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HOUSE BILL 1905

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Linville and G. Chandler

Read first time 02/08/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to clarifying the use of natural systems as  
2 integral portions of storm water control systems and aquifer protection  
3 systems; amending RCW 35.58.200, 35.67.010, 35.92.020, 36.36.010,  
4 36.94.010, 43.155.020, 57.08.005, 70.146.020, 82.46.010, and 90.72.030;  
5 reenacting and amending RCW 82.46.035; adding a new section to chapter  
6 36.89 RCW; and adding a new section to chapter 54.16 RCW.

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

8 **Sec. 1.** RCW 35.58.200 and 1975 c 36 s 1 are each amended to read  
9 as follows:

10 If a metropolitan municipal corporation shall be authorized to  
11 perform the function of metropolitan water pollution abatement, it  
12 shall have the following powers in addition to the general powers  
13 granted by this chapter:

14 (1) To prepare a comprehensive water pollution abatement plan  
15 including provisions for waterborne pollutant removal, water quality  
16 improvement, sewage disposal, and storm water drainage for the  
17 metropolitan area.

18 (2) To acquire by purchase, condemnation, gift, or grant and to  
19 lease, construct, add to, improve, replace, repair, maintain, operate

1 and regulate the use of metropolitan facilities for water pollution  
2 abatement, including but not limited to, removal of waterborne  
3 pollutants, water quality improvement, sewage disposal and storm water  
4 drainage within or without the metropolitan area, including but not  
5 limited to trunk, interceptor and outfall sewers, whether used to carry  
6 sanitary waste, storm water, or combined storm and sanitary sewage,  
7 lift and pumping stations, pipelines, drains, sewage treatment plants,  
8 flow control structures together with all lands, property rights,  
9 equipment and accessories necessary for such facilities. Storm water  
10 drainage facilities include natural systems, such as wetland areas,  
11 that collect or filter storm water. Sewer facilities which are owned  
12 by a county, city, or special district may be acquired or used by the  
13 metropolitan municipal corporation only with the consent of the  
14 legislative body of the county, city, or special districts owning such  
15 facilities. Counties, cities, and special districts are hereby  
16 authorized to convey or lease such facilities to metropolitan municipal  
17 corporations or to contract for their joint use on such terms as may be  
18 fixed by agreement between the legislative body of such county, city,  
19 or special district and the metropolitan council, without submitting  
20 the matter to the voters of such county, city, or district.

21 (3) To require counties, cities, special districts and other  
22 political subdivisions to discharge sewage collected by such entities  
23 from any portion of the metropolitan area which can drain by gravity  
24 flow into such metropolitan facilities as may be provided to serve such  
25 areas when the metropolitan council shall declare by resolution that  
26 the health, safety, or welfare of the people within the metropolitan  
27 area requires such action.

28 (4) To fix rates and charges for the use of metropolitan water  
29 pollution abatement facilities, and to expend the moneys so collected  
30 for authorized water pollution abatement activities.

31 (5) To establish minimum standards for the construction of local  
32 water pollution abatement facilities and to approve plans for  
33 construction of such facilities by component counties or cities or by  
34 special districts, which are connected to the facilities of the  
35 metropolitan municipal corporation. No such county, city, or special  
36 district shall construct such facilities without first securing such  
37 approval.

38 (6) To acquire by purchase, condemnation, gift, or grant, to lease,  
39 construct, add to, improve, replace, repair, maintain, operate and

1 regulate the use of facilities for the local collection of sewage or  
2 storm water in portions of the metropolitan area not contained within  
3 any city or special district operating local public sewer facilities  
4 and, with the consent of the legislative body of any such city or  
5 special district, to exercise such powers within such city or special  
6 district and for such purpose to have all the powers conferred by law  
7 upon such city or special district with respect to such local  
8 collection facilities: PROVIDED, That such consent shall not be  
9 required if the department of ecology certifies that a water pollution  
10 problem exists within any such city or special district and notifies  
11 the city or special district to correct such problem and corrective  
12 construction of necessary local collection facilities shall not have  
13 been commenced within one year after notification. All costs of such  
14 local collection facilities shall be paid for by the area served  
15 thereby.

16 (7) To participate fully in federal and state programs under the  
17 federal water pollution control act (86 Stat. 816 et seq., 33 U.S.C.  
18 1251 et seq.) and to take all actions necessary to secure to itself or  
19 its component agencies the benefits of that act and to meet the  
20 requirements of that act, including but not limited to the following:

21 (a) authority to develop and implement such plans as may be  
22 appropriate or necessary under the act.

