
SENATE BILL 5951

State of Washington

54th Legislature

1995 Regular Session

By Senators Sheldon, A. Anderson, Hale, Winsley, Gaspard, Drew, Loveland, Fraser, Haugen, Spanel, Snyder, Palmer and Bauer

Read first time 02/16/95. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to contracts between cities, counties, or other
2 districts and owners or developers of real property; amending RCW
3 35.21.225, 35.43.042, 35.43.190, 35.92.010, 36.73.020, 36.94.220,
4 56.20.015, 57.08.010, and 57.16.050; reenacting and amending RCW
5 36.88.010 and 56.08.010; adding new sections to chapter 36.70A RCW;
6 adding a new section to chapter 35.43 RCW; adding new sections to
7 chapter 36.32 RCW; adding a new section to chapter 56.08 RCW; adding a
8 new section to chapter 57.08 RCW; and creating new sections.

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

10 NEW SECTION. **Sec. 1.** The legislature finds that the lack of
11 certainty in the approval of development projects can result in a waste
12 of public and private resources, escalate housing costs for consumers
13 and discourage the commitment to comprehensive planning which would
14 make maximum efficient use of resources at the least economic cost to
15 the public. Assurance to a development project applicant that upon
16 government approval the project may proceed in accordance with existing
17 policies and regulations, and subject to conditions of approval, all as
18 set forth in a development agreement, will strengthen the public
19 planning process, encourage private participation and comprehensive

1 planning, and reduce the economic costs of development. Further, the
2 lack of public facilities and services is a serious impediment to
3 development of new housing and commercial uses. Project applicants and
4 local governments may include provisions and agreements whereby
5 applicants are reimbursed over time for financing public facilities.
6 It is the intent of the legislature by sections 2 through 6 of this act
7 to allow local governments and owners and developers of real property
8 to enter into development agreements.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW
10 to read as follows:

11 (1) A county or city may enter into a development agreement with a
12 person having ownership or control of real property within its
13 jurisdiction. A city may enter into a development agreement for real
14 property outside its boundaries as part of a proposed annexation or a
15 service agreement. A development agreement must set forth the
16 development standards and other provisions that shall apply to and
17 govern and vest the development, use, and mitigation of the development
18 of the real property for the duration specified in the agreement.

19 (2) Sections 1 through 4 of this act do not affect the validity of
20 a contract rezone, concomitant agreement, annexation agreement, or
21 other agreement in existence on the effective date of sections 1
22 through 4 of this act, or adopted under separate authority, that
23 includes some or all of the development standards provided in
24 subsection (3) of this section.

25 (3) For the purposes of this section, "development standards"
26 includes, but is not limited to:

27 (a) Project elements such as permitted uses, residential densities,
28 and nonresidential densities and intensities or building sizes;

29 (b) The amount and payment of impact fees imposed or agreed to in
30 accordance with chapter 36.-- RCW (sections 137 and 138, chapter . . .
31 (Senate Bill No. 5489), Laws of 1995) or any other applicable
32 provisions of state law, other financial contributions by the property
33 owner, inspection fees, or dedications;

34 (c) Mitigation measures, development conditions, and other
35 requirements under chapter 43.21C RCW;

36 (d) Design standards such as maximum heights, setbacks, drainage
37 and water quality requirements, landscaping, and other development
38 features;

- 1 (e) Affordable housing;
- 2 (f) Parks and open space preservation;
- 3 (g) Phasing;
- 4 (h) Review procedures and standards for implementing decisions;
- 5 (i) A build-out or vesting period for applicable standards; and
- 6 (j) Any other appropriate development requirement or procedure.

7 (4) The execution of a development agreement is a proper exercise
8 of county and city police power and contract authority. A development
9 agreement may obligate a party to fund or provide services,
10 infrastructure, or other facilities. A development agreement shall
11 reserve authority to impose new or different regulations to the extent
12 required by a serious threat to public health and safety.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A RCW
14 to read as follows:

15 Unless amended or terminated, a development agreement is
16 enforceable during its term by a party. A development agreement and
17 the development standards in the agreement govern during the term of
18 the agreement, or for all or that part of the build-out period
19 specified in the agreement, and may not be subject to an amendment to
20 a zoning ordinance or development standard or regulation or a new
21 zoning ordinance or development standard or regulation adopted after
22 the effective date of the agreement. A permit or approval issued by
23 the county or city after the execution of the development agreement
24 must be consistent with the development agreement.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A RCW
26 to read as follows:

27 A development agreement may be recorded with the real property
28 records of the county in which the property is located. During the
29 term of the development agreement, the agreement is binding on and will
30 inure to the benefit of the parties and their successors, including a
31 city that assumes jurisdiction through incorporation or annexation of
32 the area covering the property covered by the development agreement.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW
34 to read as follows:

35 A county or city shall only approve a development agreement by
36 ordinance or resolution after a public hearing. The county or city

1 legislative body or a planning commission, hearing examiner, or other
2 body designated by the legislative body to conduct the public hearing
3 may conduct the hearing. If the development agreement relates to a
4 development permit application, the provisions of chapter 36.-- RCW
5 (sections 301 through 314, chapter . . . (Senate Bill No. 5489), Laws
6 of 1995) shall apply to the appeal of the decision on the development
7 agreement.

