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**HOUSE BILL 1367**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives MacEwen, Haler, and Muri

AN ACT Relating to facilitating the maintenance and repair of private roadways impacting the public interest; adding a new chapter to Title 35 RCW; adding a new chapter to Title 35A RCW; and adding a new chapter to Title 36 RCW.

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

NEW SECTION. **Sec.**  (1) A city or town may not authorize the financing for the construction, reconstruction, or repair of a private roadway under this chapter unless the city or town receives a petition signed by the owners abutting the roadway, according to the records of the county within which the roadway is located, constituting an aggregate amount of the majority of the lineal frontage upon the contemplated roadway improvement.

(2) A petition submitted under this section must set forth the nature and territorial extent of the proposed roadway improvement and the fact that the petition signers are the owners, according to the records of the county within which the roadway is located, of a majority of the lineal frontage upon the contemplated roadway improvement. The petition must also state the financial contribution that will be provided by each of the property owners abutting the portion of the roadway improvement and a proposed timeline for completing the roadway improvement.

(3) Upon the filing of a petition under this section, the city or town must determine whether the petition is sufficient. If the city or town finds the petition to be sufficient, the city or town may adopt a resolution under section 3 of this act.

NEW SECTION. **Sec.**  A city or town may construct, reconstruct, and repair private roadways when the city or town receives a petition under section 1 of this act and adopts a resolution required under section 3 of this act. From any available funds, the city or town may either pay the entire costs of the construction, reconstruction, or repair, or contribute a portion of the funds to pay the costs of such improvements.

NEW SECTION. **Sec.**  (1) Under this chapter, a city or town may only undertake the construction, reconstruction, or repair of a private roadway pursuant to a resolution of the legislative body of the city or town. The resolution must state whether all or a specified portion of the cost of the improvements will be borne by the abutting property owners at their own cost and expense as provided in the petition under section 1 of this act. The amount of cost and expense borne by the abutting property owners, as provided in the resolution, may not exceed the amount specified in the petition under section 1 of this act. If the abutting owners are required to pay for all or a portion of the costs of the improvements and fail to pay for the costs, the city or town may perform and complete the improvements and assess the cost against the abutting owners for the portion of costs attributable to the property owners in the manner provided in the petition, but adjusted for any modifications authorized under this subsection. The city or town may not increase the total amount of funds that will be contributed by the abutting property owners in excess of the amount specified in the petition submitted under section 1 of this act, but the resolution may modify the amount contributed by each property owner to reflect a more fair allocation among the property owners.

(2) Any resolution submitted under subsection (1) of this section must include a declaration of public use that specifically identifies the significant public uses necessitating the construction, reconstruction, or repair of a private roadway.

(3) If the abutting owners are required to pay for all or a portion of the costs of the improvements as provided under subsection (1) of this section, the cost assigned to each property owner must be consistent with the allocated contribution amounts specified on the petition, but adjusted for any modifications authorized under subsection (1) of this section.

(4) The legislative body of the city or town must provide a public hearing on the resolution prior to its adoption. Notice of the public hearing on the resolution must be published in the official newspaper or regularly published official publication of the city or town for two consecutive weeks before the time of hearing. At least ten days before the date fixed for the hearing, the city or town must provide notice of the date of the hearing to each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property a notice of the date of hearing at the address shown on the tax rolls of the county treasurer. An affidavit must be filed with the city or town before the hearing showing that notice, by publication and mailing, was made as required in this section. The hearing may be postponed to a definite date until the hearing is held. At the hearing, the legislative body of the city or town must hear persons who appear for or against the improvement and determine whether it will proceed with the improvement; whether it will make any changes to the original plan; and what the changes will be, if any. This action may be taken by motion adopted in a manner as determined by the legislative body.

NEW SECTION. **Sec.**  When all or any portion of the cost is to be assessed against abutting property owners, the city or town may create a "private roadway construction fund No. . . . ." to be numbered differently for each improvement and with warrants drawn on this fund the cost of the respective improvements may be paid. The city or town may loan the amounts necessary to pay for any costs of the improvement loan to the private roadway construction fund. If assessments are made for the improvement, then payments for the improvement must be paid into the particular private roadway improvement fund. If any funds are available over the amounts necessary to pay outstanding warrants, any advances or loans made to the fund must be repaid. If warrants are drawn on any such fund that are not paid for lack of sufficient funds, they must be stamped as such and bear interest until called and paid at a rate established by the city or town by resolution.

