

HOUSE BILL REPORT

HB 2218

As Reported by House Committee On:
Local Government

Title: An act relating to lake and beach management districts.

Brief Description: Concerning lake and beach management districts.

Sponsors: Representatives Haigh, MacEwen and Blake.

Brief History:

Committee Activity:

Local Government: 1/20/14, 2/3/14 [DPS].

Brief Summary of Substitute Bill

- Authorizes lake management districts and beach management districts to be created for the purpose of financing the acquisition of real property or property rights within or outside of a district.
- Grants counties specific powers related to the acquisition of real property or property rights within or outside of a lake management district or beach management district.
- Authorizes counties to issue lake management district or beach management district revenue bonds.
- Conditions the acquisition of real property or property rights and the issuance of revenue bonds upon written approval by a majority of the property owners of the district.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Takko, Chair; Gregerson, Vice Chair; Farrell, Fitzgibbon, Pike and Springer.

Minority Report: Do not pass. Signed by 3 members: Representatives Overstreet, Ranking Minority Member; Kochmar, Assistant Ranking Minority Member; Taylor.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Ethan Moreno (786-7386).

Background:

Purpose and Financing.

In accordance with adopted legislative intent articulating general goals objectives, any county, subject to approval of a ballot measure by qualified property owners, may create a lake management district or a beach management district to finance the improvement and maintenance of lakes or beaches wholly or partially within the boundaries of the county. While lake management districts and beach management districts share many common governing provisions, current law states that beach management districts may be specifically created for the purpose of controlling and removing aquatic plants or vegetation. Lake or beach management districts may be created for any needed period of time.

Special assessments or rates and charges to finance lake or beach improvement and maintenance activities may be imposed on all property included within a lake or beach management district. Examples of permitted improvement and maintenance activities include:

- controlling or removing aquatic plants and vegetation;
- improving water quality;
- studying lake or marine water quality problems and solutions; and
- related administrative, engineering, legal, and operational costs, including the costs of creating the lake or beach management district.

The special assessments or rates and charges may be imposed annually for the duration of the lake or beach management district. However, the county legislative authority may stop the imposition of annual special assessments if, in its opinion, the public interest will be served by doing so.

As specified in provisions governing rates and charges, counties, subject to specific requirements, may also issue lake or beach management district revenue bonds. In doing so, a county may create a lake or beach management district bond guaranty fund (fund) for each issuance of lake or beach management district bonds. A portion of the bond proceeds may be placed into the fund. Unused moneys remaining in the fund during the last two years of the installments must be used to proportionally reduce the required level of installments, and must be transferred into the special fund into which installment payments are placed.

Creation Provisions.

The process to create a lake or beach management district may be initiated by the adoption of a resolution of intention by a county legislative authority, or through the filing of a landowner petition meeting specified requirements. The resolution of intention or petition must meet requirements for the proposed district, including setting forth the nature of the improvement or maintenance activities proposed to be financed, the amount of money to be raised by special assessments or rates and charges, and the annual amount of revenue proposed for collection.

If the county initiated the creation process through a resolution of intention, or if a submitted petition is found to be sufficient and, as determined by the county, financially feasible and in

the best interest of the public, an amended or new resolution of intention is adopted by the county legislative authority, and a public hearing on the proposed district is scheduled. At the public hearing, the county legislative authority may, subject to certain requirements, make changes in the proposed district or modify the proposed improvement or maintenance plans. Additionally, the county legislative authority may elect to alter the plans for the proposed improvement or maintenance activities in a manner that increases in the amount of money proposed to be raised, and may increase the amount of money proposed to be raised, but either of these actions require the adoption of an amended resolution of intention and compliance with further property owner notification requirements.

Following compliance with required public notice and hearing requirements, the county legislative authority may adopt a resolution submitting the question of creating the lake or beach management district exclusively to the owners of land within the proposed district. The resolution must satisfy specified requirements, including having a plan describing the proposed lake or beach improvement and maintenance activities, the number of years the district will exist, a description of the rates and charges (if rates and charges are to be imposed), and a statement indicating that revenue bonds may be issued and payable from the rates and charges.

The election determining whether to create a lake or beach management district is conducted according to specific requirements outside of general election laws, including the use of weighted ballots that grant property owners one vote for each dollar of estimated special assessment or rate and charge proposed to be imposed on their property. If the ballot proposal receives a simple majority vote in favor of creating the district, the county legislative authority must adopt a resolution creating the district.

Following the creation of a lake or beach management district, the county must satisfy specific administrative responsibilities. For example, within 15 days after a county creates a lake or beach management district, the county must file with the county treasurer a description of the lake or beach improvement and maintenance activities proposed and to be financed by the district. The county must also file a diagram or print showing the boundaries of the lake or beach management district, and a preliminary special assessment roll showing the land to be benefited and the estimated cost and expense of the improvement and maintenance activities to be borne by each lot, tract, parcel of land, or other property.

Summary of Substitute Bill:

Numerous provisions related to the creation, operation, and financing of lake management districts and beach management districts are modified or established.

Purpose and Financing.

Legislative intent language related to the establishment of lake management districts and beach management districts is modified to specify that the Legislature finds that it is in the public interest to promote the conservation and stewardship of shorelines and upland properties adjoining lakes and beaches in order to meet delineated objectives, including:

- conserving natural or scenic resources;

- protecting riparian habitats and water quality;
- promoting conservation of soils, wetlands, shorelines, or tidal marshes; and
- enhancing the value of lakes or beaches to the public as well as the benefit of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open space.