8 NEW SECTION. **Sec. 6.** Nothing in sections 1 through 5 of this act
9 is intended to authorize local governments to impose impact fees,
10 inspection fees, or dedications or to require any other financial
11 contributions or mitigation measures except as expressly authorized by
12 other applicable provisions of state law.

13 **Sec. 7.** RCW 35.21.225 and 1989 c 53 s 2 are each amended to read
14 as follows:

15 The legislative authority of a city may establish one or more
16 transportation benefit districts within a city for the purpose of
17 acquiring, constructing, improving, providing, and funding any city
18 street, county road, or state highway improvement that is (1)
19 consistent with state, regional, and local transportation plans, (2)
20 necessitated by existing or reasonably foreseeable congestion levels
21 attributable to economic growth, and (3) partially funded by local
22 government or private developer contributions, or a combination of such
23 contributions. Such transportation improvements shall be owned by the
24 city of jurisdiction if located in an incorporated area, by the county
25 of jurisdiction if located in an unincorporated area, or by the state
26 in cases where the transportation improvement is or becomes a state
27 highway; and all such transportation improvements shall be administered
28 as other public streets, roads, and highways. The district may include
29 any area within the corporate limits of another city if that city has
30 agreed to the inclusion pursuant to chapter 39.34 RCW. The district
31 may include any unincorporated area if the county legislative authority
32 has agreed to the inclusion pursuant to chapter 39.34 RCW. The
33 agreement shall specify the area and such other powers as may be
34 granted to the benefit district.

35 The members of the city legislative authority, acting ex officio
36 and independently, shall compose the governing body of the district.
37 The city treasurer shall act as the ex officio treasurer of the

1 district: PROVIDED, That where a transportation benefit district
2 includes any unincorporated area or portion of another city, the
3 district may be governed as provided in an interlocal agreement adopted
4 pursuant to chapter 39.34 RCW. The electors of the district shall all
5 be registered voters residing within the district. For the purposes of
6 this section, the term "city" means both cities and towns.

7 A city may contract with an owner or developer of real estate for
8 the construction or improvement of transportation improvements that
9 will be incorporated into or used as a public street, road, or highway,
10 under terms approved by the owner or developer and the legislative
11 authority of the city. Any work, construction, alteration, repair, or
12 improvement, other than ordinary maintenance, that the city causes to
13 be performed by an owner or developer of real estate through a contract
14 under this section shall comply with chapter 39.12 RCW.

15 **Sec. 8.** RCW 35.43.042 and 1969 ex.s. c 258 s 2 are each amended to
16 read as follows:

17 Whenever the legislative authority of any city or town has provided
18 pursuant to law for the acquisition, construction, reconstruction,
19 purchase, condemnation and purchase, addition to, repair, or renewal of
20 the whole or any portion of a:

21 (1) System for providing the city or town and the inhabitants
22 thereof with water, which system includes as a whole or as a part
23 thereof water mains, hydrants or appurtenances which are authorized
24 subjects for local improvements under RCW 35.43.040(13) or other law;
25 or a

26 (2) System for providing the city or town with sewerage and storm
27 or surface water disposal, which system includes as a whole or as a
28 part thereof drains, sewers or sewer appurtenances which are authorized
29 subjects for local improvements under RCW 35.43.040(7) or other law; or

30 (3) Off-street parking facilities; and

31 Has further provided in accordance with any applicable provisions
32 of the Constitution or statutory authority for the issuance and sale of
33 revenue bonds to pay the cost of all or a portion of any such system,
34 such legislative authority shall have the authority to establish
35 utility local improvement districts, and to levy special assessments on
36 all property specially benefited by any such local improvement to pay
37 in whole or in part the damages or costs of any local improvements so
38 provided for.

1 The initiation and formation of such utility local improvement
2 districts and the levying, collection and enforcement of assessments
3 shall be in the manner and subject to the same procedures and
4 limitations as are now or hereafter provided by law for the initiation
5 and formation of local improvement districts in cities and towns and
6 the levying, collection and enforcement of assessments pursuant
7 thereto.

8 It must be specified in any petition or resolution initiating the
9 formation of such a utility local improvement district in a city or
10 town and in the ordinance ordered pursuant thereto, that the
11 assessments shall be for the sole purpose of payment into such revenue
12 bond fund as may be specified by the legislative authority for the
13 payment of revenue bonds issued to defray the cost of such system or
14 facilities or any portion thereof as provided for in this section.

15 Assessments in any such utility local improvement district may be
16 made on the basis of special benefits up to but not in excess of the
17 total cost of the local improvements portion of any system or
18 facilities payable by issuance of revenue bonds. No warrants or bonds
19 shall be issued in any such utility local improvement district, but the
20 collection of interest and principal on all assessments in such utility
21 local improvement district, when collected, shall be paid into any such
22 revenue bond fund.

