

1 1212-S AMS WEST S5360.1

2 SHB 1212 - S AMD TO GO COMM AMD (S-4850.1/98) - 920
3 By Senator West

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5 On page 14, line 12 of the amendment, after "system." insert "Any
6 capital costs or capacity charges must be recovered using rate-based
7 user charges and the district may not charge hookup fees that are above
8 actual physical connection costs."

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12 On page 62, after line 14 of the amendment, insert the following:

13 "**Sec. 76.** RCW 35.58.570 and 1996 c 230 s 1602 are each amended to
14 read as follows:

15 (1) A metropolitan municipal corporation that is engaged in the
16 transmission, treatment, and disposal of sewage may impose a capacity
17 charge on users of the metropolitan municipal corporation's sewage
18 facilities when the user connects, reconnects, or establishes a new
19 service. The capacity charge shall be approved by the council of the
20 metropolitan municipal corporation and reviewed and reapproved
21 annually. Any capital costs or capacity charges must be recovered
22 using rate-based user charges and the metropolitan municipal
23 corporation may not charge hookup fees that are above actual physical
24 connection costs.

25 (2) The capacity charge shall be based upon the cost of the sewage
26 facilities' excess capacity that is necessary to provide sewerage
27 treatment for new users to the system. The capacity charge, which may
28 be collected over a period of fifteen years, shall not exceed:

29 (a) Seven dollars per month per residential customer equivalent for
30 connections and reconnections occurring prior to January 1, 1996; and

31 (b) Ten dollars and fifty cents per month per residential customer
32 equivalent for connections and reconnections occurring after January 1,
33 1996, and prior to January 1, 2001.

1 For connections and reconnections occurring after January 1, 2001,
2 the capacity charge shall not exceed fifty percent of the basic sewer
3 rate per residential customer equivalent established by the
4 metropolitan municipal corporation at the time of the connection or
5 reconnection.

6 (3) The capacity charge for a building other than a single-family
7 residence shall be based on the projected number of residential
8 customer equivalents to be represented by the building, considering its
9 intended use.

10 (4) The council of the metropolitan municipal corporation shall
11 enforce the collection of the capacity charge in the same manner
12 provided for the collection, enforcement, and payment of rates and
13 charges for water-sewer districts provided in RCW 57.08.081. At least
14 thirty days before commencement of an action to foreclose a lien for a
15 capacity charge, the metropolitan municipal corporation shall send
16 written notice of delinquency in payment of the capacity charge to any
17 first mortgage or deed of trust holder of record at the address of
18 record.

19 (5) As used in this section, "sewage facilities" means capital
20 projects identified since January 1, 1982, to July 23, 1989, in the
21 metropolitan municipal corporation's comprehensive water pollution
22 abatement plan. "Residential customer equivalent" shall have the same
23 meaning used by the metropolitan municipal corporation in determining
24 rates and charges at the time the capacity charge is imposed.

25 **Sec. 77.** RCW 35.67.020 and 1997 c 447 s 8 are each amended to read
26 as follows:

27 Every city and town may construct, condemn and purchase, acquire,
28 add to, maintain, conduct, and operate systems of sewerage and systems
29 and plants for refuse collection and disposal together with additions,
30 extensions, and betterments thereto, within and without its limits,
31 with full jurisdiction and authority to manage, regulate, and control
32 them and to fix, alter, regulate, and control the rates and charges for
33 their use. The rates charged must be uniform for the same class of
34 customers or service and facilities furnished. Any capital costs or
35 capacity charges must be recovered using rate-based user charges and
36 the city or town may not charge hookup fees that are above actual
37 physical connection costs.

1 In classifying customers served or service and facilities furnished
2 by such system of sewerage, the city or town legislative body may in
3 its discretion consider any or all of the following factors: (1) The
4 difference in cost of service and facilities to the various customers;
5 (2) the location of the various customers within and without the city
6 or town; (3) the difference in cost of maintenance, operation, repair,
7 and replacement of the various parts of the system; (4) the different
8 character of the service and facilities furnished various customers;
9 (5) the quantity and quality of the sewage delivered and the time of
10 its delivery; (6) the achievement of water conservation goals and the
11 discouragement of wasteful water use practices; (7) capital
12 contributions made to the system, including but not limited to,
13 assessments; (8) the nonprofit public benefit status, as defined in RCW
14 24.03.490, of the land user; and (9) any other matters which present a
15 reasonable difference as a ground for distinction. Rates or charges
16 for on-site inspection and maintenance services may not be imposed
17 under this chapter on the development, construction, or reconstruction
18 of property.

19 A city or town may provide assistance to aid low-income persons in
20 connection with services provided under this chapter.