23 (b) authority to require by appropriate regulations that its  
24 component agencies comply with all effluent treatment and limitation  
25 requirements, standards of performance requirements, pretreatment  
26 requirements, a user charge and industrial cost recovery system  
27 conforming to federal regulation, and all conditions of national permit  
28 discharge elimination system permits issued to the metropolitan  
29 municipal corporation or its component agencies. Adoption of such  
30 regulations and compliance therewith shall not constitute a breach of  
31 any sewage disposal contract between a metropolitan municipal  
32 corporation and its component agencies nor a defense to an action for  
33 the performance of all terms and conditions of such contracts not  
34 inconsistent with such regulations and such contracts, as modified by  
35 such regulations, shall be in all respects valid and enforceable.

36 **Sec. 2.** RCW 35.67.010 and 1997 c 447 s 7 are each amended to read  
37 as follows:

1 A "system of sewerage" means and may include any or all of the  
2 following:

3 (1) Sanitary sewage collection, treatment, and/or disposal  
4 facilities and services, on-site or off-site sanitary sewerage  
5 facilities, inspection services and maintenance services for public or  
6 private on-site systems, or any other means of sewage treatment and  
7 disposal approved by the city;

8 (2) Combined sanitary sewage disposal and storm or surface water  
9 sewers;

10 (3) Storm or surface water sewers, including natural systems, such  
11 as wetland areas, that collect or filter storm or surface water;

12 (4) Outfalls for storm drainage or sanitary sewage and works,  
13 plants, and facilities for storm drainage or sanitary sewage treatment  
14 and disposal, and rights and interests in property relating to the  
15 system;

16 (5) Combined water and sewerage systems;

17 (6) Point and nonpoint water pollution monitoring programs that are  
18 directly related to the sewerage facilities and programs operated by a  
19 city or town;

20 (7) Public restroom and sanitary facilities; and

21 (8) Any combination of or part of any or all of such facilities.

22 The words "public utility" when used in this chapter has the same  
23 meaning as the words "system of sewerage."

24 **Sec. 3.** RCW 35.92.020 and 1997 c 447 s 9 are each amended to read  
25 as follows:

26 A city or town may construct, condemn and purchase, purchase,  
27 acquire, add to, alter, maintain, and operate systems, plants, sites,  
28 or other facilities of sewerage as defined in RCW 35.67.010, or solid  
29 waste handling as defined by RCW 70.95.030, and shall have full  
30 authority to manage, regulate, operate, control, and to fix the price  
31 of service and facilities of those systems, plants, sites, or other  
32 facilities within and without the limits of the city or town. Storm  
33 water sewerage systems or facilities include natural areas, such as  
34 wetlands, that collect or filter storm water. The rates charged shall  
35 be uniform for the same class of customers or service and facilities.  
36 In classifying customers served or service and facilities furnished by  
37 a system or systems of sewerage, the legislative authority of the city  
38 or town may in its discretion consider any or all of the following

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

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

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

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

32 A city or town shall not provide on-site sewage system inspection,  
33 pumping services, or other maintenance or repair services under this  
34 section using city or town employees unless the on-site system is  
35 connected by a publicly owned collection system to the city or town's  
36 sewerage system, and the on-site system represents the first step in  
37 the sewage disposal process. Nothing in this section shall affect the  
38 authority of state or local health officers to carry out their  
39 responsibilities under any other applicable law.

1       **Sec. 4.** RCW 36.36.010 and 1991 c 151 s 1 are each amended to read  
2 as follows:

3       The protection of subterranean water from pollution or degradation  
4 is of great concern. The depletion of subterranean water is of great  
5 concern. The purpose of this chapter is to allow the creation of  
6 aquifer protection areas to finance the protection, preservation, and  
7 rehabilitation of subterranean water, including natural systems such as  
8 wetlands that filter surface or storm water prior to recharge into the  
9 ground, and to reduce special assessments imposed upon households to  
10 finance facilities for such purposes. Pollution and degradation of  
11 subterranean drinking water supplies, and the depletion of subterranean  
12 drinking water supplies, pose immediate threats to the safety and  
13 welfare of the citizens of this state.

14       NEW SECTION. **Sec. 5.** A new section is added to chapter 36.89 RCW  
15 to read as follows:

16       Storm water control facilities include natural systems, such as  
17 wetlands, that collect or filter storm water.

18       **Sec. 6.** RCW 36.94.010 and 1997 c 447 s 10 are each amended to read  
19 as follows:

20       As used in this chapter:

21       (1) A "system of sewerage" means and may include any or all of the  
22 following:

23       (a) Sanitary sewage collection, treatment, and/or disposal  
24 facilities and services, including without limitation on-site or off-  
25 site sanitary sewerage facilities, inspection services and maintenance  
26 services for private or public on-site systems, or any other means of  
27 sewage treatment and disposal approved by the county;

28       (b) Combined sanitary sewage disposal and storm or surface water  
29 drains and facilities;

30       (c) Storm or surface water drains, channels, and facilities,  
31 including natural systems such as wetlands that collect or filter storm  
32 or surface water;

33       (d) Outfalls for storm drainage or sanitary sewage and works,  
34 plants, and facilities for storm drainage or sanitary sewage treatment  
35 and disposal, and rights and interests in property relating to the  
36 system;

37       (e) Combined water and sewerage systems;

1 (f) Point and nonpoint water pollution monitoring programs that are  
2 directly related to the sewerage facilities and programs operated by a  
3 county;

4 (g) Public restroom and sanitary facilities;

5 (h) The facilities and services authorized in RCW 36.94.020; and

6 (i) Any combination of or part of any or all of such facilities.

