
ENGROSSED SUBSTITUTE HOUSE BILL 1031

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Local Government (originally sponsored by Representatives Wood, Haugen, Ferguson, Nelson, Horn, Roland, Paris and Nealey).

Read first time February 18, 1991.

1 AN ACT Relating to water and sewer districts; amending RCW
2 56.08.100, 56.08.140, 56.12.015, 57.08.100, 57.08.120, 57.12.015,
3 57.08.080, 57.08.090, and 57.20.020; reenacting and amending RCW
4 57.08.010; adding a new section to chapter 57.08 RCW; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 56.08.100 and 1981 c 190 s 5 are each amended to read
8 as follows:

9 A sewer district, by a majority vote of its board of commissioners,
10 may enter into contracts to provide health care services and/or group
11 insurance and/or term life insurance and/or social security insurance
12 for the benefit of its employees and may pay all or any part of the
13 cost thereof. Any two or more sewer districts or one or more sewer
14 districts and one or more water districts, by a majority vote of their
15 respective boards of commissioners, may, if deemed expedient, join in

1 the procuring of such health care services and/or group insurance
2 and/or term life insurance, and the board of commissioners of each
3 participating sewer and/or water district may by appropriate resolution
4 authorize their respective district to pay all or any portion of the
5 cost thereof.

6 A sewer district with five thousand or more customers providing
7 health, group, or life insurance to its employees may provide its
8 commissioners with the same coverage.

9 **Sec. 2.** RCW 56.08.140 and 1967 c 178 s 3 are each amended to read
10 as follows:

11 No such lease shall be made unless secured by a bond conditioned on
12 the performance of the terms of the lease, with surety satisfactory to
13 the commissioners, in a penalty of not less than one-sixth of the term
14 of the lease or for one year's rental, whichever is greater; and no
15 such lease shall be made for a term longer than twenty-five years.
16 However, the board of commissioners may require a reasonable security
17 deposit in lieu of a bond on leased real property owned by the water or
18 sewer district.

19 **Sec. 3.** RCW 56.12.015 and 1990 c 259 s 23 are each amended to read
20 as follows:

21 If a three-member board of commissioners of any sewer district of
22 any size determines by resolution (~~(and approves by unanimous vote of~~
23 ~~the board))~~) that it would be in the best interest of the district to
24 increase the number of commissioners from three to five, or if the
25 board of a sewer district of any size is presented with a petition
26 signed by ten percent of the registered voters resident within the
27 district who voted in the last general municipal election calling for
28 an increase in the number of commissioners of the district, the board

1 shall submit a resolution to the county auditor requesting that an
2 election be held. Upon receipt of the resolution, the county auditor
3 shall call a special election to be held within the sewer district in
4 accordance with RCW 29.13.010 and 29.13.020, at which election a
5 proposition in substantially the following language shall be submitted
6 to the voters:

7 Shall the Board of Commissioners of(Name and/or No. of
8 sewer district)..... be increased from three to five members?

9 Yes

10 No

11 If the proposition receives a majority approval at the election the
12 board of commissioners of the sewer district shall be increased to five
13 members. In any sewer district with more than ten thousand customers,
14 if a three-member board of commissioners determines by resolution and
15 approves by unanimous vote of the board that it would be in the best
16 interest of the district to increase the number of commissioners from
17 three to five, the number of commissioners shall be so increased,
18 without an election, unless within ninety days of adoption of that
19 resolution, a petition requesting an election and signed by at least
20 ten percent of the registered voters who voted in the last general
21 municipal election is filed with the board. If such a petition is
22 received, the board shall submit the resolution and the petition to the
23 county auditor, who shall call a special election in the manner
24 described in this section and in accordance with the provisions of RCW
25 29.13.010 and 29.13.020.

26 The two positions created on boards of sewer commissioners by this
27 section shall be filled initially as for a vacancy, except that the
28 appointees shall draw lots, one appointee to serve until the next

1 general sewer district election after the appointment, at which two
2 commissioners shall be elected for six-year terms, and the other
3 appointee to serve until the second general sewer district election
4 after the appointment, at which two commissioners shall be elected for
5 six-year terms.

6 **Sec. 4.** RCW 57.08.010 and 1989 c 389 s 9 and 1989 c 308 s 2 are
7 each reenacted and amended to read as follows:

8 (1) (a) A water district may acquire by purchase or condemnation,
9 or both, all property and property rights and all water and water
10 rights, both within and without the district, necessary for its
11 purposes.