21 Under this chapter, after July 1, 1998, any requirements for
22 pumping the septic tank of an on-site sewage system should be based,
23 among other things, on actual measurement of accumulation of sludge and
24 scum by a trained inspector, trained owner's agent, or trained owner.
25 Training must occur in a program approved by the state board of health
26 or by a local health officer.

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

36 A city or town shall not provide on-site sewage system inspection,
37 pumping services, or other maintenance or repair services under this
38 section using city or town employees unless the on-site system is
39 connected by a publicly owned collection system to the city or town's

1 sewerage system, and the on-site system represents the first step in
2 the sewage disposal process. Nothing in this section shall affect the
3 authority of state or local health officers to carry out their
4 responsibilities under any other applicable law.

5 **Sec. 78.** RCW 35.91.040 and 1965 c 7 s 35.91.040 are each amended
6 to read as follows:

7 No person, firm or corporation shall be granted a permit or be
8 authorized to tap into, or use any such water or sewer facilities or
9 extensions thereof during the period of time prescribed in such
10 contract without first paying to the municipality, in addition to any
11 and all other costs and charges made or assessed for such tap, or use,
12 or for the water lines or sewers constructed in connection therewith,
13 the amount required by the provisions of the contract under which the
14 water or sewer facilities so tapped into or used were constructed. All
15 amounts so received by the municipality shall be paid out by it under
16 the terms of such contract within sixty days after the receipt thereof.
17 Whenever any tap or connection is made into any such contracted water
18 or sewer facilities without such payment having first been made, the
19 governing body of the municipality may remove, or cause to be removed,
20 such unauthorized tap or connection and all connecting tile, or pipe
21 located in the facility right of way and dispose of unauthorized
22 material so removed without any liability whatsoever. Any capital
23 costs or capacity charges must be recovered using rate-based user
24 charges and the municipality may not charge hookup fees that are above
25 actual physical connection costs.

26 **Sec. 79.** RCW 35.92.020 and 1997 c 447 s 9 are each amended to read
27 as follows:

28 A city or town may construct, condemn and purchase, purchase,
29 acquire, add to, alter, maintain, and operate systems, plants, sites,
30 or other facilities of sewerage as defined in RCW 35.67.010, or solid
31 waste handling as defined by RCW 70.95.030, and shall have full
32 authority to manage, regulate, operate, control, and to fix the price
33 of service and facilities of those systems, plants, sites, or other
34 facilities within and without the limits of the city or town. Any
35 capital costs or capacity charges must be recovered using rate-based
36 user charges and the city or town may not charge hookup fees that are
37 above actual physical connection costs. The rates charged shall be

1 uniform for the same class of customers or service and facilities. In
2 classifying customers served or service and facilities furnished by a
3 system or systems of sewerage, the legislative authority of the city or
4 town may in its discretion consider any or all of the following
5 factors: (1) The difference in cost of service and facilities to
6 customers; (2) the location of customers within and without the city or
7 town; (3) the difference in cost of maintenance, operation, repair, and
8 replacement of the parts of the system; (4) the different character of
9 the service and facilities furnished to customers; (5) the quantity and
10 quality of the sewage delivered and the time of its delivery; (6)
11 capital contributions made to the systems, plants, sites, or other
12 facilities, including but not limited to, assessments; (7) the
13 nonprofit public benefit status, as defined in RCW 24.03.490, of the
14 land user; and (8) any other factors that present a reasonable
15 difference as a ground for distinction. Rates or charges for on-site
16 inspection and maintenance services may not be imposed under this
17 chapter on the development, construction, or reconstruction of
18 property.

19 A city or town may provide assistance to aid low-income persons in
20 connection with services provided under this chapter.

21 Under this chapter, after July 1, 1998, any requirements for
22 pumping the septic tank of an on-site sewage system should be based,
23 among other things, on actual measurement of accumulation of sludge and
24 scum by a trained inspector, trained owner's agent, or trained owner.
25 Training must occur in a program approved by the state board of health
26 or by a local health officer.

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

36 A city or town shall not provide on-site sewage system inspection,
37 pumping services, or other maintenance or repair services under this
38 section using city or town employees unless the on-site system is
39 connected by a publicly owned collection system to the city or town's

1 sewerage system, and the on-site system represents the first step in
2 the sewage disposal process. Nothing in this section shall affect the
3 authority of state or local health officers to carry out their
4 responsibilities under any other applicable law.

