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HOUSE BILL 1886

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State of Washington

61st Legislature

2009 Regular Session

By Representative Takko

Read first time 02/02/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to flood control districts; amending RCW 86.09.175,  
2 86.09.178, 86.09.181, 86.09.259, 86.09.268, 86.09.271, and 86.09.466;  
3 adding new sections to chapter 86.09 RCW; and repealing RCW 86.09.274,  
4 86.09.277, and 86.09.280.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 86.09.175 and 1937 c 72 s 59 are each amended to read  
7 as follows:

8 (1) Contracts entered into by districts for construction (~~or~~  
9 ~~for~~) services (~~or~~) materials, or maintenance may provide that  
10 payments (~~shall~~) will be made in such monthly proportion of the  
11 contract price, as the board shall determine thereon, as the work  
12 progresses, or as the services (~~or~~) materials, or maintenance are  
13 furnished, on monthly estimates of the value thereof (~~, approved by the~~  
14 ~~state director. Before the district shall enter into any contract, the~~  
15 ~~plans, specifications and form of contract therefor shall be approved~~  
16 ~~by the state director~~)).

17 (2) The district shall withhold five percent of all payments to be  
18 made under subsection (1) of this section until the contract is

1 complete, as evidenced by releases issued by the district. This  
2 subsection (2) does not apply to contracts for materials.

3 **Sec. 2.** RCW 86.09.178 and 1965 c 26 s 2 are each amended to read  
4 as follows:

5 ~~((Contracts for construction, or for labor or materials entering~~  
6 ~~into the construction of any improvement authorized by the district~~  
7 ~~shall be awarded at public bidding except as herein otherwise provided.~~  
8 ~~A notice calling for sealed proposals shall be published in such~~  
9 ~~newspaper or newspapers of general circulation as the board shall~~  
10 ~~designate for a period of not less than two weeks (three weekly issues)~~  
11 ~~prior to the day of the opening of the bids. Such proposals shall be~~  
12 ~~accompanied by a certified check for such amount as the board shall~~  
13 ~~decide upon, to guarantee a compliance with the bid and shall be opened~~  
14 ~~in public at the time and place designated in the notice. The contract~~  
15 ~~shall be awarded to the lowest and best responsible bidder: PROVIDED,~~  
16 ~~That the board shall have authority to reject any or all bids, in which~~  
17 ~~event they shall readvertise for bids and, when no satisfactory bid is~~  
18 ~~then received and with the written approval of the director, may~~  
19 ~~proceed to construct the works by force account.)) (1) Except as~~  
20 provided under subsection (4) of this section, contracts for  
21 construction or maintenance, or for labor or materials used in the  
22 construction or maintenance of any improvement authorized by the  
23 district, may only be awarded through a public bidding process that  
24 complies with the following:

25 (a) Notices calling for sealed bid proposals must be published in  
26 at least one newspaper of general circulation in the district. These  
27 notices must be published at least once fourteen or more days before  
28 the deadline for submitting bid proposals; and

29 (b) Bid proposals: (i) Must be in writing, filed at the location  
30 specified in the notice, and opened and read in public by the governing  
31 body or designee at a time and location also specified in the notice;  
32 (ii) must be filed in the official records of the district and  
33 available for public inspection; and (iii) must be accompanied by a bid  
34 proposal deposit equaling five percent of the total cost of the  
35 project. Bid proposal deposits may be in the form of cash, a certified  
36 check, a cashier's check, or a surety bond.

1       (2) If the successful bidder fails to enter into a contract and  
2 fails to furnish a satisfactory performance bond within time  
3 specifications established by the district, the bid proposal deposit  
4 will be forfeited to the district.

5       (3) The contract must be awarded to the lowest and best responsible  
6 bidder, except that the governing body may reject any and all bids. If  
7 the district rejects one or more bids, the district must submit a new  
8 notice calling for sealed bid proposals that complies with subsection  
9 (1)(a) of this section.

10       (4) If a satisfactory bid is not received under this section, the  
11 district may complete the project by an agreed price or force account.