23 When in the petition or resolution for establishment of a local
24 improvement district and in the ordinance ordered pursuant thereto, it
25 is specified or provided that the assessments shall be for the sole
26 purpose of payment into a revenue bond fund for the payment of revenue
27 bonds, then the local improvement district shall be designated a
28 "utility local improvement district".

29 The provisions of chapters 35.45, 35.47 and 35.48 RCW shall have no
30 application to utility local improvement districts created under
31 authority of this section.

32 A city or town may contract with an owner or developer of real
33 estate for the construction or improvement of systems or facilities
34 that will be used by the general public or incorporated into or used as
35 part of a public utility system under terms approved by the owner or
36 developer and the legislative authority of the city or town. Any work,
37 construction, alteration, repair, or improvement, other than ordinary
38 maintenance, that the city or town causes to be performed by an owner

1 or developer of real estate through a contract under this section shall
2 comply with chapter 39.12 RCW.

3 **Sec. 9.** RCW 35.43.190 and 1987 c 242 s 3 are each amended to read
4 as follows:

5 All local improvements, the funds for the making of which are
6 derived in whole or in part from assessments upon property specially
7 benefited shall be made by contract on competitive bids or by contract
8 made pursuant to section 10 of this act whenever the estimated cost of
9 such improvement including the cost of materials, supplies, labor, and
10 equipment will exceed the sum of five thousand dollars. The city,
11 town, or public corporation may reject any and all bids. The city,
12 town, or public corporation itself may make the local improvements if
13 all the bids received exceed by ten percent preliminary cost estimates
14 prepared by an independent consulting engineer or registered
15 professional engineer retained for that purpose by the city, town, or
16 public corporation.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 35.43 RCW
18 to read as follows:

19 The legislative authority of any city, town, or public corporation
20 may make all or any part of the improvements to be paid for in whole or
21 in part by assessment upon property specifically benefited by contract
22 with any owner or owners of property located within the district,
23 formed in accordance with RCW 35.43.080. The total cost of the
24 improvements under the contract shall not exceed the preliminary cost
25 estimates for such improvements prepared by an independent consulting
26 engineer or registered professional engineer retained for that purpose
27 by the city, town, or public corporation, by more than fifty-three
28 percent. The contract shall be void if the owners of the property
29 within the district subject to fifty percent or more of the total cost
30 of the improvements object in writing within thirty days after written
31 notice by first class mail, postage prepaid, of the terms of the
32 contract and the preliminary costs estimates for such improvements are
33 provided to each owner in the district. The contract may provide for
34 the acquisition by the city or town of the improvement by payment to
35 the owners of the costs of the construction and related costs from the
36 proceeds of bonds issued by the district, from assessments paid to the
37 district as appropriate, or by a credit in the amount of such costs

1 against future assessments assessed against such property under the
2 district. The contract shall provide that all local improvements
3 constructed by owners shall be approved and accepted by the city or
4 town as facilities of the municipality before payment to the owners is
5 authorized. Any work, construction, alteration, repair, or
6 improvement, other than ordinary maintenance, that the city, town, or
7 public corporation causes to be performed by an owner or developer of
8 real estate through a contract under this section shall comply with
9 chapter 39.12 RCW.

10 **Sec. 11.** RCW 35.92.010 and 1991 c 347 s 18 are each amended to
11 read as follows:

12 A city or town may construct, condemn and purchase, purchase,
13 acquire, add to, alter, maintain and operate waterworks, within or
14 without its limits, for the purpose of furnishing the city and its
15 inhabitants, and any other persons, with an ample supply of water for
16 all purposes, public and private, including water power and other power
17 derived therefrom, with full power to regulate and control the use,
18 distribution, and price thereof: PROVIDED, That the rates charged must
19 be uniform for the same class of customers or service. Such waterworks
20 may include facilities for the generation of electricity as a byproduct
21 and such electricity may be used by the city or town or sold to an
22 entity authorized by law to distribute electricity. Such electricity
23 is a byproduct when the electrical generation is subordinate to the
24 primary purpose of water supply.

25 In classifying customers served or service furnished, the city or
26 town governing body may in its discretion consider any or all of the
27 following factors: The difference in cost of service to the various
28 customers; location of the various customers within and without the
29 city or town; the difference in cost of maintenance, operation, repair,
30 and replacement of the various parts of the system; the different
31 character of the service furnished various customers; the quantity and
32 quality of the water furnished; the time of its use; the achievement of
33 water conservation goals and the discouragement of wasteful water use
34 practices; capital contributions made to the system including, but not
35 limited to, assessments; and any other matters which present a
36 reasonable difference as a ground for distinction. No rate shall be
37 charged that is less than the cost of the water and service to the
38 class of customers served.