12 (b) A water district may lease real or personal property necessary
13 for its purposes for a term of years for which such leased property may
14 reasonably be needed where in the opinion of the board of water
15 commissioners such property may not be needed permanently or
16 substantial savings to the district can be effected thereby.

17 (c) The right of eminent domain shall be exercised in the same
18 manner and by the same procedure as provided for cities of the third
19 class, insofar as consistent with the provisions of this title, except
20 that all assessment rolls to be prepared and filed by eminent domain
21 commissioners or commissioners appointed by the court shall be prepared
22 and filed by the water district, and the duties devolving upon the city
23 treasurer are hereby imposed upon the county treasurer.

24 (d) A water district may construct, condemn and purchase, purchase,
25 add to, maintain, and supply waterworks to furnish the district and
26 inhabitants thereof, and any city or town therein and any other
27 persons, both within and without the district, with an ample supply of
28 water for all uses and purposes public and private with full authority
29 to regulate and control the use, content, distribution, and price

1 ((~~thereof~~)) of the availability or use of water in such a manner as is
2 not in conflict with general law and may construct, acquire, or own
3 buildings and other necessary district facilities.

4 (e) A water district contiguous to Canada may contract with a
5 Canadian corporation for the purchase of water and for the
6 construction, purchase, maintenance, and supply of waterworks to
7 furnish the district and inhabitants thereof and residents of Canada
8 with an ample supply of water under terms approved by the board of
9 commissioners. Such waterworks may include facilities which result in
10 combined water supply and electric generation, provided that the
11 electricity generated thereby is a byproduct of the water supply
12 system.

13 (f) Such electricity may be used by the water district or sold to
14 any entity authorized by law to distribute electricity. Such
15 electricity is a byproduct when the electrical generation is
16 subordinate to the primary purpose of water supply.

17 (g) For such purposes, a water district may take, condemn and
18 purchase, purchase, acquire, and retain water from any public or
19 navigable lake, river, or watercourse, or any underflowing water and,
20 by means of aqueducts or pipe line conduct the same throughout such
21 water district and any city or town therein and carry it along and upon
22 public highways, roads, and streets, within and without such district.

23 (h) For the purpose of constructing or laying aqueducts or pipe
24 lines, dams, or waterworks or other necessary structures in storing and
25 retaining water or for any other lawful purpose such water district may
26 occupy the beds and shores up to the high water mark of any such lake,
27 river, or other watercourse, and may acquire by purchase or
28 condemnation such property or property rights or privileges as may be
29 necessary to protect its water supply from pollution.

1 (i) For the purposes of waterworks which include facilities for
2 the generation of electricity as a byproduct, nothing in this section
3 may be construed to authorize a water district to condemn electric
4 generating, transmission, or distribution rights or facilities of
5 entities authorized by law to distribute electricity, or to acquire
6 such rights or facilities without the consent of the owner.

7 (2) A water district may purchase and take water from any municipal
8 corporation.

9 (3) A water district may fix rates and charges for the use or
10 availability of water (~~supplied~~) and may charge property owners
11 seeking to connect to the district's water supply system, as a
12 condition to granting the right to so connect, in addition to the cost
13 of such connection, such reasonable connection charge as the board of
14 commissioners shall determine to be proper in order that such property
15 owners shall bear their equitable share of the cost of such system.

16 (a) For purposes of calculating a connection charge, the board of
17 commissioners shall determine the pro rata share of the cost of
18 existing facilities and facilities planned for construction within the
19 next ten years and contained in an adopted comprehensive plan and other
20 costs borne by the district which are directly attributable to the
21 improvements required by property owners seeking to connect to the
22 system. The cost of existing facilities shall not include those
23 portions of the system which have been donated or which have been paid
24 for by grants.

25 (b) The connection charge may include interest charges applied from
26 the date of construction of the water system until the connection, or
27 for a period not to exceed ten years, whichever is shorter, at a rate
28 commensurate with the rate of interest applicable to the district at
29 the time of construction or major rehabilitation of the water system,

1 or at the time of installation of the water lines to which the property
2 owner is seeking to connect.

3 (4) (a) A district may permit payment of the cost of connection and
4 the reasonable connection charge to be paid with interest in
5 installments over a period not exceeding fifteen years. The county
6 treasurer may charge and collect a fee of three dollars for each year
7 for the treasurer's services. Such fees shall be a charge to be
8 included as part of each annual installment, and shall be credited to
9 the county current expense fund by the county treasurer.