7 (2) A "system of water" means and includes:

8 (a) A water distribution system, including dams, reservoirs,  
9 aqueducts, plants, pumping stations, transmission and lateral  
10 distribution lines and other facilities for distribution of water;

11 (b) A combined water and sewerage system;

12 (c) Any combination of or any part of any or all of such  
13 facilities.

14 (3) A "sewerage and/or water general plan" means a general plan for  
15 a system of sewerage and/or water for the county which shall be an  
16 element of the comprehensive plan established by the county pursuant to  
17 RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a  
18 comprehensive plan.

19 (a) A sewerage general plan shall include the general location and  
20 description of treatment and disposal facilities, trunk and interceptor  
21 sewers, pumping stations, monitoring and control facilities, channels,  
22 local service areas and a general description of the collection system  
23 to serve those areas, a description of on-site sanitary sewerage system  
24 inspection services and maintenance services, and other facilities and  
25 services as may be required to provide a functional and implementable  
26 plan, including preliminary engineering to assure feasibility. The  
27 plan may also include a description of the regulations deemed  
28 appropriate to carrying out surface drainage plans.

29 (b) A water general plan shall include the general location and  
30 description of water resources to be utilized, wells, treatment  
31 facilities, transmission lines, storage reservoirs, pumping stations,  
32 and monitoring and control facilities as may be required to provide a  
33 functional and implementable plan.

34 (c) Water and/or sewerage general plans shall include preliminary  
35 engineering in adequate detail to assure technical feasibility and, to  
36 the extent then known, shall further discuss the methods of  
37 distributing the cost and expense of the system and shall indicate the  
38 economic feasibility of plan implementation. The plans may also  
39 specify local or lateral facilities and services. The sewerage and/or

1 water general plan does not mean the final engineering construction or  
2 financing plans for the system.

3 (4) "Municipal corporation" means and includes any city, town,  
4 metropolitan municipal corporation, any public utility district which  
5 operates and maintains a sewer or water system, any sewer, water,  
6 diking, or drainage district, any diking, drainage, and sewerage  
7 improvement district, and any irrigation district.

8 (5) A "private utility" means and includes all utilities, both  
9 public and private, which provide sewerage and/or water service and  
10 which are not municipal corporations within the definition of this  
11 chapter. The ownership of a private utility may be in a corporation,  
12 nonprofit or for profit, in a cooperative association, in a mutual  
13 organization, or in individuals.

14 (6) "Board" means one or more boards of county commissioners and/or  
15 the legislative authority of a home rule charter county.

16 **Sec. 7.** RCW 43.155.020 and 1996 c 168 s 2 are each amended to read  
17 as follows:

18 Unless the context clearly requires otherwise, the definitions in  
19 this section shall apply throughout this chapter.

20 (1) "Board" means the public works board created in RCW 43.155.030.

21 (2) "Department" means the department of community, trade, and  
22 economic development.

23 (3) "Financing guarantees" means the pledge of money in the public  
24 works assistance account, or money to be received by the public works  
25 assistance account, to the repayment of all or a portion of the  
26 principal of or interest on obligations issued by local governments to  
27 finance public works projects.

28 (4) "Local governments" means cities, towns, counties, special  
29 purpose districts, and any other municipal corporations or quasi-  
30 municipal corporations in the state excluding school districts and port  
31 districts.

32 (5) "Public works project" means a project of a local government  
33 for the planning, acquisition, construction, repair, reconstruction,  
34 replacement, rehabilitation, or improvement of streets and roads,  
35 bridges, water systems, or storm and sanitary sewage systems and solid  
36 waste facilities, including recycling facilities and natural systems  
37 such as wetlands that collect or filter storm water.

1 (6) "Solid waste or recycling project" means remedial actions  
2 necessary to bring abandoned or closed landfills into compliance with  
3 regulatory requirements and the repair, restoration, and replacement of  
4 existing solid waste transfer, recycling facilities, and landfill  
5 projects limited to the opening of landfill cells that are in existing  
6 and permitted landfills.

7 (7) "Technical assistance" means training and other services  
8 provided to local governments to: (a) Help such local governments  
9 plan, apply, and qualify for loans and financing guarantees from the  
10 board, and (b) help local governments improve their ability to plan  
11 for, finance, acquire, construct, repair, replace, rehabilitate, and  
12 maintain public facilities.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 54.16 RCW  
14 to read as follows:

15 A public utility district may acquire natural systems such as  
16 wetlands that collect or filter storm water as part of any district  
17 operation of a facility or system of storm water or surface water  
18 sewerage, or any district operation of a facility or system that  
19 controls and protects, preserves, and rehabilitates surface and  
20 underground waters.