In addition to being created for the improvement and maintenance of lakes and beaches wholly or partially within a county, lake management or beach management districts may also be created to finance the acquisition of real property or property rights within or outside of a lake or beach management district, and to promote the conservation and stewardship of shorelines and upland properties adjoining lakes or beaches for conservation or for minimal development. The acquisition of real property or property rights includes the authority to acquire conservation easements.

"Improvement" as the term is used in lake and beach management district provisions, is defined to include, among other things, the acquisition of real property and property rights within or outside a district for specified lake or beach management purposes.

The list of permitted improvement and maintenance activities that may be financed with special assessments or rates and charges imposed on property with the lake or beach management district is expanded to permit the acquisition of real property and property rights.

Provisions governing the authority of a county legislative authority to stop the imposition of annual special assessments are modified to specify that the legislative authority may not do so if lake or beach management district bonds are outstanding or if an existing contract might otherwise be impaired.

Creation Provisions.

Provisions governing the resolution a county legislative authority may adopt to submit the question of creating a lake or beach management district to the owners of land within the proposed district are modified. If rates and charges are to be imposed, the resolution must include a description of the "proposed" rates and charges, rather than only "the rates and charges."

Regarding county administrative responsibilities following the creation of a lake or beach management district, the county is granted 30 days, rather than 15, to file with the county treasurer a description of the lake or beach improvement and maintenance activities proposed and to be financed by the district.

Authority to Issue Revenue Bonds.

Subject to prior written approval from a majority of the property owners of the district, counties are expressly authorized, in existing bond provisions, to issue lake or beach management district revenue bonds. Additional revenue bond governance provisions are established, including provisions specifying that:

- Revenue bonds may be payable from special assessments and from rates and charges of the lake or beach management district.

- County indebtedness limitations provided in statute are not affected by a county assisting in the financing of improvements to lakes or beaches wholly or partially within the county, including lakes or beaches within a lake or beach management district.
- A county may deposit amounts into a lake or beach management guaranty fund (fund) from any money legally available for that purpose.
- Any amounts remaining in the fund after the repayment of all revenue bonds and the payment of assessment installments, may be applied to lake or beach improvement and maintenance activities, or to other county purposes.

Approvals and Powers Associated with the Acquisition of Real Property or Property Rights.

Regarding approval requirements, a proposal for the acquisition of real property or property rights within or outside of a lake or beach management district must, prior to the acquisition, have the written approval of a majority of the property owners of the district.

With regard to county authorities, a county, in connection with the acquisition of real property or property rights within or outside of a lake or beach management district, is granted specific powers related to the acquisition authority. Examples of these powers include county authority to:

- own real property and property rights, including, without limitation, conservation easements;
- transfer real property and property rights to another state or local government entity;
- contract with a public or private entity, including without limitation, a financial institution with trust powers, a municipal corporation, or a nonprofit corporation, to hold real property or property rights in trust for the purposes of the lake or beach management district, and, in connection with those services, to pay the reasonable costs of that financial institution or nonprofit corporation; and
- impose terms, conditions, and encumbrances upon real property or property rights acquired in respect of a lake or beach management district.

Before a lake or beach management district in existence as of the effective date of the legislation may exercise the previously specified powers, the legislative authority of the county must satisfy certain procedural and public hearing requirements.

If, in accordance with these granted powers, a county contracts with a financial institution, municipal corporation, or nonprofit corporation to hold that property or property rights in trust for purposes of the lake or beach management district, the terms of the contract must meet specific requirements, including specifying that the financial institution, municipal corporation, or nonprofit corporation may not sell, pledge, or hypothecate the property or property rights for any purpose.

Substitute Bill Compared to Original Bill:

The amended bill makes the following changes to the original bill: (1) specifies that a proposal for the acquisition of real property or property rights within or outside of a lake or beach management district must, prior to the acquisition, have the written approval of a majority of the property owners of the district, as determined by the tax rolls of the county assessor; (2) specifies that a proposal for the issuance of revenue bonds by a county for a lake

or beach management district must, prior to the issuance, have the written approval of a majority of the property owners of the district, as determined by the tax rolls of the county assessor; and (3) modifies provisions governing contracts between counties and financial institutions and other specified entities that may hold property or property rights in trust for purposes of the lake or beach management district.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) A lake in the thirty-fifth legislative district has a lake management district. Property on the north side of the lake has been owned and maintained by the Green Diamond Resource Company. Some of those properties are slated to be sold. The lake district is concerned about the possible sale and has developed a plan for the properties with Forterra. Implementing the plan will require legislation, including allowing the district to finance a bond to purchase property and property rights, and to develop conservation easements. The proposed plan will help to allow some development on the north side of the lake, and will help further preservation, conservation, and public access related to the land.

The Green Diamond Resource Company has been instrumental in developing this legislation. About a year and a half ago, the company redesignated 250 acres of forested land on the back side of a heavily-populated Mason County lake. Although the redesignation did occur, there was a great deal of opposition associated with the action. This proposed legislation is an attempt to develop a win-win situation that makes the company whole and addresses local concerns.

Economic pressures and residential growth are putting a forested area near a Mason County lake at risk for development. The lake and forested area provide benefits to fish and wildlife in the area. This bill, which is the result of an 18-month partnership effort, is an expansion of lake and beach management district authority that will provide a useful conservation tool. This bill will empower local communities, through locally-funded and locally-driven efforts, to conserve properties that are important to them, and to prevent fragmentation.

(Opposed) None.

Persons Testifying: Representative Haigh, prime sponsor; Patti Case, Green Diamond Resource Company; Steve Boothe, Friends of Lake Nahwatzel; and Leda Chahim, Forterra.

Persons Signed In To Testify But Not Testifying: None.