1 For such purposes any city or town may take, condemn and purchase,
2 purchase, acquire, and retain water from any public or navigable lake
3 or watercourse, surface or ground, and, by means of aqueducts or pipe
4 lines, conduct it to the city or town; and it may erect and build dams
5 or other works across or at the outlet of any lake or watercourse in
6 this state for the purpose of storing and retaining water therein up to
7 and above high water mark; and for all the purposes of erecting such
8 aqueducts, pipe lines, dams, or waterworks or other necessary
9 structures in storing and retaining water, or for any of the purposes
10 provided for by this chapter, the city or town may occupy and use the
11 beds and shores up to the high water mark of any such watercourse or
12 lake, and acquire the right by purchase, or by condemnation and
13 purchase, or otherwise, to any water, water rights, easements or
14 privileges named in this chapter, or necessary for any of said
15 purposes, and the city or town may acquire by purchase or condemnation
16 and purchase any properties or privileges necessary to be had to
17 protect its water supply from pollution. Should private property be
18 necessary for any such purposes or for storing water above high water
19 mark, the city or town may condemn and purchase, or purchase and
20 acquire such private property. For the purposes of waterworks which
21 include facilities for the generation of electricity as a byproduct,
22 nothing in this section may be construed to authorize a city or town
23 that does not own or operate an electric utility system to condemn
24 electric generating, transmission, or distribution rights or facilities
25 of entities authorized by law to distribute electricity, or to acquire
26 such rights or facilities without the consent of the owner.

27 A city or town may contract with an owner or developer of real
28 estate for the construction or improvement of waterworks that will be
29 incorporated into or used as part of a public utility system under
30 terms approved by the owner or developer and the legislative authority
31 of the city or town. Any work, construction, alteration, repair, or
32 improvement, other than ordinary maintenance, that the city or town
33 causes to be performed by an owner or developer of real estate through
34 a contract under this section shall comply with chapter 39.12 RCW.

35 NEW SECTION. Sec. 12. A new section is added to chapter 36.32 RCW
36 to read as follows:

37 RCW 36.32.240, 36.32.250, and 36.32.260 do not apply to contracts
38 with the owner or developer of real estate for the construction or

1 improvement of public facilities or systems that will be incorporated
2 into or used as part of public systems under the county's authority
3 pursuant to RCW 36.73.020, 36.88.010, or 36.94.220.

4 NEW SECTION. **Sec. 13.** A new section is added to chapter 36.32 RCW
5 to read as follows:

6 The county legislative authority may make all or any part of the
7 improvements to be paid for in whole or in part by assessment upon
8 property specifically benefited by contract with any owner or owners of
9 property located within the county benefit or improvement district
10 pursuant to RCW 36.73.020, 36.88.010, or 36.94.220. The total cost of
11 the improvements under the contract shall not exceed the preliminary
12 cost estimates for such improvements prepared by an independent
13 consulting engineer or registered professional engineer retained for
14 that purpose by the county, by more than fifty-three percent. The
15 contract shall be void if the owners of the property within the county
16 benefit or improvement district subject to fifty percent or more of the
17 total cost of the improvements object in writing within thirty days
18 after written notice by first class mail, postage prepaid, of the terms
19 of the contract and the preliminary costs estimates for such
20 improvements are provided to each owner of property specifically
21 benefited in the county benefit or improvement district. The contract
22 may provide for the acquisition by the county of the improvement by
23 payment to the owners of the costs of the construction and related
24 costs from the proceeds of bonds issued by the benefit or improvement
25 district, from assessments paid to the benefit or improvement district
26 as appropriate, or by a credit in the amount of such costs against
27 future assessments assessed against such property under the benefit or
28 improvement district. The contract shall provide that all local
29 improvements constructed by owners shall be approved and accepted by
30 the county as facilities of the county before payment to the owners is
31 authorized. Any work, construction, alteration, repair, or
32 improvement, other than ordinary maintenance, that the county causes to
33 be performed by an owner or developer of real estate through a contract
34 under this section shall comply with chapter 39.12 RCW.

35 **Sec. 14.** RCW 36.73.020 and 1989 c 53 s 1 are each amended to read
36 as follows:

1 The legislative authority of a county may establish one or more
2 transportation benefit districts within the county for the purpose of
3 acquiring, constructing, improving, providing, and funding any city
4 street, county road, or state highway improvement, which may include
5 right of way improvements, including but not limited to landscaping,
6 lighting, irrigation, cable, and power line improvements, within or
7 without the district that is (1) consistent with state, regional, and
8 local transportation plans, (2) necessitated by existing or reasonably
9 foreseeable congestion levels attributable to economic growth, and (3)
10 partially funded by local government or private developer
11 contributions, or a combination of such contributions. Such
12 transportation improvements shall be owned by the county of
13 jurisdiction if located in an unincorporated area, by the city of
14 jurisdiction if located in an incorporated area, or by the state in
15 cases where the transportation improvement is or becomes a state
16 highway; and all such transportation improvements shall be administered
17 and maintained as other public streets, roads, and highways. The
18 district may not include any area within the corporate limits of a city
19 unless the city legislative authority has agreed to the inclusion
20 pursuant to chapter 39.34 RCW. The agreement shall specify the area
21 and such powers as may be granted to the benefit district.