21 **Sec. 9.** RCW 57.08.005 and 1999 c 153 s 2 are each amended to read  
22 as follows:

23 A water-sewer district shall have the following powers:

24 (1) To acquire by purchase or condemnation, or both, all lands,  
25 property and property rights, and all water and water rights, both  
26 within and without the district, necessary for its purposes. The right  
27 of eminent domain shall be exercised in the same manner and by the same  
28 procedure as provided for cities and towns, insofar as consistent with  
29 this title, except that all assessment or reassessment rolls to be  
30 prepared and filed by eminent domain commissioners or commissioners  
31 appointed by the court shall be prepared and filed by the district, and  
32 the duties devolving upon the city treasurer are imposed upon the  
33 county treasurer;

34 (2) To lease real or personal property necessary for its purposes  
35 for a term of years for which that leased property may reasonably be  
36 needed;

1 (3) To construct, condemn and purchase, add to, maintain, and  
2 supply waterworks to furnish the district and inhabitants thereof and  
3 any other persons, both within and without the district, with an ample  
4 supply of water for all uses and purposes public and private with full  
5 authority to regulate and control the use, content, distribution, and  
6 price thereof in such a manner as is not in conflict with general law  
7 and may construct, acquire, or own buildings and other necessary  
8 district facilities. Where a customer connected to the district's  
9 system uses the water on an intermittent or transient basis, a district  
10 may charge for providing water service to such a customer, regardless  
11 of the amount of water, if any, used by the customer. District  
12 waterworks may include facilities which result in combined water supply  
13 and electric generation, if the electricity generated thereby is a  
14 byproduct of the water supply system. That electricity may be used by  
15 the district or sold to any entity authorized by law to use or  
16 distribute electricity. Electricity is deemed a byproduct when the  
17 electrical generation is subordinate to the primary purpose of water  
18 supply. For such purposes, a district may take, condemn and purchase,  
19 acquire, and retain water from any public or navigable lake, river or  
20 watercourse, or any underflowing water, and by means of aqueducts or  
21 pipeline conduct the same throughout the district and any city or town  
22 therein and carry it along and upon public highways, roads, and  
23 streets, within and without such district. For the purpose of  
24 constructing or laying aqueducts or pipelines, dams, or waterworks or  
25 other necessary structures in storing and retaining water or for any  
26 other lawful purpose such district may occupy the beds and shores up to  
27 the high water mark of any such lake, river, or other watercourse, and  
28 may acquire by purchase or condemnation such property or property  
29 rights or privileges as may be necessary to protect its water supply  
30 from pollution. For the purposes of waterworks which include  
31 facilities for the generation of electricity as a byproduct, nothing in  
32 this section may be construed to authorize a district to condemn  
33 electric generating, transmission, or distribution rights or facilities  
34 of entities authorized by law to distribute electricity, or to acquire  
35 such rights or facilities without the consent of the owner;

36 (4) To purchase and take water from any municipal corporation,  
37 private person, or entity. A district contiguous to Canada may  
38 contract with a Canadian corporation for the purchase of water and for  
39 the construction, purchase, maintenance, and supply of waterworks to

1 furnish the district and inhabitants thereof and residents of Canada  
2 with an ample supply of water under the terms approved by the board of  
3 commissioners;

4 (5) To construct, condemn and purchase, add to, maintain, and  
5 operate systems of sewers for the purpose of furnishing the district,  
6 the inhabitants thereof, and persons outside the district with an  
7 adequate system of sewers for all uses and purposes, public and  
8 private, including but not limited to on-site sewage disposal  
9 facilities, approved septic tanks or approved septic tank systems, on-  
10 site sanitary sewerage systems, inspection services and maintenance  
11 services for private and public on-site systems, point and nonpoint  
12 water pollution monitoring programs that are directly related to the  
13 sewerage facilities and programs operated by a district, other  
14 facilities, programs, and systems for the collection, interception,  
15 treatment, and disposal of wastewater, and for the control of pollution  
16 from wastewater with full authority to regulate the use and operation  
17 thereof and the service rates to be charged. Under this chapter, after  
18 July 1, 1998, any requirements for pumping the septic tank of an on-  
19 site sewage system should be based, among other things, on actual  
20 measurement of accumulation of sludge and scum by a trained inspector,  
21 trained owner's agent, or trained owner. Training must occur in a  
22 program approved by the state board of health or by a local health  
23 officer. Sewage facilities may include facilities which result in  
24 combined sewage disposal or treatment and electric generation, except  
25 that the electricity generated thereby is a byproduct of the system of  
26 sewers. Such electricity may be used by the district or sold to any  
27 entity authorized by law to distribute electricity. Electricity is  
28 deemed a byproduct when the electrical generation is subordinate to the  
29 primary purpose of sewage disposal or treatment. For such purposes a  
30 district may conduct sewage throughout the district and throughout  
31 other political subdivisions within the district, and construct and lay  
32 sewer pipe along and upon public highways, roads, and streets, within  
33 and without the district, and condemn and purchase or acquire land and  
34 rights of way necessary for such sewer pipe. A district may erect  
35 sewage treatment plants within or without the district, and may  
36 acquire, by purchase or condemnation, properties or privileges  
37 necessary to be had to protect any lakes, rivers, or watercourses and  
38 also other areas of land from pollution from its sewers or its sewage  
39 treatment plant. For the purposes of sewage facilities which include