12       NEW SECTION. Sec. 3. A new section is added to chapter 86.09 RCW  
13 to read as follows:

14       (1) Except as provided under this section, district construction  
15 and maintenance contracts require three or more formal bid proposals  
16 when the total cost of the project is equal to or greater than fifty  
17 thousand dollars. Formal bid proposals must be made in writing and  
18 must be filed in the official records of the district. This subsection  
19 (1) does not apply to projects that have a total cost of less than five  
20 thousand dollars or to contract solicitations for which three bidders  
21 are not available.

22       (2) This section does not restrict a district from: (a) Using  
23 volunteer labor and equipment on improvements and providing  
24 reimbursement for actual expenses; or (b) entering into an interlocal  
25 agreement for district construction, maintenance, or other work with a  
26 county, city, or other governmental entity.

27       **Sec. 4.** RCW 86.09.181 and 1965 c 26 s 3 are each amended to read  
28 as follows:

29       (1) Any person(~~, except the state of Washington and the United~~  
30 States~~,~~) acting under the provisions of this chapter, to whom (~~or to~~  
31 which)) a contract (~~may have~~) of at least five thousand dollars has  
32 been awarded by the district for construction (~~(purposes)~~),  
33 maintenance, or (~~for~~) labor (~~(or materials entering therein when the~~  
34 total amount to be paid therefor exceeds one thousand dollars~~,~~) shall  
35 enter into a bond to the state of Washington, with good and sufficient  
36 sureties, (~~(to be approved and filed with the state director~~,~~)~~) for one

1 hundred percent of the contract price, conditioned for the faithful  
2 performance of said contract and with (~~such~~) further conditions as  
3 may be required by law.

4 (2) This section does not apply to district contracts awarded to  
5 the United States, the state of Washington, or counties and cities  
6 within the state of Washington.

7 **Sec. 5.** RCW 86.09.259 and 1985 c 396 s 58 are each amended to read  
8 as follows:

9 A flood control district shall be managed by a board of directors  
10 consisting of three members. The initial directors shall be appointed,  
11 and the elected directors elected, as provided in chapter 85.38 RCW.  
12 The directors shall elect a (~~chairman~~) chair and vice-chair from  
13 their number (~~and shall either~~). The directors may elect (~~one of~~)  
14 a secretary from their number(~~, or appoint a voter of the district, as~~  
15 ~~secretary~~) to hold office at (~~its~~) the board's pleasure and who  
16 shall keep a record of (~~its~~) the board's proceedings.

17 In accordance with RCW 86.09.268, the directors may also appoint  
18 and employ a secretary.

19 **Sec. 6.** RCW 86.09.268 and 1937 c 72 s 90 are each amended to read  
20 as follows:

21 The board shall (~~have the power and it shall be its duty to adopt~~  
22 ~~a seal of the district, to~~):

23 (1) Manage and conduct the business affairs of the district, (~~to~~)  
24 including holding regular meetings at least once each year;

25 (2) Employ and appoint (~~such~~) agents, engineers, attorneys,  
26 officers, and employees as may be necessary, and prescribe their  
27 duties(~~, to~~);

28 (3) Establish reasonable (~~bylaws,~~) rules and regulations for the  
29 government and management of affairs of the district(~~, and~~);

30 (4) Generally (~~to~~) perform any and all acts necessary to carry  
31 out the purpose of the district organization; and

32 (5) Hold open meetings in accordance with chapter 42.30 RCW.