10 (b) Revenues from connection charges excluding permit fees are to
11 be considered payments in aid of construction as defined by department
12 of revenue rule.

13 **Sec. 5.** RCW 57.08.100 and 1981 c 190 s 6 are each amended to read
14 as follows:

15 A water district, by a majority vote of its board of commissioners,
16 may enter into contracts to provide health care services and/or group
17 insurance and/or term life insurance and/or social security insurance
18 for the benefit of its employees and may pay all or any part of the
19 cost thereof. Any two or more water districts or any one or more water
20 districts and one or more sewer districts, by a majority vote of their
21 respective boards of commissioners, may, if deemed expedient, join in
22 the procuring of such health care services and/or group insurance
23 and/or term life insurance, and the board of commissioners of each
24 participating sewer and/or water district may by appropriate resolution
25 authorize their respective district to pay all or any portion of the
26 cost thereof.

27 A water district with five thousand or more customers providing
28 health, group, or life insurance to its employees may provide its
29 commissioners with the same coverage.

1 **Sec. 6.** RCW 57.08.120 and 1967 ex.s. c 135 s 1 are each amended to
2 read as follows:

3 A water district may lease out real property which it owns or in
4 which it has an interest and which is not immediately necessary for its
5 purposes upon such terms as the board of water commissioners deems
6 proper: PROVIDED, That no such lease shall be made until the water
7 district has first caused notice thereof to be published twice in a
8 newspaper in general circulation in the water district, the first
9 publication to be at least fifteen days and the second at least seven
10 days prior to the making of such lease, which notice shall describe the
11 property proposed to be leased out, to whom, for what purpose, and the
12 rental to be charged therefor. A hearing shall be held pursuant to the
13 terms of the said notice, at which time any and all persons who may be
14 interested shall have the right to appear and to be heard.

15 No such lease shall be for a period longer than twenty-five years,
16 and each lease of real property shall be secured by a bond conditioned
17 to perform the terms of such lease with surety satisfactory to the
18 commissioners, in a penalty not less than the rental for one-sixth of
19 the term: PROVIDED, That the penalty shall not be less than the rental
20 for one year where the term is one year or more. In a lease, the term
21 of which exceeds five years, and when at the option of the
22 commissioners, it is so stipulated in the lease, the commission shall
23 accept, with surety satisfactory to it, a bond conditioned to perform
24 the terms of the lease for some part of the term, in no event less than
25 five years (unless the remainder of the unexpired term is less than
26 five years, in which case for the full remainder) and in every such
27 case the commissioners shall require of the lessee, another or other
28 like bond to be delivered within two years, and not less than one year
29 prior to the expiration of the period covered by the existing bond,
30 covering an additional part of the term in accordance with the

1 foregoing provisions in respect to the original bond, and so on until
2 the end of the term so that there will always be in force a bond
3 securing the performance of the lease, and the penalty in each bond
4 shall be not less than the rental for one-half the period covered
5 thereby, but no bond shall be construed to secure the furnishing of any
6 other bond. However, the board of commissioners may require a
7 reasonable security deposit in lieu of a bond on leased real property
8 owned by a water district.

9 The commissioners may accept as surety on any bond required by this
10 section, either an approved surety company or one or more persons
11 satisfactory to the commissioners, or in lieu of such bond may accept
12 a deposit as security of such property or collateral or the giving of
13 such other form of security as may be satisfactory to the
14 commissioners.

15 NEW SECTION. Sec. 7. A new section is added to chapter 57.08 RCW
16 to read as follows:

17 A water district may adopt a water conservation plan and emergency
18 water use restrictions. The district may enforce a water conservation
19 plan and emergency water use restrictions by imposing a fine as
20 provided by resolution for failure to comply with any such plan or
21 restrictions. The commissioners may provide by resolution that if a
22 fine for failure to comply with the water conservation plan or
23 emergency water use restrictions is delinquent for a specified period
24 of time, the district shall certify the delinquency to the treasurer of
25 the county in which the real property is located and serve notice of
26 the delinquency on the party failing to comply, and the fine is then a
27 lien against the property of the party failing to comply with the water
28 conservation plan or emergency water use restrictions. The district

1 may enforce the collection of the fines in the same manner as rates and
2 charges as provided in RCW 57.08.080 and 57.08.090.

