brief Summary of Bill

- The Department of Health assumes the role held by counties in water system receivership cases.
- Allows the Water System Acquisition and Rehabilitation Program to reimburse a water system receiver if reasonable assessments imposed by the receiver are insufficient to cover costs.

Hearing Date:

Staff: Kellen Wright (786-7134).

Background:

A public water system is any system providing water for human consumption through pipes or other means of transfer, except for a system which provides service to only one single-family residence or that provides fewer than four connections to residences on a single farm. Such a system includes any collection, treatment, and storage either under the control of the owner or operator of the public water system. It also includes collection and pretreatment storage facilities not under the control of the owner or operator but that are primarily used in connection with the system.

A receiver is someone who, in a superior court case, is appointed to take possession of, manage, or dispose of property as the court's agent and subject to the court's direction. There are two types of receivers. The first is a general receiver. A general receiver is appointed to take

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possession and control of all or most of a person or business' property with authority to liquidate the property or to wind up the business' affairs. The second type of receiver is a custodial receiver. This is a receiver who is appointed to take charge of limited or specified property and who does not have authority to liquidate the property.

Receiverships are generally used in cases related to insolvency and debt, or in cases in which a person is deemed unable to managing their own affairs. There are 40 general statutory instances in which a receiver can be appointed, in addition to statutes which may provide specific authority.

One of the 40 cases involves a situation in which the Secretary of Health or a local health officer moves for receivership of a public water system. If there is a immediate and serious danger to residents alleged in the petition, the court must hear the matter within 3 days and may appoint a temporary receiver *ex parte*, with a full hearing to follow within 14 days of the petition.

The petition initiating the action for receivership must include the name of at least one candidate for receiver who has consented to assume operation of the water system. The Department of Health (Department) must maintain a list of interested and qualified individuals and entities with experience of providing water service and a satisfactory operation history.

If no receiver is willing or able to be named, however, the court must appoint the county in which the water system is located as the receiver. The county may name a county agency or contract with an outside individual or group to operate the water system. Whoever the county designates, the Secretary of Health and the county health officer must provide regulatory oversight for the operation of the water system.

In any receivership action, the Department must recommend that the receiver be granted full authority to act in the best interests of the customers served by the water system. The receiver must assess the system's capability, in conjunction with the Department and local government, for operating in compliance with health and safety standards, and must provide a report to the court with recommendations for the water system's future operation. These recommendations can include the formation of a water-sewer district or other public entity, or for ownership of another water system.

The court must authorize the receiver so impose reasonable assessments on the water system's customers to pay for operating expenses and improvements necessary for public health and safety.

No later than a year after a receiver is appointed, the petitioning agency, county, and local health agencies must present a plan to the court for the disposition of the water system. The report must include the receiver's recommendations, as well as all reasonable and feasible alternatives. The court will then conduct and necessary hearings and order the implementation of one or more of the options, and provide a date for the termination of the receivership. The court cannot, however, require that a city, public utility district, water-sewer district, or irrigation district

accept a water system in receivership.

The court may not terminate the receivership and return the water system to its owners absent approval from the Department. If the system is returned, the court may impose conditions on the owner, including the posting of a bond or compliance with routine audits.

As part of the ultimate disposition of the system, the court may adjudicate an eminent domain action by a public entity to acquire the system.

Subject to appropriations, the Department is authorized to provide financial assistance to water systems through a Water System Acquisition and Rehabilitation Program. This program can provide financing via grants to partially cover project costs. No more than 25 percent of available funds may be granted to an eligible entity in a fiscal year.

Summary of Bill:

In place of the county, the Department will take over the responsibility for being appointed receiver of a water system if there is no other receiver is willing and able to be named. The Department may authorize a county agency to operate the system or may contract with another individual or water system for the management of the water system in receivership. The county's role in the development and presentation of a plan for the disposition of the water system is eliminated.

When a receiver is authorized to impose reasonable assessments on the water system's customers, the Department must consider the federal Environmental Protection Agency's guidance on evaluating water system affordability for customers. If reasonable assessments are insufficient to cover the temporary provision or water or necessary improvements, then the water system may be reimbursed by the Water System Acquisition and Rehabilitation Program upon approval of a water system plan. A water system in receivership may receive more than 25 percent of the available funds in a fiscal year.

Appropriation: None.

Fiscal Note: Requested on January 19, 2022.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.