

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6031

63rd Legislature
2014 Regular Session

Passed by the Senate March 11, 2014
YEAS 48 NAYS 1

President of the Senate

Passed by the House March 7, 2014
YEAS 74 NAYS 24

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6031** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6031

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington

63rd Legislature

2014 Regular Session

By Senator Sheldon

Read first time 01/14/14. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to lake and beach management districts; amending
2 RCW 36.61.010, 36.61.020, 36.61.070, 36.61.220, 36.61.250, 36.61.260,
3 36.61.030, and 36.61.170; and adding new sections to chapter 36.61 RCW.

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

5 **Sec. 1.** RCW 36.61.010 and 2008 c 301 s 1 are each amended to read
6 as follows:

7 (1) The legislature finds that the environmental, recreational, and
8 aesthetic values of many of the state's lakes are threatened by
9 eutrophication and other deterioration and that existing governmental
10 authorities are unable to adequately improve and maintain the quality
11 of the state's lakes.

12 (2) The legislature intends that an ecosystem-based beach
13 management approach should be used to help promote the health of
14 aquatic ecosystems and that such a management approach be undertaken in
15 a manner that retains ecosystem values within the state. This
16 management approach should use long-term strategies that focus on
17 reducing nutrient inputs from human activities affecting the aquatic
18 ecosystem, such as decreasing nutrients into storm water sewers,
19 decreasing fertilizer application, promoting the proper disposal of pet

1 waste, promoting the use of vegetative borders, promoting the reduction
2 of nutrients from on-site septic systems where appropriate, and
3 protecting riparian areas. Organic debris, including vegetation,
4 driftwood, seaweed, kelp, and organisms, are extremely important to
5 beach ecosystems.

6 (3) The legislature further finds that it is in the public interest
7 to promote the conservation and stewardship of shorelines and upland
8 properties adjoining lakes and beaches in order to: (a) Conserve
9 natural or scenic resources; (b) protect riparian habitats and water
10 quality; (c) promote conservation of soils, wetlands, shorelines, or
11 tidal marshes; (d) enhance the value of lakes or beaches to the public
12 as well as the benefit of abutting or neighboring parks, forests,
13 wildlife preserves, nature reservations or sanctuaries, or other open
14 space; (e) enhance recreation opportunities; (f) preserve historic
15 sites; and (g) protect visual quality along highway, road, street,
16 trail, recreational, and other corridors or scenic vistas.

17 (4) It is the purpose of this chapter to establish a governmental
18 mechanism by which property owners can embark on a program of lake or
19 beach improvement and maintenance for their and the general public's
20 benefit, health, and welfare. Public property, including state
21 property, shall be considered the same as private property in this
22 chapter, except liens for special assessments and liens for rates and
23 charges shall not extend to public property. Lake bottom property and
24 marine property below the line of the ordinary high water mark shall
25 not be considered to be benefitted, shall not be subject to special
26 assessments or rates and charges, and shall not receive voting rights
27 under this chapter.

28 **Sec. 2.** RCW 36.61.020 and 2008 c 301 s 3 are each amended to read
29 as follows:

30 (1) Any county may create lake or beach management districts to
31 finance: (a) The improvement and maintenance of lakes or beaches
32 located within or partially within the boundaries of the county; and
33 (b) the acquisition of real property or property rights within or
34 outside a lake or beach management district including, by way of
35 example, conservation easements authorized under RCW 64.04.130, and to
36 promote the conservation and stewardship of shorelines as well as the
37 conservation and stewardship of upland properties adjoining lakes or

1 beaches for conservation or for minimal development. All or a portion
2 of a lake or beach and the adjacent land areas may be included within
3 one or more lake or beach management districts. More than one lake or
4 beach, or portions of lakes or beaches, and the adjacent land areas may
5 be included in a single lake or beach management district.

6 (2) For the purposes of this chapter, the term "improvement"
7 includes, among other things, the acquisition of real property and
8 property rights within or outside a lake or beach management district
9 for the purposes set forth in RCW 36.61.010 and this section.