22 The members of the county legislative authority, acting ex officio
23 and independently, shall compose the governing body of the district:
24 PROVIDED, That where a transportation benefit district includes any
25 portion of an incorporated city, town, or another county, the district
26 may be governed as provided in an interlocal agreement adopted pursuant
27 to chapter 39.34 RCW. The county treasurer shall act as the ex officio
28 treasurer of the district. The electors of the district shall all be
29 registered voters residing within the district. For purposes of this
30 section, the term "city" means both cities and towns.

31 A county may contract with an owner or developer of real estate for
32 the construction or improvement of transportation improvements that
33 will be incorporated into or used as part of the public system under
34 terms approved by the owner or developer and the legislative authority
35 of the county. Any work, construction, alteration, repair, or
36 improvement, other than ordinary maintenance, that the county causes to
37 be performed by an owner or developer of real estate through a contract
38 under this section shall comply with chapter 39.12 RCW.

1 **Sec. 15.** RCW 36.88.010 and 1985 c 400 s 3 and 1985 c 369 s 7 are
2 each reenacted and amended to read as follows:

3 All counties have the power to create county road improvement
4 districts for the acquisition of rights of way and improvement of
5 county roads, existing private roads that will become county roads as
6 a result of this improvement district process and, with the approval of
7 the state department of transportation, state highways; for the
8 construction or improvement of necessary drainage facilities,
9 bulkheads, retaining walls, and other appurtenances therefor, bridges,
10 culverts, sidewalks, curbs and gutters, escalators, or moving
11 sidewalks; and for the draining or filling of drainage potholes or
12 swamps. Such counties have the power to levy and collect special
13 assessments against the real property specially benefited thereby for
14 the purpose of paying the whole or any part of the cost of such
15 acquisition of rights of way, construction, or improvement.

16 A county may contract with an owner or developer of real estate for
17 the construction or improvement of roads and related facilities
18 authorized under this section that will be incorporated into or become
19 public roads under terms approved by the owner or developer and the
20 legislative authority of the county. Any work, construction,
21 alteration, repair, or improvement, other than ordinary maintenance,
22 that the county causes to be performed by an owner or developer of real
23 estate through a contract under this section shall comply with chapter
24 39.12 RCW.

25 **Sec. 16.** RCW 36.94.220 and 1981 c 313 s 3 are each amended to read
26 as follows:

27 (1) A county shall have the power to establish utility local
28 improvement districts and local improvement districts within the area
29 of a sewerage and/or water general plan and to levy special assessments
30 under a mode of annual installments extending over a period not
31 exceeding twenty years on all property specially benefited by any local
32 improvement on the basis of the special benefits to pay in whole or in
33 part the damages or costs of any improvements ordered in such county.

34 (2) Utility local improvement districts and local improvement
35 districts may include territory within a city or town only with the
36 written consent of the city or town, but if the local district is
37 formed before such area is included within the city or town, no such
38 consent shall be necessary. Utility local improvement districts and

1 local improvement districts used to provide sewerage disposal systems
2 may include territory within a sewer district or within a water
3 district providing sewerage disposal systems only with the written
4 consent of the sewer district or such a water district, but if the
5 local district is formed before such area is included within the sewer
6 district or such a water district, no consent is necessary. Utility
7 local improvement districts and local improvement districts used to
8 provide water systems may include territory within a water district or
9 within a sewer district providing water systems only with the written
10 consent of the water district or such a sewer district, but if the
11 local district is formed before such area is included within the water
12 district or such a sewer district, no consent is necessary.

13 (3) The levying, collection, and enforcement of all public
14 assessments hereby authorized shall be in the manner now and hereafter
15 provided by law for the levying, collection, and enforcement of local
16 improvement assessments by cities and towns, insofar as the same shall
17 not be inconsistent with the provisions of this chapter. In addition,
18 the county shall file the preliminary assessment roll at the time and
19 in the manner prescribed in RCW 35.50.005. The duties devolving upon
20 the city treasurer under such laws are imposed upon the county
21 treasurer for the purposes of this chapter. The mode of assessment
22 shall be in the manner to be determined by the county legislative
23 authority by ordinance or resolution. As an alternative to equal
24 annual assessment installments of principal provided for cities and
25 towns, a county legislative authority may provide for the payment of
26 such assessments in equal annual installments of principal and
27 interest. Assessments in any local district may be made on the basis
28 of special benefits up to but not in excess of the total cost of any
29 sewerage and/or water improvement made with respect to that local
30 district and the share of any general sewerage and/or water facilities
31 allocable to that district. In utility local improvement districts,
32 assessments shall be deposited into the revenue bond fund or general
33 obligation bond fund established for the payment of bonds issued to pay
34 such costs which bond payments are secured in part by the pledge of
35 assessments, except pending the issuance and sale of such bonds,
36 assessments may be deposited in a fund for the payment of such costs.
37 In local improvement districts, assessments shall be deposited into a
38 fund for the payment of such costs and local improvement bonds issued

1 to finance the same or into the local improvement guaranty fund as
2 provided by applicable statute.

3 A county may contract with an owner or developer of real estate for
4 the construction or improvement of sewer or water systems that will be
5 incorporated into or used as part of a public water or sewer system
6 under terms approved by the owner or developer and the legislative
7 authority of the county. Any work, construction, alteration, repair,
8 or improvement, other than ordinary maintenance, that the county causes
9 to be performed by an owner or developer of real estate through a
10 contract under this section shall comply with chapter 39.12 RCW.