1 facilities that result in combined sewage disposal or treatment and  
2 electric generation where the electric generation is a byproduct,  
3 nothing in this section may be construed to authorize a district to  
4 condemn electric generating, transmission, or distribution rights or  
5 facilities of entities authorized by law to distribute electricity, or  
6 to acquire such rights or facilities without the consent of the owners;

7 (6) To construct, condemn and purchase, add to, maintain, and  
8 operate systems of drainage for the benefit and use of the district,  
9 the inhabitants thereof, and persons outside the district with an  
10 adequate system of drainage, including but not limited to facilities  
11 and systems for the collection, interception, treatment, and disposal  
12 of storm or surface waters, and for the protection, preservation, and  
13 rehabilitation of surface and underground waters, including natural  
14 systems, such as wetland areas, that collect or filter storm or surface  
15 water, and drainage facilities for public highways, streets, and roads,  
16 with full authority to regulate the use and operation thereof and the  
17 service rates to be charged. Drainage facilities may include natural  
18 systems. Drainage facilities may include facilities which result in  
19 combined drainage facilities and electric generation, except that the  
20 electricity generated thereby is a byproduct of the drainage system.  
21 Such electricity may be used by the district or sold to any entity  
22 authorized by law to distribute electricity. Electricity is deemed a  
23 byproduct when the electrical generation is subordinate to the primary  
24 purpose of drainage collection, disposal, and treatment. For such  
25 purposes, a district may conduct storm or surface water throughout the  
26 district and throughout other political subdivisions within the  
27 district, construct and lay drainage pipe and culverts along and upon  
28 public highways, roads, and streets, within and without the district,  
29 and condemn and purchase or acquire land and rights of way necessary  
30 for such drainage systems. A district may provide or erect facilities  
31 and improvements for the treatment and disposal of storm or surface  
32 water within or without the district, and may acquire, by purchase or  
33 condemnation, properties or privileges necessary to be had to protect  
34 any lakes, rivers, or watercourses and also other areas of land from  
35 pollution from storm or surface waters. For the purposes of drainage  
36 facilities which include facilities that also generate electricity as  
37 a byproduct, nothing in this section may be construed to authorize a  
38 district to condemn electric generating, transmission, or distribution  
39 rights or facilities of entities authorized by law to distribute

1 electricity, or to acquire such rights or facilities without the  
2 consent of the owners;

3 (7) To construct, condemn, acquire, and own buildings and other  
4 necessary district facilities;

5 (8) To compel all property owners within the district located  
6 within an area served by the district's system of sewers to connect  
7 their private drain and sewer systems with the district's system under  
8 such penalty as the commissioners shall prescribe by resolution. The  
9 district may for such purpose enter upon private property and connect  
10 the private drains or sewers with the district system and the cost  
11 thereof shall be charged against the property owner and shall be a lien  
12 upon property served;

13 (9) Where a district contains within its borders, abuts, or is  
14 located adjacent to any lake, stream, ground water as defined by RCW  
15 90.44.035, or other waterway within the state of Washington, to provide  
16 for the reduction, minimization, or elimination of pollutants from  
17 those waters in accordance with the district's comprehensive plan, and  
18 to issue general obligation bonds, revenue bonds, local improvement  
19 district bonds, or utility local improvement bonds for the purpose of  
20 paying all or any part of the cost of reducing, minimizing, or  
21 eliminating the pollutants from these waters;

22 (10) To fix rates and charges for water, sewer, and drain service  
23 supplied and to charge property owners seeking to connect to the  
24 district's systems, as a condition to granting the right to so connect,  
25 in addition to the cost of the connection, such reasonable connection  
26 charge as the board of commissioners shall determine to be proper in  
27 order that those property owners shall bear their equitable share of  
28 the cost of the system. For the purposes of calculating a connection  
29 charge, the board of commissioners shall determine the pro rata share  
30 of the cost of existing facilities and facilities planned for  
31 construction within the next ten years and contained in an adopted  
32 comprehensive plan and other costs borne by the district which are  
33 directly attributable to the improvements required by property owners  
34 seeking to connect to the system. The cost of existing facilities  
35 shall not include those portions of the system which have been donated  
36 or which have been paid for by grants. The connection charge may  
37 include interest charges applied from the date of construction of the  
38 system until the connection, or for a period not to exceed ten years,  
39 whichever is shorter, at a rate commensurate with the rate of interest