NEW SECTION. **Sec.**  If any portion of the costs are to be assessed against the abutting property by the city or town, an assessment roll must be prepared by the proper official of the city or town and must conform with the allocation of costs specified in the petition submitted under section 1 of this act, but adjusted for any modifications authorized under this section. The assessment roll must describe the property assessed; state the name of the owner or that the owner is unknown and fix the amount of the assessment. The assessment roll must be filed with the appropriate official of the city or town. When the assessment roll is properly filed, the city or town must, by resolution, fix a date for hearing the proposed assessment roll and direct the clerk of the city or town to give notice of the hearing and the time and place of the hearing. The notice of hearing must be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property at the address shown on the tax roll, and must be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city. The notice must be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication must be made by affidavit and must be filed with the appropriate official of the city or town before the date fixed for the hearing. Following the hearing the city or town must by resolution affirm, modify, or reject or order recasting of the assessment roll. An appeal may be filed with the superior court from the ordinance confirming the assessment roll in the same manner as provided for appeals from the assessment roll in chapters 35.43 through 35.54 RCW.

NEW SECTION. **Sec.**  The city or town must by resolution provide whether the full amount of the assessment must be paid in one payment or whether it may be paid in installments and must prescribe the time and amount of such payments. If to be paid in installments, the city or town may by resolution provide for interest on unpaid installments and fix the rate of interest.

NEW SECTION. **Sec.**  The assessment roll, as affirmed or modified by the city or town, must be filed with the treasurer of the city or town for collection, and the amount of the assessment roll including interest, if any, becomes a lien against the property described therein from the date of the filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more, the lien may be foreclosed in the same manner and with the same effect as provided in chapters 35.43 through 35.54 RCW. Whenever the deed is issued after the sale therein provided, the regularity, validity, and correctness of the proceedings relating to such improvement and the assessment therefor is final and conclusive and no action may thereafter be brought by or in behalf of any person to set aside such deed.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Private roadway" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons.

(2) "Public use" means the use of a private roadway by a governmental entity related to police or fire protection services or any other governmental service requiring the use of a private roadway as the vehicular roadway for ingress or egress by the governmental entity.

NEW SECTION. **Sec.**  (1) A code city may not authorize the financing for the construction, reconstruction, or repair of a private roadway under this chapter unless the code city receives a petition signed by the owners abutting the roadway, according to the records of the county within which the roadway is located, constituting an aggregate amount of the majority of the lineal frontage upon the contemplated roadway improvement.

(2) A petition submitted under this section must set forth the nature and territorial extent of the proposed roadway improvement and the fact that the petition signers are the owners, according to the records of the county within which the roadway is located, of a majority of the lineal frontage upon the contemplated roadway improvement. The petition must also state the financial contribution that will be provided by each of the property owners abutting the portion of the roadway improvement and a proposed timeline for completing the roadway improvement.

(3) Upon the filing of a petition under this section, the code city must determine whether the petition is sufficient. If the code city finds the petition to be sufficient, the code city may adopt a resolution under section 3 of this act.

NEW SECTION. **Sec.**  A code city may construct, reconstruct, and repair private roadways when the code city receives a petition under section 9 of this act and adopts a resolution required under section 11 of this act. From any available funds, the code city may either pay the entire costs of the construction, reconstruction, or repair; or contribute a portion of the funds to pay the costs of such improvements.

NEW SECTION. **Sec.**  (1) Under this chapter, a code city may only undertake the construction, reconstruction, or repair of a private roadway pursuant to a resolution of the legislative body of the code city. The resolution must state whether all or a specified portion of the cost of the improvements will be borne by the abutting property owners at their own cost and expense as provided in the petition under section 9 of this act. The amount of cost and expense borne by the abutting property owners, as provided in the resolution, may not exceed the amount specified in the petition under section 9 of this act. If the abutting owners are required to pay for all or a portion of the costs of the improvements and fail to pay for the costs, the code city may perform and complete the improvements and assess the cost against the abutting owners for the portion of costs attributable to the property owners in the manner provided in the petition, but adjusted for any modifications authorized under this subsection. The code city may not increase the total amount of funds that will be contributed by the abutting property owners in excess of the amount specified in the petition submitted under section 9 of this act, but the resolution may modify the amount contributed by each property owner to reflect a more fair allocation among the property owners.

(2) Any resolution submitted under subsection (1) of this section must include a declaration of public use that specifically identifies the significant public uses necessitating the construction, reconstruction, or repair of a private roadway.

(3) If the abutting owners are required to pay for all or a portion of the costs of the improvements as provided under subsection (1) of this section, the cost assigned to each property owner must be consistent with the allocated contribution amounts specified on the petition, but adjusted for any modifications authorized under subsection (1) of this section.

(4) The legislative body of the code city must provide a public hearing on the resolution prior to its adoption. Notice of the public hearing on the resolution must be published in the official newspaper or regularly published official publication of the code city for two consecutive weeks before the time of hearing. At least ten days before the date fixed for the hearing, the code city must provide notice of the date of the hearing to each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property a notice of the date of hearing at the address shown on the tax rolls of the county treasurer. An affidavit must be filed with the code city before the hearing showing that notice, by publication and mailing, was made as required in this section. The hearing may be postponed to a definite date until the hearing is held. At the hearing, the legislative body of the code city must hear persons who appear for or against the improvement and determine whether it will proceed with the improvement; whether it will make any changes to the original plan; and what the changes will be, if any. This action may be taken by motion adopted in a manner as determined by the legislative body.