11 **Sec. 17.** RCW 56.08.010 and 1989 c 389 s 2 and 1989 c 308 s 1 are
12 each reenacted and amended to read as follows:

13 A sewer district may acquire by purchase or by condemnation and
14 purchase all lands, property rights, water, and water rights, both
15 within and without the district, necessary for its purposes. A sewer
16 district may lease real or personal property necessary for its purposes
17 for a term of years for which such leased property may reasonably be
18 needed where in the opinion of the board of sewer commissioners such
19 property may not be needed permanently or substantial savings to the
20 district can be effected thereby. The right of eminent domain shall be
21 exercised in the same manner and by the same procedure as provided for
22 cities and towns, insofar as consistent with the provisions of this
23 title, except that all assessments or reassessment rolls required to
24 be filed by eminent domain commissioners or commissioners appointed by
25 the court shall be prepared and filed by the district, and the duties
26 devolving upon the city treasurer shall be imposed upon the county
27 treasurer for the purposes hereof. A sewer district may construct,
28 condemn and purchase, add to, maintain, and operate systems of sewers
29 for the purpose of furnishing the district and inhabitants thereof with
30 an adequate system of sewers for all uses and purposes, public and
31 private, including but not limited to on-site sewage disposal
32 facilities, approved septic tanks or approved septic tank systems,
33 other facilities and systems for the collection, interception,
34 treatment, and disposal of wastewater, and for the control of pollution
35 from wastewater and for the protection, preservation, and
36 rehabilitation of surface and underground waters, facilities for the
37 drainage of storm or surface waters, public highways, streets, and
38 roads with full authority to regulate the use and operation thereof and

1 the service rates to be charged and may construct, acquire, or own
2 buildings and other necessary district facilities. Such sewage
3 facilities may include facilities which result in combined sewage
4 disposal, treatment, or drainage and electric generation, provided that
5 the electricity generated thereby is a byproduct of the system of
6 sewers. Such electricity may be used by the sewer district or sold to
7 any entity authorized by law to distribute electricity. Such
8 electricity is a byproduct when the electrical generation is
9 subordinate to the primary purpose of sewage disposal, treatment, or
10 drainage. For such purposes a district may conduct sewage throughout
11 the district and throughout other political subdivisions within the
12 district, and construct and lay sewer pipe along and upon public
13 highways, roads, and streets, within and without the district, and
14 condemn and purchase or acquire land and rights of way necessary for
15 such sewer pipe. A district may erect sewage treatment plants, within
16 or without the district, and may acquire by purchase or condemnation,
17 properties or privileges necessary to be had to protect any lakes,
18 rivers, or watercourses and also other areas of land from pollution,
19 from its sewers or its sewage treatment plant. For the purposes of
20 sewage facilities which include facilities which result in combined
21 sewage disposal, treatment, or drainage and electric generation where
22 the electric generation is a byproduct, nothing in this section may be
23 construed to authorize a district to condemn electric generating,
24 transmission, or distribution rights or facilities of entities
25 authorized by law to distribute electricity, or to acquire such rights
26 or facilities without the consent of the owner. A district may charge
27 property owners seeking to connect to the district system of sewers, as
28 a condition to granting the right to so connect, in addition to the
29 cost of such connection, such reasonable connection charge as the board
30 of commissioners shall determine to be proper in order that such
31 property owners shall bear their equitable share of the cost of such
32 system. For purposes of calculating a connection charge, the board of
33 commissioners shall determine the pro rata share of the cost of
34 existing facilities and facilities planned for construction within the
35 next ten years and contained in an adopted comprehensive plan and other
36 costs borne by the district which are directly attributable to the
37 improvements required by property owners seeking to connect to the
38 system. The cost of existing facilities shall not include those

1 portions of the system which have been donated or which have been paid
2 for by grants.

3 The connection charge may include interest charges applied from the
4 date of construction of the sewer system until the connection, or for
5 a period not to exceed ten years, whichever is shorter, at a rate
6 commensurate with the rate of interest applicable to the district at
7 the time of construction or major rehabilitation of the sewer system,
8 or at the time of installation of the sewer lines to which the property
9 owner is seeking to connect.

10 A district may permit payment of the cost of connection and the
11 reasonable connection charge to be paid with interest in installments
12 over a period not exceeding fifteen years. The county treasurer may
13 charge and collect a fee of three dollars per parcel for each year for
14 the treasurer's services. Such fees shall be a charge to be included
15 as part of each annual installment, and shall be credited to the county
16 current expense fund by the county treasurer. A district may compel
17 all property owners within the sewer district located within an area
18 served by the district system of sewers to connect their private drain
19 and sewer systems with the district system under such penalty as the
20 sewer commissioners shall prescribe by resolution. The district may
21 for such purpose enter upon private property and connect the private
22 drains or sewers with the district system and the cost thereof shall be
23 charged against the property owner and shall be a lien upon property
24 served.