5 **Sec. 80.** RCW 36.89.080 and 1995 c 124 s 1 are each amended to read
6 as follows:

7 Any county legislative authority may provide by resolution for
8 revenues by fixing rates and charges for the furnishing of service to
9 those served or receiving benefits or to be served or to receive
10 benefits from any storm water control facility or contributing to an
11 increase of surface water runoff. Any capital costs or capacity
12 charges must be recovered using rate-based user charges and the county
13 legislative authority may not charge hookup fees that are above actual
14 physical connection costs. In fixing rates and charges, the county
15 legislative authority may in its discretion consider: (1) Services
16 furnished or to be furnished; (2) benefits received or to be received;
17 (3) the character and use of land or its water runoff characteristics;
18 (4) the nonprofit public benefit status, as defined in RCW 24.03.490,
19 of the land user; or (5) any other matters which present a reasonable
20 difference as a ground for distinction. The service charges and rates
21 collected shall be deposited in a special fund or funds in the county
22 treasury to be used only for the purpose of paying all or any part of
23 the cost and expense of maintaining and operating storm water control
24 facilities, all or any part of the cost and expense of planning,
25 designing, establishing, acquiring, developing, constructing and
26 improving any of such facilities, or to pay or secure the payment of
27 all or any portion of any issue of general obligation or revenue bonds
28 issued for such purpose.

29 **Sec. 81.** RCW 36.94.140 and 1997 c 447 s 12 are each amended to
30 read as follows:

31 Every county, in the operation of a system of sewerage and/or
32 water, shall have full jurisdiction and authority to manage, regulate,
33 and control it and to fix, alter, regulate, and control the rates and
34 charges for the service and facilities to those to whom such service
35 and facilities are available, and to levy charges for connection to the
36 system. The rates for availability of service and facilities, and
37 connection charges so charged must be uniform for the same class of

1 customers or service and facility. Any capital costs or capacity
2 charges must be recovered using rate-based user charges and the county
3 may not charge hookup fees that are above actual physical connection
4 costs.

5 In classifying customers served, service furnished or made
6 available by such system of sewerage and/or water, or the connection
7 charges, the county legislative authority may consider any or all of
8 the following factors:

9 (1) The difference in cost of service to the various customers
10 within or without the area;

11 (2) The difference in cost of maintenance, operation, repair and
12 replacement of the various parts of the systems;

13 (3) The different character of the service and facilities furnished
14 various customers;

15 (4) The quantity and quality of the sewage and/or water delivered
16 and the time of its delivery;

17 (5) Capital contributions made to the system or systems, including,
18 but not limited to, assessments;

19 (6) The cost of acquiring the system or portions of the system in
20 making system improvements necessary for the public health and safety;

21 (7) The nonprofit public benefit status, as defined in RCW
22 24.03.490, of the land user; and

23 (8) Any other matters which present a reasonable difference as a
24 ground for distinction.

25 A county may provide assistance to aid low-income persons in
26 connection with services provided under this chapter.

27 The service charges and rates shall produce revenues sufficient to
28 take care of the costs of maintenance and operation, revenue bond and
29 warrant interest and principal amortization requirements, and all other
30 charges necessary for the efficient and proper operation of the system.

31 **Sec. 82.** RCW 53.08.040 and 1989 c 298 s 1 are each amended to read
32 as follows:

33 A district may improve its lands by dredging, filling, bulkheading,
34 providing waterways or otherwise developing such lands for industrial
35 and commercial purposes. A district may also acquire, construct,
36 install, improve, and operate sewer and water utilities to serve its
37 own property and other property owners under terms, conditions, and
38 rates to be fixed and approved by the port commission. A district may

1 also acquire, by purchase, construction, lease, or in any other manner,
2 and may maintain and operate other facilities for the control or
3 elimination of air, water, or other pollution, including, but not
4 limited to, facilities for the treatment and/or disposal of industrial
5 wastes, and may make such facilities available to others under terms,
6 conditions and rates to be fixed and approved by the port commission.
7 Any capital costs or capacity charges must be recovered using rate-
8 based user charges and the district may not charge hookup fees that are
9 above actual physical connection costs. Such conditions and rates
10 shall be sufficient to reimburse the port for all costs, including
11 reasonable amortization of capital outlays caused by or incidental to
12 providing such other pollution control facilities: PROVIDED, That no
13 part of such costs of providing any pollution control facility to
14 others shall be paid out of any tax revenues of the port: AND PROVIDED
15 FURTHER, That no port shall enter into an agreement or contract to
16 provide sewer and/or water utilities or pollution control facilities if
17 substantially similar utilities or facilities are available from
18 another source (or sources) which is able and willing to provide such
19 utilities or facilities on a reasonable and nondiscriminatory basis
20 unless such other source (or sources) consents thereto.

21 In the event that a port elects to make such other pollution
22 control facilities available to others, it shall do so by lease, lease
23 purchase agreement, or other agreement binding such user to pay for the
24 use of said facilities for the full term of the revenue bonds issued by
25 the port for the acquisition of said facilities, and said payments
26 shall at least fully reimburse the port for all principal and interest
27 paid by it on said bonds and for all operating or other costs, if any,
28 incurred by the port in connection with said facilities: PROVIDED,
29 HOWEVER, That where there is more than one user of any such facilities,
30 each user shall be responsible for its pro rata share of such costs and
31 payment of principal and interest. Any port intending to provide
32 pollution control facilities to others shall first survey the port
33 district to ascertain the potential users of such facilities and the
34 extent of their needs. The port shall conduct a public hearing upon
35 the proposal and shall give each potential user an opportunity to
36 participate in the use of such facilities upon equal terms and
37 conditions.