1 applicable to the district at the time of construction or major  
2 rehabilitation of the system, or at the time of installation of the  
3 lines to which the property owner is seeking to connect. A district  
4 may permit payment of the cost of connection and the reasonable  
5 connection charge to be paid with interest in installments over a  
6 period not exceeding fifteen years. The county treasurer may charge  
7 and collect a fee of three dollars for each year for the treasurer's  
8 services. Those fees shall be a charge to be included as part of each  
9 annual installment, and shall be credited to the county current expense  
10 fund by the county treasurer. Revenues from connection charges  
11 excluding permit fees are to be considered payments in aid of  
12 construction as defined by department of revenue rule. Rates or  
13 charges for on-site inspection and maintenance services may not be  
14 imposed under this chapter on the development, construction, or  
15 reconstruction of property.

16 Before adopting on-site inspection and maintenance utility  
17 services, or incorporating residences into an on-site inspection and  
18 maintenance or sewer utility under this chapter, notification must be  
19 provided, prior to the applicable public hearing, to all residences  
20 within the proposed service area that have on-site systems permitted by  
21 the local health officer. The notice must clearly state that the  
22 residence is within the proposed service area and must provide  
23 information on estimated rates or charges that may be imposed for the  
24 service.

25 A water-sewer district shall not provide on-site sewage system  
26 inspection, pumping services, or other maintenance or repair services  
27 under this section using water-sewer district employees unless the on-  
28 site system is connected by a publicly owned collection system to the  
29 water-sewer district's sewerage system, and the on-site system  
30 represents the first step in the sewage disposal process.

31 Except as otherwise provided in RCW 90.03.525, any public entity  
32 and public property, including the state of Washington and state  
33 property, shall be subject to rates and charges for sewer, water, storm  
34 water control, drainage, and street lighting facilities to the same  
35 extent private persons and private property are subject to those rates  
36 and charges that are imposed by districts. In setting those rates and  
37 charges, consideration may be made of in-kind services, such as stream  
38 improvements or donation of property;

1 (11) To contract with individuals, associations and corporations,  
2 the state of Washington, and the United States;

3 (12) To employ such persons as are needed to carry out the  
4 district's purposes and fix salaries and any bond requirements for  
5 those employees;

6 (13) To contract for the provision of engineering, legal, and other  
7 professional services as in the board of commissioner's discretion is  
8 necessary in carrying out their duties;

9 (14) To sue and be sued;

10 (15) To loan and borrow funds and to issue bonds and instruments  
11 evidencing indebtedness under chapter 57.20 RCW and other applicable  
12 laws;

13 (16) To transfer funds, real or personal property, property  
14 interests, or services subject to RCW 57.08.015;

15 (17) To levy taxes in accordance with this chapter and chapters  
16 57.04 and 57.20 RCW;

17 (18) To provide for making local improvements and to levy and  
18 collect special assessments on property benefitted thereby, and for  
19 paying for the same or any portion thereof in accordance with chapter  
20 57.16 RCW;

21 (19) To establish street lighting systems under RCW 57.08.060;

22 (20) To exercise such other powers as are granted to water-sewer  
23 districts by this title or other applicable laws; and

24 (21) To exercise any of the powers granted to cities and counties  
25 with respect to the acquisition, construction, maintenance, operation  
26 of, and fixing rates and charges for waterworks and systems of sewerage  
27 and drainage.

28 **Sec. 10.** RCW 70.146.020 and 1995 2nd sp.s. c 18 s 920 are each  
29 amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout this chapter.

32 (1) "Account" means the water quality account in the state  
33 treasury.

34 (2) "Department" means the department of ecology.

35 (3) "Eligible cost" means the cost of that portion of a water  
36 pollution control facility that can be financed under this chapter  
37 excluding any portion of a facility's cost attributable to capacity  
38 that is in excess of that reasonably required to address one hundred

1 ten percent of the applicant's needs for water pollution control  
2 existing at the time application is submitted for assistance under this  
3 chapter.

4 (4) "Water pollution control facility" or "facilities" means any  
5 facilities or systems for the control, collection, storage, treatment,  
6 disposal, or recycling of wastewater, including but not limited to  
7 sanitary sewage, storm water, residential, commercial, industrial, and  
8 agricultural wastes, which are causing water quality degradation due to  
9 concentrations of conventional, nonconventional, or toxic pollutants.  
10 Water pollution control facilities include all equipment, utilities,  
11 structures, real property, and interests in and improvements on real  
12 property necessary for or incidental to such purpose, including natural  
13 areas such as wetlands that collect or filter storm water. Water  
14 pollution control facilities also include such facilities, equipment,  
15 and collection systems as are necessary to protect federally designated  
16 sole source aquifers.