33 **Sec. 7.** RCW 86.09.271 and 1985 c 396 s 59 are each amended to read  
34 as follows:

35 The office of the directors and principal place of business of the

1 district shall be located, if possible, at some place within the  
2 district to be designated by the board. If a place convenient and  
3 suitable for conducting district business and public hearings required  
4 by this chapter cannot be found within the district, the office may be  
5 located in the county within which the major portion of district lands  
6 is situated. (~~The office and place of business cannot thereafter be  
7 changed, except with the previous written consent of the county  
8 legislative authority of the county within which the major portion of  
9 the district is situated, and without passing a resolution to that  
10 effect at a previous regular meeting of the board, entered in the  
11 minutes thereof and without posting a notice of the change in a  
12 conspicuous public place at or near the place of business which is to  
13 be changed at least ten days prior thereto and by the previous posting  
14 of a copy of the notice for the same length of time at or near the new  
15 location of the office.~~)

16 **Sec. 8.** RCW 86.09.466 and 1985 c 396 s 75 are each amended to read  
17 as follows:

18 The secretary of the district on or before the first day of  
19 (~~November~~) December in each year shall estimate the amount of money  
20 necessary to be raised for any and all district purposes during the  
21 ensuing year based upon a budget furnished him by the district board  
22 and submit the same to the county legislative authority of the county  
23 within which the major portion of the district is situated for its  
24 suggestions, approval and revision and upon the approval of the budget  
25 by said county legislative authority, either as originally submitted or  
26 as revised, the secretary shall prepare an assessment roll with  
27 appropriate headings in which must be listed all the lands in each  
28 assessment classification shown on the base assessment map.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 86.09 RCW  
30 to read as follows:

31 (1) Contiguous territory outside of a special district that  
32 receives services from the district may be annexed into the district  
33 using the following method:

34 (a) The governing body must adopt a resolution of its intent to  
35 annex the territory. The resolution must: (i) Include a map and  
36 description of the subject territory; (ii) indicate which service or

1 services the territory is receiving from the district; (iii) specify  
2 the proposed system of assessment; and (iv) set a date and time for a  
3 public hearing on the annexation proposal;

4 (b) The district must publish notice of the hearing in a newspaper  
5 of general circulation in the district and must notify, by mail, all  
6 property owners as determined by the records of the county assessor.  
7 The notice required under this subsection (1)(b) must be published and  
8 mailed at least twenty-one days, but not more than twenty-eight days,  
9 before the public hearing. This subsection (1)(b) does not restrict or  
10 prevent a district from publishing or mailing notices that are in  
11 addition to the required notice;

12 (c) After the public hearing, which may be continued from time to  
13 time, the governing body must decide whether to recommend the  
14 annexation to the legislative authority of the county in which the  
15 territory proposed for annexation is located. If the governing body  
16 recommends the annexation, it must adopt a resolution of the  
17 recommendation within forty-five days of its decision and forward a  
18 copy of the resolution, together with a draft annexation ordinance, to  
19 the applicable legislative authority;

20 (d) The county legislative authority, by resolution, must set a  
21 date and time for a public hearing on the annexation proposal. The  
22 date of the hearing must be within ninety days after the county  
23 receives the recommendation resolution and draft annexation ordinance  
24 from the special district;

25 (e) After the public hearing, which may be continued from time to  
26 time, the county legislative authority must decide whether to approve,  
27 modify, or reject the annexation proposal. The legislative authority  
28 may remove territory from the proposal, but it may not add territory  
29 without holding an additional public meeting and providing meeting  
30 notice to the property owners affected by the addition that conforms  
31 with the notice requirements of (b) of this subsection; and

32 (f) If the county legislative authority approves the annexation  
33 proposal in its original or a modified form, it must do so by  
34 ordinance. Approved annexations are effective on the first day of the  
35 following January.

36 (2) For the purposes of this section, territory bounded by a river,  
37 lake, or other body of water is contiguous to a district that is also  
38 bounded by the same river, lake, or other body of water.

1        NEW SECTION.    **Sec. 10.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 86.09.274 (Board of directors--Meetings--Change of date)  
4 and 1985 c 396 s 60 & 1937 c 72 s 92;

5        (2) RCW 86.09.277 (Board of directors--Special meetings--When  
6 notice required--Authorized business) and 1937 c 72 s 93; and

7        (3) RCW 86.09.280 (Board of directors--Meetings and records  
8 public--Printing of bylaws and rules) and 1937 c 72 s 94.

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