3 **Sec. 8.** RCW 57.12.015 and 1990 c 259 s 29 are each amended to read
4 as follows:

5 In the event a three-member board of commissioners of any water
6 district of any size determines by resolution (~~and approves by~~
7 ~~unanimous vote of the board~~) that it would be in the best interest of
8 the district to increase the number of commissioners from three to
9 five, or in the event the board of a water district of any size is
10 presented with a petition signed by ten percent of the registered
11 voters resident within the district who voted in the last general
12 municipal election calling for an increase in the number of
13 commissioners of the district, the board shall submit a resolution to
14 the county auditor requesting that an election be held. Upon receipt
15 of the resolution, the county auditor shall call a special election to
16 be held within the water district in accordance with RCW 29.13.010 and
17 29.13.020, at which election a proposition in substantially the
18 following language shall be submitted to the voters:

19 Shall the Board of Commissioners of
20 (Name and/or No. of water district) be increased from three to five
21 members?

22 Yes

23 No

24 If the proposition receives a majority approval at the election the
25 board of commissioners of the water district shall be increased to five
26 members. In any water district with more than ten thousand customers,
27 if a three-member board of commissioners determines by resolution and

1 approves by unanimous vote of the board that it would be in the best
2 interest of the district to increase the number of commissioners from
3 three to five, the number of commissioners shall be so increased,
4 without an election, unless within ninety days of adoption of that
5 resolution a petition requesting an election and signed by at least ten
6 percent of the registered voters who voted in the last general
7 municipal election is filed with the board. If such a petition is
8 received, the board shall submit the resolution and the petition to the
9 county auditor, who shall call a special election in the manner
10 described in this section and in accordance with the provisions of RCW
11 29.13.010 and 29.13.020.

12 The two positions created on boards of water commissioners by this
13 section shall be filled initially as for a vacancy, except that the
14 appointees shall draw lots, one appointee to serve until the next
15 general water district election after the appointment, at which two
16 commissioners shall be elected for six-year terms, and the other
17 appointee to serve until the second general water district election
18 after the appointment, at which two commissioners shall be elected for
19 six-year terms.

20 **Sec. 9.** RCW 57.08.080 and 1982 1st ex.s. c 17 s 12 are each
21 amended to read as follows:

22 The commissioners shall enforce collection of the water connection
23 charges and rates and charges for use or availability of water
24 (~~((supplied against property owners connecting with the system and/or~~
25 ~~receiving such water))), such charges being deemed charges against the
26 property served, by addition of penalties of not more than ten percent
27 thereof in case of failure to pay the charges at times fixed by
28 resolution. The commissioners may provide by resolution that where
29 either water connection charges or rates and charges for water supplied~~

1 are delinquent for any specified period of time, the district shall
2 certify the delinquencies to the treasurer of the county in which the
3 real property is located, and the charges and any penalties added
4 thereto and interest thereon at the rate of not more than eight percent
5 per year shall be a lien against the property upon which the service
6 was received, subject only to the lien for general taxes.

7 **Sec. 10.** RCW 57.08.090 and 1982 1st ex.s. c 17 s 13 are each
8 amended to read as follows:

9 The district may, at any time after the connection charges or rates
10 and charges for the use or availability of water (~~supplied~~) and
11 penalties are delinquent for a period of sixty days, bring suit in
12 foreclosure by civil action in the superior court of the county in
13 which the real property is located. The court may allow, in addition
14 to the costs and disbursements provided by statute, such an attorney's
15 fee as it adjudges reasonable. The action shall be in rem, and may be
16 brought in the name of the district against an individual, or against
17 all of those who are delinquent in one action, and the laws and rules
18 of the court shall control as in other civil actions.

19 In addition to the right to foreclose provided in this section, the
20 district may also cut off all or part of the service after charges for
21 water supplied are delinquent for a period of sixty days.

22 **Sec. 11.** RCW 57.20.020 and 1983 c 167 s 164 are each amended to
23 read as follows:

24 (1) Whenever any issue or issues of water revenue bonds have been
25 authorized in compliance with the provisions of RCW 57.16.010 through
26 57.16.040, said bonds shall be in bearer form or registered as to
27 principal or interest or both, as provided in RCW 39.46.030, and may
28 provide for conversion between registered and coupon bonds; shall be in

1 such denominations, shall be numbered, shall bear such date, and shall
2 be payable at such time or times up to a maximum period of not to
3 exceed thirty years as shall be determined by the board of water
4 commissioners of the district; shall bear interest at such rate or
5 rates payable at such time or times as authorized by the board; shall
6 be payable at the office of the county treasurer of the county in which
7 the water district is located and may also be payable at such other
8 place or places as the board of water commissioners may determine;
9 shall be executed by the president of the board of water commissioners
10 and attested and sealed by the secretary thereof, one of which
11 signatures may, with the written permission of the signator whose
12 facsimile signature is being used, be a facsimile; and may have
13 facsimile signatures of said president or secretary imprinted on any
14 interest coupons in lieu of original signatures.