1 **Sec. 83.** RCW 82.02.020 and 1997 c 452 s 21 are each amended to
2 read as follows:

3 Except only as expressly provided in chapters 67.28 and 82.14 RCW,
4 the state preempts the field of imposing taxes upon retail sales of
5 tangible personal property, the use of tangible personal property,
6 parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances,
7 and cigarettes, and no county, town, or other municipal subdivision
8 shall have the right to impose taxes of that nature. Except as
9 provided in RCW 82.02.050 through 82.02.090, no county, city, town, or
10 other municipal corporation shall impose any tax, fee, or charge,
11 either direct or indirect, on the construction or reconstruction of
12 residential buildings, commercial buildings, industrial buildings, or
13 on any other building or building space or appurtenance thereto, or on
14 the development, subdivision, classification, or reclassification of
15 land. However, this section does not preclude dedications of land or
16 easements within the proposed development or plat which the county,
17 city, town, or other municipal corporation can demonstrate are
18 reasonably necessary as a direct result of the proposed development or
19 plat to which the dedication of land or easement is to apply.

20 This section does not prohibit voluntary agreements with counties,
21 cities, towns, or other municipal corporations that allow a payment in
22 lieu of a dedication of land or to mitigate a direct impact that has
23 been identified as a consequence of a proposed development,
24 subdivision, or plat. A local government shall not use such voluntary
25 agreements for local off-site transportation improvements within the
26 geographic boundaries of the area or areas covered by an adopted
27 transportation program authorized by chapter 39.92 RCW. Any such
28 voluntary agreement is subject to the following provisions:

29 (1) The payment shall be held in a reserve account and may only be
30 expended to fund a capital improvement agreed upon by the parties to
31 mitigate the identified, direct impact;

32 (2) The payment shall be expended in all cases within five years of
33 collection; and

34 (3) Any payment not so expended shall be refunded with interest at
35 the rate applied to judgments to the property owners of record at the
36 time of the refund; however, if the payment is not expended within five
37 years due to delay attributable to the developer, the payment shall be
38 refunded without interest.

1 No county, city, town, or other municipal corporation shall require
2 any payment as part of such a voluntary agreement which the county,
3 city, town, or other municipal corporation cannot establish is
4 reasonably necessary as a direct result of the proposed development or
5 plat.

6 Nothing in this section prohibits cities, towns, counties, or other
7 municipal corporations from collecting reasonable fees from an
8 applicant for a permit or other governmental approval to cover the cost
9 to the city, town, county, or other municipal corporation of processing
10 applications, inspecting and reviewing plans, or preparing detailed
11 statements required by chapter 43.21C RCW.

12 This section does not limit the existing authority of any county,
13 city, town, or other municipal corporation to impose special
14 assessments on property specifically benefitted thereby in the manner
15 prescribed by law.

16 Nothing in this section prohibits counties, cities, or towns from
17 imposing or permits counties, cities, or towns to impose water, sewer,
18 natural gas, drainage utility, and drainage system charges: PROVIDED,
19 That (~~no such charge shall exceed the proportionate share of~~) such
20 utility or system's capital costs (~~which the county, city, or town can~~
21 ~~demonstrate are attributable to the property being charged:~~ PROVIDED
22 FURTHER, That these provisions shall not be interpreted to expand or
23 contract any existing authority of counties, cities, or towns to impose
24 such charges)) or any capacity charges must be recovered using rate-
25 based user charges and such utility or system may not charge hookup
26 fees that are above actual physical connection costs.

27 Nothing in this section prohibits a transportation benefit district
28 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits
29 the legislative authority of a county, city, or town from approving the
30 imposition of such fees within a transportation benefit district.

31 Nothing in this section prohibits counties, cities, or towns from
32 imposing transportation impact fees authorized pursuant to chapter
33 39.92 RCW.

34 Nothing in this section prohibits counties, cities, or towns from
35 requiring property owners to provide relocation assistance to tenants
36 under RCW 59.18.440 and 59.18.450.

37 This section does not apply to special purpose districts formed and
38 acting pursuant to Titles 54, 57, or 87 RCW, nor is the authority
39 conferred by these titles affected."

1 Renumber the remaining section consecutively.

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5 On page 62, beginning on line 32 of the title amendment, after
6 "87.03.720," strike "and 87.03.725" and insert "87.03.725, 35.58.570,
7 35.67.020, 35.91.040, 35.92.020, 36.89.080, 36.94.140, 53.08.040, and
8 82.02.020"

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