NEW SECTION. **Sec.**  When all or any portion of the cost is to be assessed against abutting property owners, the code city may create a "private roadway construction fund No. . . . ." to be numbered differently for each improvement and with warrants drawn on this fund the cost of the respective improvements may be paid. The code city may loan the amounts necessary to pay for any costs of the improvement loan to the private roadway construction fund. If assessments are made for the improvement, then payments for the improvement must be paid into the particular private roadway improvement fund. If any funds are available over the amounts necessary to pay outstanding warrants, any advances or loans made to the fund must be repaid. If warrants are drawn on any such fund that are not paid for lack of sufficient funds, they must be stamped as such and bear interest until called and paid at a rate established by the code city by resolution.

NEW SECTION. **Sec.**  If any portion of the costs are to be assessed against the abutting property by the code city, an assessment roll must be prepared by the proper official of the code city and must conform with the allocation of costs specified in the petition submitted under section 9 of this act, but adjusted for any modifications authorized under this section. The assessment roll must describe the property assessed; state the name of the owner or that the owner is unknown and fix the amount of the assessment. The assessment roll must be filed with the appropriate official of the code city. When the assessment roll is properly filed, the code city must, by resolution, fix a date for hearing the proposed assessment roll and direct the clerk of the code city to give notice of the hearing and the time and place of the hearing. The notice of hearing must be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property at the address shown on the tax roll, and must be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city. The notice must be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication must be made by affidavit and must be filed with the appropriate official of the code city before the date fixed for the hearing. Following the hearing the code city must by resolution affirm, modify, or reject the assessment roll or order recasting of the assessment roll. An appeal may be filed with the superior court from the ordinance confirming the assessment roll in the same manner as provided for appeals from the assessment roll in chapters 35.43 through 35.54 RCW.

NEW SECTION. **Sec.**  The code city must by resolution provide whether the full amount of the assessment must be paid in one payment or whether it may be paid in installments and must prescribe the time and amount of such payments. If to be paid in installments, the code city may by resolution provide for interest on unpaid installments and fix the rate of interest.

NEW SECTION. **Sec.**  The assessment roll, as affirmed or modified by the code city, must be filed with the treasurer of the code city for collection, and the amount of the assessment roll including interest, if any, becomes a lien against the property described therein from the date of the filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more, the lien may be foreclosed in the same manner and with the same effect as provided in chapters 35.43 through 35.54 RCW. Whenever the deed is issued after the sale therein provided, the regularity, validity, and correctness of the proceedings relating to such improvement and the assessment therefor is final and conclusive and no action may thereafter be brought by or in behalf of any person to set aside such deed.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Private roadway" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons.

(2) "Public use" means the use of a private roadway by a governmental entity related to police or fire protection services or any other governmental service requiring the use of a private roadway as the vehicular roadway for ingress or egress by the governmental entity.

NEW SECTION. **Sec.**  (1) A county may not authorize the financing for the construction, reconstruction, or repair of a private roadway under this chapter unless the county receives a petition signed by the owners abutting the roadway, according to the records of the county within which the roadway is located, constituting an aggregate amount of the majority of the lineal frontage upon the contemplated roadway improvement.

(2) A petition submitted under this section must set forth the nature and territorial extent of the proposed roadway improvement and the fact that the petition signers are the owners, according to the records of the county within which the roadway is located, of a majority of the lineal frontage upon the contemplated roadway improvement. The petition must also state the financial contribution that will be provided by each of the property owners abutting the portion of the roadway improvement and a proposed timeline for completing the roadway improvement.

(3) Upon the filing of a petition under this section, the county must determine whether the petition is sufficient. If the county finds the petition to be sufficient, the county may adopt a resolution under section 3 of this act.

NEW SECTION. **Sec.**  A county may construct, reconstruct, and repair private roadways when the county receives a petition under section 17 of this act and adopts a resolution required under section 19 of this act. From any available funds, the county may either pay the entire costs of the construction, reconstruction, or repair; or contribute a portion of the funds to pay the costs of such improvements.

