

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2990

61st Legislature
2010 Regular Session

Passed by the House February 15, 2010
Yeas 60 Nays 38

Speaker of the House of Representatives

Passed by the Senate March 5, 2010
Yeas 39 Nays 8

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2990** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2990

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By House Local Government & Housing (originally sponsored by
Representatives Pettigrew, Santos, Simpson, and Kenney)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to alternative city assumption and tax authority
2 provisions pertaining to water-sewer districts; amending RCW
3 35.13A.020, 35.13A.030, and 35.13A.040; adding a new section to chapter
4 35.21 RCW; adding a new chapter to Title 35 RCW; creating a new
5 section; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW
8 to read as follows:

9 (1) A city in which a water-sewer district operates works, plants,
10 or facilities for the distribution and sale of water or sewer services
11 may levy and collect from the district a tax on the gross revenues
12 derived by the district from the sale of water or sewer services within
13 the city, exclusive of the revenues derived from the sale of water or
14 sewer services for purposes of resale. The tax when levied must be a
15 debt of the district, and may be collected as such. The district may
16 add the amount of tax to the rates or charges it makes for water or
17 sewer services sold within the limits of the city.

18 (2)(a) A city imposing a tax under this section:

1 (i) May not impose a franchise fee or other charge on the water-
2 sewer district; and

3 (ii) May only do so through an interlocal agreement with the
4 district under chapter 39.34 RCW.

5 (b) The interlocal agreement required by this subsection (2) must
6 identify the district as the collection and pass-through entity, with
7 revenues submitted to the city. The interlocal agreement may include
8 provisions addressing city assumptions of the water-sewer district and
9 the expenditure of revenues collected under this section in areas of
10 the district that are located within the corporate limits of the city.

11 (3) For purposes of this section, the term "city" has the same
12 meaning as defined in RCW 35.13A.010.

13 NEW SECTION. **Sec. 2.** (1) A city choosing to impose a tax under
14 section 1 of this act that adopts a resolution to assume all or part of
15 a water-sewer district must complete a feasibility study of the
16 assumption. The study must be completed within six months of the
17 passage of the resolution to assume all or part of the district. The
18 study is not required if the board of commissioners of the district
19 consents to the assumption.

20 (2) The study must be jointly and equally funded by the city and
21 the district through a mutually agreed upon contract with a qualified
22 independent consultant with professional expertise involving public
23 water and sewer systems. The study must address the impact of the
24 proposed assumption on the city and district. Issues to be considered
25 must be mutually agreed upon by the city and district and must include,
26 but are not limited to, engineering and operational impacts, assumption
27 costs to the city and district, including potential impacts on future
28 water-sewer rates, bond ratings and future borrowing costs, the status
29 of existing water rights, and other issues jointly agreed upon.

30 (3) The findings of the study must be presented as a public record
31 and must be available to the registered voters of the entire district.
32 If the method of assumption requires the submission of a ballot
33 proposition to all registered voters of the district, the findings of
34 the study must be made available to these voters prior to a vote on the
35 proposed assumption.

1 NEW SECTION. **Sec. 3.** (1) A city choosing to impose a tax under
2 section 1 of this act may not assume jurisdiction of all or part of a
3 water-sewer district under RCW 35.13A.020, 35.13A.030, or 35.13A.040
4 without voter approval of a ballot proposition authorizing the
5 assumption. Ballot propositions under this section must be submitted
6 to all registered voters of the district. If a majority of the votes
7 cast on the proposition are in favor of the assumption, the assumption
8 may proceed as authorized under chapter 35.13A RCW.

9 (2) Elections under this section must be conducted in accordance
10 with general election law, and the election costs must be borne by the
11 city seeking approval to assume jurisdiction of the district.

12 NEW SECTION. **Sec. 4.** For purposes of this chapter, the term
13 "city" has the same meaning as defined in RCW 35.13A.010.

14 NEW SECTION. **Sec. 5.** (1) The assumption provisions in sections 2
15 through 4 of this act are alternative and in addition to other
16 provisions in chapter 35.13A RCW.

17 (2) Nothing in sections 2 through 4 of this act: (a) Limits or
18 otherwise modifies the assumption authority under chapter 35.13A RCW
19 for cities that do not impose a tax under section 1 of this act; or (b)
20 abrogates city and water-sewer district agreements for cities that do
21 not impose a tax under section 1 of this act.

22 **Sec. 6.** RCW 35.13A.020 and 1999 c 153 s 28 are each amended to
23 read as follows:

24 (1) Except as provided in section 3 of this act, whenever all of
25 the territory of a district is included within the corporate boundaries
26 of a city, the city legislative body may adopt a resolution or
27 ordinance to assume jurisdiction over all of the district.