17 (5) "Water pollution control activities" means actions taken by a  
18 public body for the following purposes: (a) To prevent or mitigate  
19 pollution of underground water; (b) to control nonpoint sources of  
20 water pollution; (c) to restore the water quality of fresh water lakes;  
21 and (d) to maintain or improve water quality through the use of water  
22 pollution control facilities or other means, including the use of  
23 natural systems such as wetlands that collect or filter storm water.  
24 During the 1995-1997 fiscal biennium, "water pollution control  
25 activities" includes activities by state agencies to protect public  
26 drinking water supplies and sources.

27 (6) "Public body" means the state of Washington or any agency,  
28 county, city or town, conservation district, other political  
29 subdivision, municipal corporation, quasi-municipal corporation, and  
30 those Indian tribes now or hereafter recognized as such by the federal  
31 government.

32 (7) "Water pollution" means such contamination, or other alteration  
33 of the physical, chemical, or biological properties of any waters of  
34 the state, including change in temperature, taste, color, turbidity, or  
35 odor of the waters, or such discharge of any liquid, gaseous, solid,  
36 radioactive, or other substance into any waters of the state as will or  
37 is likely to create a nuisance or render such waters harmful,  
38 detrimental, or injurious to the public health, safety, or welfare, or  
39 to domestic, commercial, industrial, agricultural, recreational, or

1 other legitimate beneficial uses, or to livestock, wild animals, birds,  
2 fish, or other aquatic life.

3 (8) "Nonpoint source water pollution" means pollution that enters  
4 any waters of the state from any dispersed water-based or land-use  
5 activities, including, but not limited to, atmospheric deposition,  
6 surface water runoff from agricultural lands, urban areas, and forest  
7 lands, subsurface or underground sources, and discharges from boats or  
8 other marine vessels.

9 (9) "Sole source aquifer" means the sole or principal source of  
10 public drinking water for an area designated by the administrator of  
11 the environmental protection agency pursuant to Public Law 93-523, Sec.  
12 1424(b).

13 **Sec. 11.** RCW 82.46.010 and 1994 c 272 s 1 are each amended to read  
14 as follows:

15 (1) The legislative authority of any county or city shall identify  
16 in the adopted budget the capital projects funded in whole or in part  
17 from the proceeds of the tax authorized in this section, and shall  
18 indicate that such tax is intended to be in addition to other funds  
19 that may be reasonably available for such capital projects.

20 (2) The legislative authority of any county or any city may impose  
21 an excise tax on each sale of real property in the unincorporated areas  
22 of the county for the county tax and in the corporate limits of the  
23 city for the city tax at a rate not exceeding one-quarter of one  
24 percent of the selling price. The revenues from this tax shall be used  
25 by any city or county with a population of five thousand or less and  
26 any city or county that does not plan under RCW 36.70A.040 for any  
27 capital purpose identified in a capital improvements plan and local  
28 capital improvements, including those listed in RCW 35.43.040.

29 After April 30, 1992, revenues generated from the tax imposed under  
30 this subsection in counties over five thousand population and cities  
31 over five thousand population that are required or choose to plan under  
32 RCW 36.70A.040 shall be used solely for financing capital projects  
33 specified in a capital facilities plan element of a comprehensive plan  
34 and housing relocation assistance under RCW 59.18.440 and 59.18.450.  
35 However, revenues (a) pledged by such counties and cities to debt  
36 retirement prior to April 30, 1992, may continue to be used for that  
37 purpose until the original debt for which the revenues were pledged is  
38 retired, or (b) committed prior to April 30, 1992, by such counties or

1 cities to a project may continue to be used for that purpose until the  
2 project is completed.

3 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the  
4 legislative authority of any county or any city may impose an  
5 additional excise tax on each sale of real property in the  
6 unincorporated areas of the county for the county tax and in the  
7 corporate limits of the city for the city tax at a rate not exceeding  
8 one-half of one percent of the selling price.

9 (4) Taxes imposed under this section shall be collected from  
10 persons who are taxable by the state under chapter 82.45 RCW upon the  
11 occurrence of any taxable event within the unincorporated areas of the  
12 county or within the corporate limits of the city, as the case may be.

13 (5) Taxes imposed under this section shall comply with all  
14 applicable rules, regulations, laws, and court decisions regarding real  
15 estate excise taxes as imposed by the state under chapter 82.45 RCW.

