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HOUSE BILL 1239

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Takko and Crouse

Read first time 01/21/13. Referred to Committee on Local Government.

1 AN ACT Relating to the powers of water-sewer districts; and  
2 amending RCW 57.08.005.

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

4 **Sec. 1.** RCW 57.08.005 and 2009 c 253 s 1 are each amended to read  
5 as follows:

6 A district shall have the following powers:

7 (1) To acquire by purchase or condemnation, or both, all lands,  
8 property and property rights, and all water and water rights, both  
9 within and without the district, necessary for its purposes. The right  
10 of eminent domain shall be exercised in the same manner and by the same  
11 procedure as provided for cities and towns, insofar as consistent with  
12 this title, except that all assessment or reassessment rolls to be  
13 prepared and filed by eminent domain commissioners or commissioners  
14 appointed by the court shall be prepared and filed by the district, and  
15 the duties devolving upon the city treasurer are imposed upon the  
16 county treasurer;

17 (2) To lease real or personal property necessary for its purposes  
18 for a term of years for which that leased property may reasonably be  
19 needed;

1           (3) To construct, condemn and purchase, add to, maintain, and  
2 supply waterworks to furnish the district and inhabitants thereof and  
3 any other persons, both within and without the district, with an ample  
4 supply of water for all uses and purposes public and private with full  
5 authority to regulate and control the use, content, distribution, and  
6 price thereof in such a manner as is not in conflict with general law  
7 and may construct, acquire, or own buildings and other necessary  
8 district facilities. Where a customer connected to the district's  
9 system uses the water on an intermittent or transient basis, a district  
10 may charge for providing water service to such a customer, regardless  
11 of the amount of water, if any, used by the customer. District  
12 waterworks may include facilities which result in combined water supply  
13 and electric generation, if the electricity generated thereby is a  
14 by-product of the water supply system. That electricity may be used by  
15 the district or sold to any entity authorized by law to use or  
16 distribute electricity. Electricity is deemed a by-product when the  
17 electrical generation is subordinate to the primary purpose of water  
18 supply. For such purposes, a district may take, condemn and purchase,  
19 acquire, and retain water from any public or navigable lake, river or  
20 watercourse, or any underflowing water, and by means of aqueducts or  
21 pipeline conduct the same throughout the district and any city or town  
22 therein and carry it along and upon public highways, roads, and  
23 streets, within and without such district. For the purpose of  
24 constructing or laying aqueducts or pipelines, dams, or waterworks or  
25 other necessary structures in storing and retaining water or for any  
26 other lawful purpose such district may occupy the beds and shores up to  
27 the high water mark of any such lake, river, or other watercourse, and  
28 may acquire by purchase or condemnation such property or property  
29 rights or privileges as may be necessary to protect its water supply  
30 from pollution. For the purposes of waterworks which include  
31 facilities for the generation of electricity as a by-product, nothing  
32 in this section may be construed to authorize a district to condemn  
33 electric generating, transmission, or distribution rights or facilities  
34 of entities authorized by law to distribute electricity, or to acquire  
35 such rights or facilities without the consent of the owner;

36           (4) To purchase and take water from any municipal corporation,  
37 private person, or entity. A district contiguous to Canada may  
38 contract with a Canadian corporation for the purchase of water and for

1 the construction, purchase, maintenance, and supply of waterworks to  
2 furnish the district and inhabitants thereof and residents of Canada  
3 with an ample supply of water under the terms approved by the board of  
4 commissioners;

