

HOUSE BILL REPORT

ESSB 6241

As Passed House:
March 2, 2010

Title: An act relating to creating community facilities districts.

Brief Description: Creating community facilities districts.

Sponsors: Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Kilmer and Delvin).

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/18/10, 2/22/10 [DP].

Floor Activity:

Passed House: 3/2/10, 75-22.

Brief Summary of Engrossed Substitute Bill

- Authorizes the establishment of community facilities districts and sets out requirements and authorities related to their formation, governance, powers, and finances.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: Do pass. Signed by 7 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Chase, Liias, Moeller, Parker and Probst.

Minority Report: Do not pass. Signed by 2 members: Representatives Smith, Ranking Minority Member; Orcutt.

Staff: Meg Van Schoorl (786-7105).

Background:

Special purpose districts: Special purpose districts are local units of government other than a city, town, or county that are authorized under law to perform a single or limited number of functions. Examples include water-sewer, irrigation, fire, community college, health, parks

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and recreation, and library districts. Special purpose districts are created, given duties and authorities, and dissolved according to statutory procedures. Most functions of a special purpose district are paid for by special assessments or fees imposed within the district.

Summary of Bill:

Part I — General Provisions: Findings, Intent, and Definitions.

Substantial population and employment growth in the next 20 years will require new housing, employment sites, community facilities, and supporting infrastructure. Most areas have insufficient community facilities and infrastructure to support this growth and current public financing options are also inadequate. A flexible financing mechanism called a community facilities district (CFD) should be available to counties, cities, and towns in order to facilitate voluntary landowner financing of facilities and infrastructure.

A "legislative authority" is the governing body of a county, city, or town to which a petition is submitted and will be determined based upon the location of the proposed district. Definitions are also provided for "board of supervisors," "community facilities district," "facility," "petition," and "special assessment."

Part II — Community Facilities District Formation: Authorization, Petition and Hearing Process.

The establishment of CFDs is authorized. A CFD may only include land within urban growth areas designated under the Growth Management Act (GMA). A CFD may include one or more noncontiguous properties. Formation includes the following steps:

A petition executed by 100 percent of all owners of private property located within proposed district boundaries must be presented to the applicable legislative authority. The petition must include: a designation of the CFD boundaries; a general explanation of the CFD objective and plan; a description of the specific anticipated facilities to be financed; a list of petitioners or representatives of petitioners willing to serve on the Board of Supervisors (Board); and certain declarations, assertions, and obligations. The petitioners must certify that they want to voluntarily submit their land to the CFD's authority and must request that their property be subject to assessments, up to the amount included on the petition. The petition may propose a special assessment; if so, the petition must provide specific information including diagrams of property, a preliminary assessment roll, and proposed methods for computing the assessments. The petition must include an explanation of the security to be provided to ensure timely payment of assessments and bonds. The petition must be filed with the auditor of each county in which property is included in the CFD boundary. Responsibilities, requirements, and a timeline for lead auditor review, petition amendment, certification of sufficiency, and transmittal to each legislative authority is outlined.

Thirty to 60 days after a petition is certified as sufficient by the lead auditor, there must be a public hearing by each applicable legislative authority. Requirements related to notice, petition consideration, timelines, resolutions, objections and appeals are provided. At the public hearing, the legislative authority must consider the petition and may receive any

evidence it deems material that supports or opposes CFD formation. The applicable legislative authority may approve the petition if it determines in its sole discretion that CFD formation will benefit the petitioners, is in the jurisdiction's best interest, and is consistent with the requirements of the GMA.

Part III — Community Facilities District Board of Supervisors.

A CFD must be independently governed by a Board appointed by each applicable legislative authority. Board member positions are allocated for specified numbers of legislative authority members and eligible petitioners or their representatives. The legislative authority may appoint qualified professionals with expertise in municipal finance in place of one or more appointments of its members. If an approved CFD was originally located on unincorporated land, but that land is subsequently annexed into a city or town, then from the time of annexation forward, the exclusive legislative authority is the city or town and the Board must be restructured accordingly.

Provisions are included for Board terms, vacancies, quorums, expenses, and chair designation.

Part IV — Community Facilities District Powers.

A CFD is an independently governed, special purpose district with the corporate authority under Article VII, section 9 of the state Constitution to make local improvements by special assessments.

The public improvements and facilities provided by a CFD are not exempted through this chapter from the regulatory and land use permitting requirements of the jurisdiction in which the improvements are located.

A CFD has the powers authorized under this chapter to carry out the specific objectives, plan and facilities in the approved petition. Among other powers, a CFD may: acquire, lease, finance, manage, construct, and sell real and personal property, facilities, or interests, inside or outside the district boundaries that directly serve facilities or benefit properties within the CFD; perform contracts; levy and enforce collection of special assessments against the property within the district; and issue revenue bonds and assessment bonds. Additional powers and limitations are provided.

Part V — Community Facilities District Finances.

A CFD is authorized to use revenues from special assessments and bonds to finance costs of facilities with an estimated life of five years or more, and the costs of directly associated planning and design work. A CFD is also authorized to finance costs of infrastructure and facilities including, but not limited to, sanitary sewage systems; drainage and flood control systems; water systems; highways, streets, roadways and parking facilities; pedestrian malls, parks, recreational facilities and open space facilities; limited communication facilities, specifically poles, trenches, and conduits, for use of any communications provider; street lighting; and library, educational and cultural facilities.

A CFD may not finance public or private residential dwellings, or nonprofit facilities, health care facilities, higher education institutions, or economic development activities as defined under certain cited statutes.

Requirements and powers of a CFD relating to district formation, assessments, collection, foreclosure and other powers will be as provided under municipal local improvement statutes, except when specific requirements and powers are addressed in this chapter.

The Board may impose special assessments on property located inside the district and benefited by the facilities and improvements provided by the CFD, whether the facilities and improvements are located inside or outside of the district boundaries. The CFD may use the special assessments for repayment of bond principal and interest or to directly fund the costs of providing facilities on a pay-as-you-go basis.

The terms of special assessments are limited to the lesser of 28 years or two years less than the term of any bonds issued by or on behalf of the CFD. Provisions are included relating to assessment roll objections, Board options, petitioner responses, and segregation of assessments. A written notice of any special assessment imposed must be provided to the owner of assessed property at least once annually.

No bonds issued by the CFD are obligations of any city, town, and county, the state or other political subdivision other than the CFD.

Identification, duties, and authorities of the CFD's treasurer are provided.

Part VI — Miscellaneous Provisions.

All assessments on the property within the CFD's boundaries are a lien on the property and are superior to any other lien except a lien for general taxes.

Codification instructions and a severability clause are provided.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) In the northern part of Gig Harbor, we have recently had two building moratoria because of inadequate road and wastewater infrastructure. We need tools to deal with concurrency issues under the GMA. Much private development could be freed up through use of a CFD. The concept for this bill has remained the same since its introduction, but it has been improved both technically and substantively by stakeholders. Sub-regional infrastructure is not able to be financed through existing tools at the magnitude needed. This

tool will provide meaningful amounts of money at no impact to state or local government revenues.

(Opposed) None.

Persons Testifying: Jeremie Lipton, Cairncross and Hempelmann; and Dave MacDuff, Yarrow Bay Holdings.

Persons Signed In To Testify But Not Testifying: None.