25 Revenues from connection charges excluding permit fees are to be
26 considered payments in aid of construction as defined by department of
27 revenue rule.

28 A sewer district may contract with an owner or developer of real
29 estate for the construction or improvement of sewer systems that will
30 be incorporated into or used as part of the public sewer system under
31 terms approved by the owner or developer and the board of
32 commissioners. Any work, construction, alteration, repair, or
33 improvement, other than ordinary maintenance, that the sewer district
34 causes to be performed by an owner or developer of real estate through
35 a contract under this section shall comply with chapter 39.12 RCW.

36 NEW SECTION. Sec. 18. A new section is added to chapter 56.08 RCW
37 to read as follows:

1 RCW 56.08.070 does not apply to contracts with the owner or
2 developer of real estate for the construction or improvement of sewer
3 systems that will be incorporated into or used as part of the public
4 sewer system pursuant to RCW 56.08.010, so long as the procedures of
5 section 10 of this act are followed.

6 **Sec. 19.** RCW 56.20.015 and 1983 c 167 s 159 are each amended to
7 read as follows:

8 In addition to all of the powers and authorities set forth in Title
9 56 RCW, any sewer district (~~shall have~~) has all of the powers of
10 cities as set forth in RCW 35.43.184, 35.43.186, and section 10 of this
11 act and chapter 35.44 RCW. Sewer districts may also exercise all of
12 the powers permitted to a water district under Title 57 RCW, except
13 that a sewer district may not exercise water district powers in any
14 area within its boundaries which is part of an existing district which
15 previously shall have been duly authorized to exercise water district
16 powers in such area without the consent by resolution of the board of
17 commissioners of such district.

18 A sewer district shall have the power to issue general obligation
19 bonds for water system purposes: PROVIDED, That a proposition to
20 authorize general obligation bonds payable from excess tax levies for
21 water system purposes pursuant to chapters 57.16 and 57.20 RCW shall be
22 submitted to all of the qualified voters within that part of the sewer
23 district which is not contained within another existing district duly
24 authorized to exercise water district powers, and the taxes to pay the
25 principal of and interest on the bonds approved by such voters shall be
26 levied only upon all of the taxable property within such part of the
27 sewer district. Such bonds may also be issued and sold in accordance
28 with chapter 39.46 RCW.

29 **Sec. 20.** RCW 57.08.010 and 1994 c 81 s 81 are each amended to read
30 as follows:

31 (1)(a) A water district may acquire by purchase or condemnation, or
32 both, all property and property rights and all water and water rights,
33 both within and without the district, necessary for its purposes.

34 (b) A water district may lease real or personal property necessary
35 for its purposes for a term of years for which such leased property may
36 reasonably be needed where in the opinion of the board of water

1 commissioners such property may not be needed permanently or
2 substantial savings to the district can be effected thereby.

3 (c) The right of eminent domain shall be exercised in the same
4 manner and by the same procedure as provided for cities and towns,
5 insofar as consistent with the provisions of this title, except that
6 all assessment rolls to be prepared and filed by eminent domain
7 commissioners or commissioners appointed by the court shall be prepared
8 and filed by the water district, and the duties devolving upon the city
9 treasurer are hereby imposed upon the county treasurer.

10 (d) A water district may construct, condemn and purchase, purchase,
11 add to, maintain, and supply waterworks to furnish the district and
12 inhabitants thereof, and any city or town therein and any other
13 persons, both within and without the district, with an ample supply of
14 water for all uses and purposes public and private with full authority
15 to regulate and control the use, content, distribution, and price
16 thereof in such a manner as is not in conflict with general law and may
17 construct, acquire, or own buildings and other necessary district
18 facilities. Where a customer connected to the district's system uses
19 the water on an intermittent or transient basis, a district may charge
20 for providing water service to such a customer, regardless of the
21 amount of water, if any, used by the customer.

22 (e) A water district contiguous to Canada may contract with a
23 Canadian corporation for the purchase of water and for the
24 construction, purchase, maintenance, and supply of waterworks to
25 furnish the district and inhabitants thereof and residents of Canada
26 with an ample supply of water under terms approved by the board of
27 commissioners. Such waterworks may include facilities which result in
28 combined water supply and electric generation, provided that the
29 electricity generated thereby is a byproduct of the water supply
30 system.

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

35 (g) For such purposes, a water district may take, condemn and
36 purchase, purchase, acquire, and retain water from any public or
37 navigable lake, river, or watercourse, or any underflowing water and,
38 by means of aqueducts or pipe line conduct the same throughout such

1 water district and any city or town therein and carry it along and upon
2 public highways, roads, and streets, within and without such district.

3 (h) For the purpose of constructing or laying aqueducts or pipe
4 lines, dams, or waterworks or other necessary structures in storing and
5 retaining water or for any other lawful purpose such water district may
6 occupy the beds and shores up to the high water mark of any such lake,
7 river, or other watercourse, and may acquire by purchase or
8 condemnation such property or property rights or privileges as may be
9 necessary to protect its water supply from pollution.