5 (5) To construct, condemn and purchase, add to, maintain, and  
6 operate systems of sewers for the purpose of furnishing the district,  
7 the inhabitants thereof, and persons outside the district with an  
8 adequate system of sewers for all uses and purposes, public and  
9 private, including but not limited to on-site sewage disposal  
10 facilities, approved septic tanks or approved septic tank systems, on-  
11 site sanitary sewerage systems, inspection services and maintenance  
12 services for private and public on-site systems, point and nonpoint  
13 water pollution monitoring programs that are directly related to the  
14 sewerage facilities and programs operated by a district, other  
15 facilities, programs, and systems for the collection, interception,  
16 treatment, and disposal of wastewater, and for the control of pollution  
17 from wastewater with full authority to regulate the use and operation  
18 thereof and the service rates to be charged. Under this chapter, after  
19 July 1, 1998, any requirements for pumping the septic tank of an on-  
20 site sewage system should be based, among other things, on actual  
21 measurement of accumulation of sludge and scum by a trained inspector,  
22 trained owner's agent, or trained owner. Training must occur in a  
23 program approved by the state board of health or by a local health  
24 officer. Sewage facilities may include facilities which result in  
25 combined sewage disposal or treatment and electric or methane gas  
26 generation, except that the electricity or methane gas generated  
27 thereby is a by-product of the system of sewers. Such electricity or  
28 methane gas may be used by the district or sold to any entity  
29 authorized by law to distribute electricity or methane gas.  
30 Electricity and methane gas are deemed by-products when the electrical  
31 or methane gas generation is subordinate to the primary purpose of  
32 sewage disposal or treatment. The district may also sell surplus  
33 methane gas, which may be produced as a by-product. For such purposes  
34 a district may conduct sewage throughout the district and throughout  
35 other political subdivisions within the district, and construct and lay  
36 sewer pipe along and upon public highways, roads, and streets, within  
37 and without the district, and condemn and purchase or acquire land and  
38 rights-of-way necessary for such sewer pipe. A district may erect

1 sewage treatment plants within or without the district, and may  
2 acquire, by purchase or condemnation, properties or privileges  
3 necessary to be had to protect any lakes, rivers, or watercourses and  
4 also other areas of land from pollution from its sewers or its sewage  
5 treatment plant. For the purposes of sewage facilities which include  
6 facilities that result in combined sewage disposal or treatment and  
7 electric generation where the electric generation is a by-product,  
8 nothing in this section may be construed to authorize a district to  
9 condemn electric generating, transmission, or distribution rights or  
10 facilities of entities authorized by law to distribute electricity, or  
11 to acquire such rights or facilities without the consent of the owners;

12 (6) The authority to construct, condemn and purchase, add to,  
13 maintain, and operate systems of reclaimed water as authorized by  
14 chapter 90.46 RCW for the purpose of furnishing the district and the  
15 inhabitants thereof with reclaimed water for all authorized uses and  
16 purposes, public and private, including with full authority to regulate  
17 the use and operation thereof and the service rates to be charged. In  
18 compliance with other sections of this chapter, a district may also  
19 provide reclaimed water services to persons outside the district;

20 (7)(a) To construct, condemn and purchase, add to, maintain, and  
21 operate systems of drainage for the benefit and use of the district,  
22 the inhabitants thereof, and persons outside the district with an  
23 adequate system of drainage, including but not limited to facilities  
24 and systems for the collection, interception, treatment, and disposal  
25 of storm or surface waters, and for the protection, preservation, and  
26 rehabilitation of surface and underground waters, and drainage  
27 facilities for public highways, streets, and roads, with full authority  
28 to regulate the use and operation thereof and, except as provided in  
29 (b) of this subsection, the service rates to be charged.

30 (b) The rate a district may charge under this section for storm or  
31 surface water sewer systems or the portion of the rate allocable to the  
32 storm or surface water sewer system of combined sanitary sewage and  
33 storm or surface water sewer systems shall be reduced by a minimum of  
34 ten percent for any new or remodeled commercial building that utilizes  
35 a permissive rainwater harvesting system. Rainwater harvesting systems  
36 shall be properly sized to utilize the available roof surface of the  
37 building. The jurisdiction shall consider rate reductions in excess of  
38 ten percent dependent upon the amount of rainwater harvested.