28 (2) Upon the assumption, all real and personal property,
29 franchises, rights, assets, taxes levied but not collected for the
30 district for other than indebtedness, water, sewer, and drainage
31 facilities, and all other facilities and equipment of the district
32 shall become the property of the city subject to all financial,
33 statutory, or contractual obligations of the district for the security
34 or performance of which the property may have been pledged. The city,
35 in addition to its other powers, shall have the power to manage,

1 control, maintain, and operate the property, facilities and equipment
2 and to fix and collect service and other charges from owners and
3 occupants of properties so served by the city, subject, however, to any
4 outstanding indebtedness, bonded or otherwise, of the district payable
5 from taxes, assessments, or revenues of any kind or nature and to any
6 other contractual obligations of the district.

7 (3) The city may by resolution or ordinance of its legislative
8 body, assume the obligation of paying such district indebtedness and of
9 levying and of collecting or causing to be collected the district
10 taxes, assessments, and utility rates and charges of any kind or nature
11 to pay and secure the payment of the indebtedness, according to all of
12 the terms, conditions and covenants incident to the indebtedness, and
13 shall assume and perform all other outstanding contractual obligation
14 of the district in accordance with all of their terms, conditions, and
15 covenants. An assumption shall not be deemed to impair the obligation
16 of any indebtedness or other contractual obligation. During the period
17 until the outstanding indebtedness of the district has been discharged,
18 the territory of the district and the owners and occupants of property
19 therein, shall continue to be liable for its and their proportionate
20 share of the indebtedness, including any outstanding assessments levied
21 within any local improvement district or utility local improvement
22 district thereof. The city shall assume the obligation of causing the
23 payment of the district's indebtedness, collecting the district's
24 taxes, assessments, and charges, and observing and performing the other
25 district contractual obligations. The legislative body of the city
26 shall act as the officers of the district for the purpose of certifying
27 the amount of any property tax to be levied and collected therein, and
28 causing service and other charges and assessments to be collected from
29 the property or owners or occupants thereof, enforcing the collection
30 and performing all other acts necessary to ensure performance of the
31 district's contractual obligations in the same manner and by the same
32 means as if the territory of the district had not been included within
33 the boundaries of a city.

34 When a city assumes the obligation of paying the outstanding
35 indebtedness, and if property taxes or assessments have been levied and
36 service and other charges have accrued for this purpose but have not
37 been collected by the district prior to the assumption, the same when
38 collected shall belong and be paid to the city and be used by the city

1 so far as necessary for payment of the indebtedness of the district
2 existing and unpaid on the date the city assumes the indebtedness. Any
3 funds received by the city which have been collected for the purpose of
4 paying any bonded or other indebtedness of the district, shall be used
5 for the purpose for which they were collected and for no other purpose.
6 Any outstanding indebtedness shall be paid as provided in the terms,
7 conditions, and covenants of the indebtedness. All funds of the
8 district on deposit with the county treasurer at the time of title
9 transfer shall be used by the city solely for the benefit of the
10 assumed utility and shall not be transferred to or used for the benefit
11 of the city's general fund.

12 **Sec. 7.** RCW 35.13A.030 and 1999 c 153 s 29 are each amended to
13 read as follows:

14 Except as provided in section 3 of this act, whenever a portion of
15 a district equal to at least sixty percent of the area or sixty percent
16 of the assessed valuation of the real property lying within such
17 district, is included within the corporate boundaries of a city, the
18 city may assume by ordinance the full and complete management and
19 control of that portion of the entire district not included within
20 another city, whereupon the provisions of RCW 35.13A.020 shall be
21 operative; or the city may proceed directly under the provisions of RCW
22 35.13A.050.

23 **Sec. 8.** RCW 35.13A.040 and 1999 c 153 s 30 are each amended to
24 read as follows:

25 Except as provided in section 3 of this act, whenever the portion
26 of a district included within the corporate boundaries of a city is
27 less than sixty percent of the area of the district and less than sixty
28 percent of the assessed valuation of the real property within the
29 district, the city may elect to proceed under the provisions of RCW
30 35.13A.050.

31 NEW SECTION. **Sec. 9.** This act applies only to a city, as well as
32 the water-sewer districts within the corporate boundaries of the city
33 and potential annexation areas that, as of the effective date of this
34 act:

1 (1) Has a population of between eighty thousand and eighty-five
2 thousand as certified in the April 1, 2009, official population
3 estimates listed by the office of financial management; and

4 (2) Is located in a county with a population of one million five
5 hundred thousand or more.

6 NEW SECTION. **Sec. 10.** Sections 2 through 5 of this act constitute
7 a new chapter in Title 35 RCW.

8 NEW SECTION. **Sec. 11.** This act expires January 1, 2015.

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