10 (i) For the purposes of waterworks which include facilities for the
11 generation of electricity as a byproduct, nothing in this section may
12 be construed to authorize a water district to condemn electric
13 generating, transmission, or distribution rights or facilities of
14 entities authorized by law to distribute electricity, or to acquire
15 such rights or facilities without the consent of the owner.

16 (2) A water district may purchase and take water from any municipal
17 corporation.

18 (3) A water district may fix rates and charges for water supplied
19 and may charge property owners seeking to connect to the district's
20 water supply system, as a condition to granting the right to so
21 connect, in addition to the cost of such connection, such reasonable
22 connection charge as the board of commissioners shall determine to be
23 proper in order that such property owners shall bear their equitable
24 share of the cost of such system.

25 (a) For purposes of calculating a connection charge, the board of
26 commissioners shall determine the pro rata share of the cost of
27 existing facilities and facilities planned for construction within the
28 next ten years and contained in an adopted comprehensive plan and other
29 costs borne by the district which are directly attributable to the
30 improvements required by property owners seeking to connect to the
31 system. The cost of existing facilities shall not include those
32 portions of the system which have been donated or which have been paid
33 for by grants.

34 (b) The connection charge may include interest charges applied from
35 the date of construction of the water system until the connection, or
36 for a period not to exceed ten years, whichever is shorter, at a rate
37 commensurate with the rate of interest applicable to the district at
38 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 (5) A district may operate and maintain a park or recreational
14 facilities on real property that it owns or in which it has an interest
15 that is not immediately necessary for its purposes.

16 If such park or recreational facilities are operated by a person
17 other than the district, including a corporation, partnership, or other
18 business enterprise, the person shall indemnify and hold harmless the
19 district for any injury or damage caused by the action of the person.

20 (6) A water district may contract with an owner or developer of
21 real estate for the construction or improvement of waterworks that will
22 be incorporated into or used as part of the public water system under
23 terms approved by the owner or developer and the board of
24 commissioners. Any work, construction, alteration, repair, or
25 improvement, other than ordinary maintenance, that the water district
26 causes to be performed by an owner or developer of real estate through
27 a contract under this section shall comply with chapter 39.12 RCW.

28 NEW SECTION. Sec. 21. A new section is added to chapter 57.08 RCW
29 to read as follows:

30 RCW 57.08.050 does not apply to contracts with the owner or
31 developer of real estate for the construction or improvement of
32 waterworks that will be incorporated into or used as part of the public
33 waterworks system pursuant to RCW 57.08.010, so long as the procedures
34 of section 10 of this act are followed.

35 **Sec. 22.** RCW 57.16.050 and 1987 c 169 s 2 are each amended to read
36 as follows:

1 (1) A district may establish local improvement districts within its
2 territory; levy special assessments under the mode of annual
3 installments extending over a period not exceeding twenty years, on all
4 property specially benefited by a local improvement, on the basis of
5 special benefits to pay in whole or in part the damage or costs of any
6 improvements ordered in the district; and issue local improvement bonds
7 in the local improvement district to be repaid by the collection of
8 special assessments. Such bonds may be of any form, including bearer
9 bonds or registered bonds as provided in RCW 39.46.030. The levying,
10 collection and enforcement of such special assessments and issuance of
11 bonds shall be as provided for the levying, collection, and enforcement
12 of special assessments and the issuance of local improvement district
13 bonds by cities and towns insofar as consistent herewith. The duties
14 devolving upon the city or town treasurer are hereby imposed upon the
15 county treasurer of the county in which the real property is located
16 for the purposes hereof. The mode of assessment shall be determined by
17 the water commissioners by resolution. When in the petition or
18 resolution for the establishment of a local improvement district, and
19 in the approved comprehensive plan or approved amendment thereto or
20 plan providing for additions and betterments to the original plan,
21 previously adopted, it is provided that, except as set forth in this
22 section, the special assessments shall be for the sole purpose of
23 payment into the revenue bond fund for the payment of revenue bonds,
24 then the local improvement district shall be designated as a "utility
25 local improvement district." No warrants or bonds shall be issued in
26 a utility local improvement district, but the collection of interest
27 and principal on all special assessments in the utility local
28 improvement district shall be paid into the revenue bond fund, except
29 that special assessments paid before the issuance and sale of bonds may
30 be deposited in a fund for the payment of costs of improvements in the
31 utility local improvement district.

32 (2) Such bonds may also be issued and sold in accordance with
33 chapter 39.46 RCW.

34 (3) A district may contract with an owner or developer of real
35 estate for the construction or improvement of waterworks that will be
36 incorporated into or used as part of the public water system under
37 terms approved by the owner or developer and the board of
38 commissioners. Any work, construction, alteration, repair, or
39 improvement, other than ordinary maintenance, that the district causes

1 to be performed by an owner or developer of real estate through a
2 contract under this section shall comply with chapter 39.12 RCW.

3 (4) In addition to all of the powers and authorities set forth in
4 this title, any water district has all of the powers of cities as set
5 forth in RCW 35.43.184, 35.43.186, and section 10 of this act.

6 NEW SECTION. **Sec. 23.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

--- END ---