NEW SECTION. **Sec.**  (1) Under this chapter, a county may only undertake the construction, reconstruction, or repair of a private roadway pursuant to a resolution of the legislative body of the county. The resolution must state whether all or a specified portion of the cost of the improvements will be borne by the abutting property owners at their own cost and expense as provided in the petition under section 17 of this act. The amount of cost and expense borne by the abutting property owners, as provided in the resolution, may not exceed the amount specified in the petition under section 17 of this act. If the abutting owners are required to pay for all or a portion of the costs of the improvements and fail to pay for the costs, the county may perform and complete the improvements and assess the cost against the abutting owners for the portion of costs attributable to the property owners in the manner provided in the petition, but adjusted for any modifications authorized under this subsection. The county may not increase the total amount of funds that will be contributed by the abutting property owners in excess of the amount specified in the petition submitted under section 17 of this act, but the resolution may modify the amount contributed by each property owner to reflect a more fair allocation among the property owners.

(2) Any resolution submitted under subsection (1) of this section must include a declaration of public use that specifically identifies the significant public uses necessitating the construction, reconstruction, or repair of a private roadway.

(3) If the abutting owners are required to pay for all or a portion of the costs of the improvements as provided under subsection (1) of this section, the cost assigned to each property owner must be consistent with the allocated contribution amounts specified on the petition, but adjusted for any modifications authorized under subsection (1) of this section.

(4) The legislative body of the county must provide a public hearing on the resolution prior to its adoption. Notice of the public hearing on the resolution must be published in the official newspaper or regularly published official publication of the county for two consecutive weeks before the time of hearing. At least ten days before the date fixed for the hearing, the county must provide notice of the date of the hearing to each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property a notice of the date of hearing at the address shown on the tax rolls of the county treasurer. An affidavit must be filed with the county before the hearing showing that notice, by publication and mailing, was made as required in this section. The hearing may be postponed to a definite date until the hearing is held. At the hearing, the legislative body of the county must hear persons who appear for or against the improvement and determine whether it will proceed with the improvement; whether it will make any changes to the original plan; and what the changes will be, if any. This action may be taken by motion adopted in a manner as determined by the legislative body.

NEW SECTION. **Sec.**  When all or any portion of the cost is to be assessed against abutting property owners, the county may create a "private roadway construction fund No. . . . ." to be numbered differently for each improvement; and with warrants drawn on this fund the cost of the respective improvements may be paid. The county may loan the amounts necessary to pay for any costs of the improvement loan to the private roadway construction fund. If assessments are made for the improvement, then payments for the improvement must be paid into the particular private roadway improvement fund. If any funds are available over the amounts necessary to pay outstanding warrants, any advances or loans made to the fund must be repaid. If warrants are drawn on any such fund that are not paid for lack of sufficient funds, they must be stamped as such and bear interest until called and paid at a rate established by the county by resolution.

NEW SECTION. **Sec.**  If any portion of the costs are to be assessed against the abutting property by the county, an assessment roll must be prepared by the proper official of the county and must conform with the allocation of costs specified in the petition submitted under section 17 of this act, but adjusted for any modifications authorized under this section. The assessment roll must describe the property assessed; state the name of the owner or that the owner is unknown and fix the amount of the assessment. The assessment roll must be filed with the appropriate official of the county. When the assessment roll is properly filed, the county must, by resolution, fix a date for hearing the proposed assessment roll and direct the clerk of the county to give notice of the hearing and the time and place of the hearing. The notice of hearing must be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property at the address shown on the tax roll, and must be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city. The notice must be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication must be made by affidavit and must be filed with the appropriate official of the county before the date fixed for the hearing. Following the hearing the county must by resolution affirm, modify, or reject the assessment roll or order recasting of the assessment roll. An appeal may be filed with the superior court from the ordinance confirming the assessment roll in the same manner as provided for appeals from the assessment roll in chapters 35.43 through 35.54 RCW.

NEW SECTION. **Sec.**  The county must by resolution provide whether the full amount of the assessment must be paid in one payment or whether it may be paid in installments and must prescribe the time and amount of such payments. If to be paid in installments, the county may by resolution provide for interest on unpaid installments and fix the rate of interest.

NEW SECTION. **Sec.**  The assessment roll, as affirmed or modified by the county, must be filed with the treasurer of the county for collection, and the amount of the assessment roll including interest, if any, becomes a lien against the property described therein from the date of the filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more, the lien may be foreclosed in the same manner and with the same effect as provided in chapters 35.43 through 35.54 RCW. Whenever the deed is issued after the sale therein provided, the regularity, validity, and correctness of the proceedings relating to such improvement and the assessment therefor is final and conclusive and no action may thereafter be brought by or in behalf of any person to set aside such deed.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Private roadway" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons.

(2) "Public use" means the use of a private roadway by a governmental entity related to police or fire protection services or any other governmental service requiring the use of a private roadway as the vehicular roadway for ingress or egress by the governmental entity.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 35 RCW.

NEW SECTION. **Sec.**  Sections 9 through 16 of this act constitute a new chapter in Title 35A RCW.

NEW SECTION. **Sec.**  Sections 17 through 24 of this act constitute a new chapter in Title 36 RCW.

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