1 (c) Drainage facilities may include natural systems. Drainage  
2 facilities may include facilities which result in combined drainage  
3 facilities and electric generation, except that the electricity  
4 generated thereby is a by-product of the drainage system. Such  
5 electricity may be used by the district or sold to any entity  
6 authorized by law to distribute electricity. Electricity is deemed a  
7 by-product when the electrical generation is subordinate to the primary  
8 purpose of drainage collection, disposal, and treatment. For such  
9 purposes, a district may conduct storm or surface water throughout the  
10 district and throughout other political subdivisions within the  
11 district, construct and lay drainage pipe and culverts along and upon  
12 public highways, roads, and streets, within and without the district,  
13 and condemn and purchase or acquire land and rights-of-way necessary  
14 for such drainage systems. A district may provide or erect facilities  
15 and improvements for the treatment and disposal of storm or surface  
16 water within or without the district, and may acquire, by purchase or  
17 condemnation, properties or privileges necessary to be had to protect  
18 any lakes, rivers, or watercourses and also other areas of land from  
19 pollution from storm or surface waters. For the purposes of drainage  
20 facilities which include facilities that also generate electricity as  
21 a by-product, nothing in this section may be construed to authorize a  
22 district to condemn electric generating, transmission, or distribution  
23 rights or facilities of entities authorized by law to distribute  
24 electricity, or to acquire such rights or facilities without the  
25 consent of the owners;

26 (8) To construct, condemn, acquire, and own buildings and other  
27 necessary district facilities;

28 (9) To compel all property owners within the district located  
29 within an area served by the district's system of sewers to connect  
30 their private drain and sewer systems with the district's system under  
31 such penalty as the commissioners shall prescribe by resolution. The  
32 district may for such purpose enter upon private property and connect  
33 the private drains or sewers with the district system and the cost  
34 thereof shall be charged against the property owner and shall be a lien  
35 upon property served;

36 (10) Where a district contains within its borders, abuts, or is  
37 located adjacent to any lake, stream, groundwater as defined by RCW  
38 90.44.035, or other waterway within the state of Washington, to provide

1 for the reduction, minimization, or elimination of pollutants from  
2 those waters in accordance with the district's comprehensive plan, and  
3 to issue general obligation bonds, revenue bonds, local improvement  
4 district bonds, or utility local improvement bonds for the purpose of  
5 paying all or any part of the cost of reducing, minimizing, or  
6 eliminating the pollutants from these waters;

7 (11) Subject to subsection (7) of this section, to fix rates and  
8 charges for water, sewer, reclaimed water, and drain service supplied  
9 and to charge property owners seeking to connect to the district's  
10 systems, as a condition to granting the right to so connect, in  
11 addition to the cost of the connection, such reasonable connection  
12 charge as the board of commissioners shall determine to be proper in  
13 order that those property owners shall bear their equitable share of  
14 the cost of the system. For the purposes of calculating a connection  
15 charge, the board of commissioners shall determine the pro rata share  
16 of the cost of existing facilities and facilities planned for  
17 construction within the next ten years and contained in an adopted  
18 comprehensive plan and other costs borne by the district which are  
19 directly attributable to the improvements required by property owners  
20 seeking to connect to the system. The cost of existing facilities  
21 shall not include those portions of the system which have been donated  
22 or which have been paid for by grants. The connection charge may  
23 include interest charges applied from the date of construction of the  
24 system until the connection, or for a period not to exceed ten years,  
25 whichever is shorter, at a rate commensurate with the rate of interest  
26 applicable to the district at the time of construction or major  
27 rehabilitation of the system, or at the time of installation of the  
28 lines to which the property owner is seeking to connect. In lieu of  
29 requiring the installation of permanent local facilities not planned  
30 for construction by the district, a district may permit connection to  
31 the water and/or sewer systems through temporary facilities installed  
32 at the property owner's expense, provided the property owner pays a  
33 connection charge consistent with the provisions of this chapter and  
34 agrees, in the future, to connect to permanent facilities when they are  
35 installed; or a district may permit connection to the water and/or  
36 sewer systems through temporary facilities and collect from property  
37 owners so connecting a proportionate share of the estimated cost of  
38 future local facilities needed to serve the property, as determined by