16 (6) As used in this section, "city" means any city or town and  
17 "capital project" means those public works projects of a local  
18 government for planning, acquisition, construction, reconstruction,  
19 repair, replacement, rehabilitation, or improvement of streets; roads;  
20 highways; sidewalks; street and road lighting systems; traffic signals;  
21 bridges; domestic water systems; storm and sanitary sewer systems,  
22 including natural systems such as wetlands that collect or filter storm  
23 water; parks; recreational facilities; law enforcement facilities; fire  
24 protection facilities; trails; libraries; administrative and/or  
25 judicial facilities; river and/or waterway flood control projects by  
26 those jurisdictions that, prior to June 11, 1992, have expended funds  
27 derived from the tax authorized by this section for such purposes; and,  
28 until December 31, 1995, housing projects for those jurisdictions that,  
29 prior to June 11, 1992, have expended or committed to expend funds  
30 derived from the tax authorized by this section or the tax authorized  
31 by RCW 82.46.035 for such purposes.

32 **Sec. 12.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s. c 32 s 33  
33 are each reenacted and amended to read as follows:

34 (1) The legislative authority of any county or city shall identify  
35 in the adopted budget the capital projects funded in whole or in part  
36 from the proceeds of the tax authorized in this section, and shall  
37 indicate that such tax is intended to be in addition to other funds  
38 that may be reasonably available for such capital projects.

1 (2) The legislative authority of any county or any city that plans  
2 under RCW 36.70A.040(1) may impose an additional excise tax on each  
3 sale of real property in the unincorporated areas of the county for the  
4 county tax and in the corporate limits of the city for the city tax at  
5 a rate not exceeding one-quarter of one percent of the selling price.  
6 Any county choosing to plan under RCW 36.70A.040(2) and any city within  
7 such a county may only adopt an ordinance imposing the excise tax  
8 authorized by this section if the ordinance is first authorized by a  
9 proposition approved by a majority of the voters of the taxing district  
10 voting on the proposition at a general election held within the  
11 district or at a special election within the taxing district called by  
12 the district for the purpose of submitting such proposition to the  
13 voters.

14 (3) Revenues generated from the tax imposed under subsection (2) of  
15 this section shall be used by such counties and cities solely for  
16 financing capital projects specified in a capital facilities plan  
17 element of a comprehensive plan. However, revenues (a) pledged by such  
18 counties and cities to debt retirement prior to March 1, 1992, may  
19 continue to be used for that purpose until the original debt for which  
20 the revenues were pledged is retired, or (b) committed prior to March  
21 1, 1992, by such counties or cities to a project may continue to be  
22 used for that purpose until the project is completed.

23 (4) Revenues generated by the tax imposed by this section shall be  
24 deposited in a separate account.

25 (5) As used in this section, "city" means any city or town and  
26 "capital project" means those public works projects of a local  
27 government for planning, acquisition, construction, reconstruction,  
28 repair, replacement, rehabilitation, or improvement of streets, roads,  
29 highways, sidewalks, street and road lighting systems, traffic signals,  
30 bridges, domestic water systems, storm and sanitary sewer systems,  
31 including natural areas such as wetlands that collect or filter storm  
32 water, and planning, construction, reconstruction, repair,  
33 rehabilitation, or improvement of parks.

34 (6) When the governor files a notice of noncompliance under RCW  
35 36.70A.340 with the secretary of state and the appropriate county or  
36 city, the county or city's authority to impose the additional excise  
37 tax under this section shall be temporarily rescinded until the  
38 governor files a subsequent notice rescinding the notice of  
39 noncompliance.

1       **Sec. 13.** RCW 90.72.030 and 1992 c 100 s 2 are each amended to read  
2 as follows:

3       The legislative authority of each county having shellfish tidelands  
4 within its boundaries is authorized to establish a shellfish protection  
5 district to include areas in which nonpoint pollution threatens the  
6 water quality upon which the continuation or restoration of shellfish  
7 farming or harvesting is dependent. The legislative authority shall  
8 constitute the governing body of the district and shall adopt a  
9 shellfish protection program to be effective within the district. The  
10 legislative authority may appoint a local advisory council to advise  
11 the legislative authority in preparation and implementation of  
12 shellfish protection programs. This program shall include any elements  
13 deemed appropriate to deal with the nonpoint pollution threatening  
14 water quality, including, but not limited to, requiring the elimination  
15 or decrease of contaminants in storm water runoff, using natural areas  
16 such as wetlands to filter contaminants from storm water runoff,  
17 establishing monitoring, inspection, and repair elements to ensure that  
18 on-site sewage systems are adequately maintained and working properly,  
19 assuring that animal grazing and manure management practices are  
20 consistent with best management practices, and establishing educational  
21 and public involvement programs to inform citizens on the causes of the  
22 threatening nonpoint pollution and what they can do to decrease the  
23 amount of such pollution. An element may be omitted where another  
24 program is effectively addressing those sources of nonpoint water  
25 pollution. Within the limits of RCW 90.72.040 and 90.72.070, the  
26 county legislative authority shall have full jurisdiction and authority  
27 to manage, regulate, and control its programs and to fix, alter,  
28 regulate, and control the fees for services provided and charges or  
29 rates as provided under those programs. Programs established under  
30 this chapter, may, but are not required to, be part of a system of  
31 sewerage as defined in RCW 36.94.010.

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