

# HOUSE BILL REPORT

## HB 1407

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### As Amended by the Senate

**Title:** An act relating to the negotiated sale and conveyance of all or part of water systems owned by a municipal corporation.

**Brief Description:** Allowing the negotiated sale and conveyance of all or part of a water system by a municipal corporation to first class and code cities.

**Sponsors:** Representatives Ryu, Hope, Dunshee, Angel and Kagi.

#### **Brief History:**

##### **Committee Activity:**

Local Government: 2/1/11, 2/15/11 [DP].

##### **Floor Activity:**

Passed House: 2/26/11, 87-10.

Senate Amended.

Passed Senate: 4/4/11, 44-2.

#### **Brief Summary of Bill**

- Authorizes a public utility district meeting certain geographic and population requirements to convey a water system, without voter approval, to a city or town that owns its own water system and has a population of less than 65,000 inhabitants.
- Exempts a first-class city or code city that has adopted an ordinance approving the negotiated purchase of certain public utilities from the general requirement to submit such ordinances for ratification or rejection by a majority vote of city voters.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass. Signed by 8 members: Representatives Takko, Chair; Tharinger, Vice Chair; Angel, Ranking Minority Member; Asay, Assistant Ranking Minority Member; Fitzgibbon, Rodne, Springer and Upthegrove.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Smith.

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*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:** Heather Emery (786-7136).

## **Background:**

### Overview of Public Utility Districts.

A public utility district (PUD or district) is a type of special purpose district authorized for the purpose of generating and distributing electricity, providing water and sewer services, and providing telecommunications services. A PUD may operate on a countywide basis or may encompass a smaller jurisdiction. There are currently 28 operating PUDs in the state, many of which provide a mix of services: 23 provide electrical services; 19 provide water and/or wastewater services; and 13 provide wholesale broadband telecommunications services. Public utility districts are governed by a board of either three or five elected commissioners.

### Authority of PUDs to Sell, Lease, or Convey Their Facilities and Assets.

A PUD may sell, lease, or convey its works, plants, systems, utilities, and properties in accordance with specified procedures and subject to the approval of the district voters. Generally speaking, PUDs are subject to the same regulations as cities and towns with respect to the disposition of district property.

However, the governing statutes provide numerous exceptions to the general rule requiring voter approval for the disposition of property by a PUD. These exceptions are wide-ranging and allow disposition of property without voter approval under circumstances that include the following:

- where the property lies outside the boundaries of the district and is being sold to another PUD or other public entity;
- where the property is obsolete or otherwise not useable and is no longer needed by the PUD;
- where the property is being sold to another public utility, private utility, utility contractor, or governmental entity for not less than fair market value and in response to specified circumstances; and
- where the property is all or any part of an electric generating project powered by a renewable resource, and the district has specific rights relating to the purchase of energy from the project and to an option to repurchase the project at fair market value upon termination of the right to purchase energy from the project.

Additionally, districts meeting certain population and geographic requirements are authorized to engage in transactions under specified circumstances.

### Authority of Cities and Towns to Acquire and Operate Utilities.

For the purpose of providing itself and its inhabitants with such services, a city or town may acquire and operate utilities providing waterworks, sewer systems, and electricity. Generally, the governing body of a city or town may acquire such a utility when the governing body has adopted an ordinance to that effect, and a majority of qualified voters has ratified that ordinance.

Several exceptions exist to the general rule requiring voter approval for a city or town's purchase of a utility. Absent certain disqualifying circumstances, the following actions do not require voter approval:

- when the proposed work is an extension of an existing system or plant of a public utility;
- when the city charter authorizes the governing body to acquire, open, or operate such a facility; or
- when the corporate authority finds that the discharge of raw sewage into any body of water poses a threat to public health, and that the threat may be abated by the construction and maintenance of a sewage disposal plant.

**Summary of Bill:**

Without voter approval, a PUD located in a county that borders Puget Sound and that has a population of between 650,000 and 750,000 inhabitants is authorized to sell all or part of its water system to a city or town that owns its own water system and has a population of fewer than 65,000 inhabitants.

Also without voter approval, a first-class city or a code city is authorized to purchase a public utility that is located within its jurisdiction but is owned by another city or town, if the corporate authority of the purchasing city adopts an ordinance approving the negotiated purchase.

**EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment removes a section of the bill proposing to authorize a first class or code city to purchase a public utility without voter approval if: (1) the utility subject to the purchase is owned by a city or town; (2) the utility subject to the purchase is located within the corporate limits of the purchasing city; and (3) the purchasing city adopts an ordinance approving the negotiated purchase of the public utility.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill does not relate to water-sewer assumption statutes; instead, it addresses only those transactions involving a willing seller and a willing buyer. It is narrowly drafted to affect acquisitions by the cities of Shoreline and Marysville. Allowing these cities to acquire this kind of utility by way of negotiated sale would allow for an efficient transaction and an efficient use of limited city resources; each election would cost between \$80,000 and \$90,000, plus the cost of campaigns.

Allowing Marysville and Shoreline to proceed with acquisitions in this manner would also allow for better representation for the citizens of these cities on the governing bodies of the utilities. Rates would be considerably lower, and reinvestment would be higher.

(Opposed) None.

**Persons Testifying:** Representative Ryu, prime sponsor; Al Aldrich and Kevin Nielsen, City of Marysville; and Scott MacColl and Mark Relph, City of Shoreline.

**Persons Signed In To Testify But Not Testifying:** None.