1 the district. The amount collected, including interest at a rate  
2 commensurate with the rate of interest applicable to the district at  
3 the time of construction of the temporary facilities, shall be held for  
4 contribution to the construction of the permanent local facilities by  
5 other developers or the district. The amount collected shall be deemed  
6 full satisfaction of the proportionate share of the actual cost of  
7 construction of the permanent local facilities. If the permanent local  
8 facilities are not constructed within fifteen years of the date of  
9 payment, the amount collected, including any accrued interest, shall be  
10 returned to the property owner, according to the records of the county  
11 auditor on the date of return. If the amount collected is returned to  
12 the property owner, and permanent local facilities capable of serving  
13 the property are constructed thereafter, the property owner at the time  
14 of construction of such permanent local facilities shall pay a  
15 proportionate share of the cost of such permanent local facilities, in  
16 addition to reasonable connection charges and other charges authorized  
17 by this section. A district may permit payment of the cost of  
18 connection and the reasonable connection charge to be paid with  
19 interest in installments over a period not exceeding fifteen years.  
20 The county treasurer may charge and collect a fee of three dollars for  
21 each year for the treasurer's services. Those fees shall be a charge  
22 to be included as part of each annual installment, and shall be  
23 credited to the county current expense fund by the county treasurer.  
24 Revenues from connection charges excluding permit fees are to be  
25 considered payments in aid of construction as defined by department of  
26 revenue rule. Rates or charges for on-site inspection and maintenance  
27 services may not be imposed under this chapter on the development,  
28 construction, or reconstruction of property.

29 Before adopting on-site inspection and maintenance utility  
30 services, or incorporating residences into an on-site inspection and  
31 maintenance or sewer utility under this chapter, notification must be  
32 provided, prior to the applicable public hearing, to all residences  
33 within the proposed service area that have on-site systems permitted by  
34 the local health officer. The notice must clearly state that the  
35 residence is within the proposed service area and must provide  
36 information on estimated rates or charges that may be imposed for the  
37 service.

1 A water-sewer district shall not provide on-site sewage system  
2 inspection, pumping services, or other maintenance or repair services  
3 under this section using water-sewer district employees unless the on-  
4 site system is connected by a publicly owned collection system to the  
5 water-sewer district's sewerage system, and the on-site system  
6 represents the first step in the sewage disposal process.

7 Except as otherwise provided in RCW 90.03.525, any public entity  
8 and public property, including the state of Washington and state  
9 property, shall be subject to rates and charges for sewer, water, storm  
10 water control, drainage, and street lighting facilities to the same  
11 extent private persons and private property are subject to those rates  
12 and charges that are imposed by districts. In setting those rates and  
13 charges, consideration may be made of in-kind services, such as stream  
14 improvements or donation of property;

15 (12) To contract with individuals, associations and corporations,  
16 the state of Washington, and the United States;

17 (13) To employ such persons as are needed to carry out the  
18 district's purposes and fix salaries and any bond requirements for  
19 those employees;

20 (14) To contract for the provision of engineering, legal, and other  
21 professional services as in the board of commissioner's discretion is  
22 necessary in carrying out their duties;

23 (15) To sue and be sued;

24 (16) To loan and borrow funds and to issue bonds and instruments  
25 evidencing indebtedness under chapter 57.20 RCW and other applicable  
26 laws;

27 (17) To transfer funds, real or personal property, property  
28 interests, or services subject to RCW 57.08.015;

29 (18) To levy taxes in accordance with this chapter and chapters  
30 57.04 and 57.20 RCW;

31 (19) To provide for making local improvements and to levy and  
32 collect special assessments on property benefited thereby, and for  
33 paying for the same or any portion thereof in accordance with chapter  
34 57.16 RCW;

35 (20) To establish street lighting systems under RCW 57.08.060;

36 (21) To exercise such other powers as are granted to water-sewer  
37 districts by this title or other applicable laws; and



1           (22) To exercise any of the powers granted to cities and counties  
2 with respect to the acquisition, construction, maintenance, operation  
3 of, and fixing rates and charges for waterworks and systems of sewerage  
4 and drainage and to exclusively exercise the same power granted to  
5 cities and towns with respect to the permitting, design, construction,  
6 inspection, and approval of facilities that are critical infrastructure  
7 for the functions of water works and systems of sewerage and drainage  
8 to the same extent as cities and counties exercise as to their own  
9 infrastructure. Critical infrastructure constitutes facilities that  
10 have as their exclusive purpose the functions necessary to water works  
11 and systems of sewerage and drainage.

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