15 The water district commissioners shall have power and are required
16 to create a special fund or funds for the sole purpose of paying the
17 interest and principal of such bonds into which special fund or funds
18 the said water district commissioners shall obligate and bind the water
19 district to set aside and pay a fixed proportion of the gross revenues
20 of the water supply system or any fixed amount out of and not exceeding
21 a fixed proportion of such revenues, or a fixed amount or amounts
22 without regard to any fixed proportion and such bonds and the interest
23 thereof shall be payable only out of such special fund or funds, but
24 shall be a lien and charge against all revenues and payments received
25 from any utility local improvement district or districts pledged to
26 secure such bonds, subject only to operating and maintenance expenses.

27 In creating any such special fund or funds the water district
28 commissioners of such water district shall have due regard to the cost
29 of operation and maintenance of the plant or system as constructed or
30 added to and to any proportion or part of the revenue previously

1 pledged as a fund for the payment of bonds, warrants or other
2 indebtedness, and shall not set aside into such special fund a greater
3 amount or proportion of the revenue and proceeds than in their judgment
4 will be available over and above such cost of maintenance and operation
5 and the amount or proportion, if any, of the revenue so previously
6 pledged. Any such bonds and interest thereon issued against any such
7 fund as herein provided shall be a valid claim of the owner thereof
8 only as against the said special fund and its fixed proportion or
9 amount of the revenue pledged to such fund, and shall not constitute an
10 indebtedness of such water district within the meaning of the
11 constitutional provisions and limitations. Each such bond shall state
12 upon its face that it is payable from a special fund, naming the said
13 fund and the resolution creating it. Said bonds shall be sold in such
14 manner, at such price and at such rate or rates of interest as the
15 water district commissioners shall deem for the best interests of the
16 water district, either at public or private sale, and the said
17 commissioners may provide in any contract for the construction and
18 acquirement of the proposed improvement (and for the refunding of
19 outstanding local improvement district obligations, if any) that
20 payment therefor shall be made in such bonds at par value thereof.

21 When any such special fund shall have been heretofore or shall be
22 hereafter created and any such bonds shall have been heretofore or
23 shall hereafter be issued against the same a fixed proportion or a
24 fixed amount out of and not to exceed such fixed proportion, or a fixed
25 amount or amounts without regard to any fixed proportion, of revenue
26 shall be set aside and paid into said special fund as provided in the
27 resolution creating such fund or authorizing such bonds, and in case
28 any water district shall fail thus to set aside and pay said fixed
29 proportion or amount as aforesaid, the owner of any bond payable from

1 such special fund may bring suit or action against the water district
2 and compel such setting aside and payment.

3 (2) Notwithstanding subsection (1) of this section, such bonds may
4 be issued and sold in accordance with chapter 39.46 RCW.

5 (3) The water district commissioners of any water district, in the
6 event that such water revenue bonds are issued, shall provide for
7 revenues by fixing rates and charges for the ~~((furnishing of water
8 supply to those receiving such service))~~ use or availability of water,
9 such rates and charges to be fixed as deemed necessary by such water
10 district commissioners, so that uniform charges will be made for the
11 same class of customer or service.

12 In classifying customers served or service furnished by such water
13 supply system, the board of water commissioners may in its discretion
14 consider any or all of the following factors: The difference in cost
15 of service to the various customers; the location of the various
16 customers within and without the district; the difference in cost of
17 maintenance, operation, repair and replacement of the various parts of
18 the system; the different character of the service furnished various
19 customers; the quantity and quality of the water furnished; the time of
20 its use; capital contributions made to the system including but not
21 limited to assessments; and any other matters which present a
22 reasonable difference as a ground for distinction. Such rates shall be
23 made on a monthly basis as may be deemed proper by such commissioners
24 and as fixed by resolution and shall produce revenues sufficient to
25 take care of the costs of maintenance and operation, revenue bond and
26 warrant interest and principal amortization requirements and all other
27 charges necessary for efficient and proper operation of the system.

28 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect immediately.