10 (3) Special assessments or rates and charges may be imposed on the
11 property included within a lake or beach management district to finance
12 lake or beach improvement and maintenance activities, including:
13 ((+1)) (a) Controlling or removing aquatic plants and vegetation;
14 ((+2)) (b) improving water quality; ((+3)) (c) controlling water
15 levels; ((+4)) (d) treating and diverting storm water; ((+5)) (e)
16 controlling agricultural waste; ((+6)) (f) studying lake or marine
17 water quality problems and solutions; ((+7)) (g) cleaning and
18 maintaining ditches and streams entering the lake or marine waters or
19 leaving the lake; ((+8)) (h) monitoring air quality; (i) the
20 acquisition of real property and property rights; and ((+9)) (j) the
21 related administrative, engineering, legal, and operational costs,
22 including the costs of creating the lake or beach management district.

23 (4) Special assessments or rates and charges may be imposed
24 annually on all the land in a lake or beach management district for the
25 duration of the lake or beach management district without a related
26 issuance of lake or beach management district bonds or revenue bonds.
27 Special assessments also may be imposed in the manner of special
28 assessments in a local improvement district with each landowner being
29 given the choice of paying the entire special assessment in one
30 payment, or to paying installments, with lake or beach management
31 district bonds being issued to obtain moneys not derived by the initial
32 full payment of the special assessments, and the installments covering
33 all of the costs related to issuing, selling, and redeeming the lake or
34 beach management district bonds.

35 NEW SECTION. Sec. 3. A new section is added to chapter 36.61 RCW
36 to read as follows:

37 A proposal to acquire real property or property rights within or

1 outside of a lake or beach management district in accordance with RCW
2 36.61.020 is subject to the following limitations and requirements:
3 (1) The real property or property rights proposed for acquisition must
4 be in a county located west of the crest of the Cascade mountain range
5 that plans under RCW 36.70A.040 and has a population of more than forty
6 thousand and fewer than sixty-five thousand persons as of April 1,
7 2013, as determined by the office of financial management; and (2)
8 prior to the acquisition of real property or property rights, the
9 proposal must have the written approval of a majority of the property
10 owners of the district, as determined by the tax rolls of the county
11 assessor.

12 **Sec. 4.** RCW 36.61.070 and 2008 c 301 s 9 are each amended to read
13 as follows:

14 (1) After the public hearing, the county legislative authority may
15 adopt a resolution submitting the question of creating the lake or
16 beach management district to the owners of land within the proposed
17 lake or beach management district, including publicly owned land, if
18 the county legislative authority finds that it is in the public
19 interest to create the lake or beach management district and the
20 financing of the lake or beach improvement and maintenance activities
21 is feasible. The resolution shall also include: ~~((+1))~~ (a) A plan
22 describing the proposed lake or beach improvement and maintenance
23 activities which avoid adverse impacts on fish and wildlife and provide
24 for appropriate measures to protect and enhance fish and wildlife;
25 ~~((+2))~~ (b) the number of years the lake or beach management district
26 will exist; ~~((+3))~~ (c) the amount to be raised by special assessments
27 or rates and charges; ~~((+4))~~ (d) if special assessments are to be
28 imposed, whether the special assessments shall be imposed annually for
29 the duration of the lake or beach management district or only once with
30 the possibility of installments being imposed and lake or beach
31 management bonds being issued, or both, and, if both types of special
32 assessments are proposed to be imposed, the lake or beach improvement
33 or maintenance activities proposed to be financed by each type of
34 special assessment; ~~((+5))~~ (e) if rates and charges are to be imposed,
35 a description of the proposed rates and charges and the possibility of
36 revenue bonds being issued that are payable from the rates and charges;

1 and ~~((6))~~ (f) the estimated special assessment or rate and charge
2 proposed to be imposed on each parcel included in the proposed lake or
3 beach management district.

4 (2) No lake or beach management district may be created by a county
5 that includes territory located in another county without the approval
6 of the legislative authority of the other county.

7 **Sec. 5.** RCW 36.61.220 and 2008 c 301 s 21 are each amended to read
8 as follows:

9 Within ~~((fifteen))~~ thirty days after a county creates a lake or
10 beach management district, the county shall cause to be filed with the
11 county treasurer, a description of the lake or beach improvement and
12 maintenance activities proposed that the lake or beach management
13 district finances, the lake or beach management district number, and a
14 copy of the diagram or print showing the boundaries of the lake or
15 beach management district and preliminary special assessment roll or
16 abstract of the same showing thereon the lots, tracts, parcels of land,
17 and other property that will be specially benefitted thereby and the
18 estimated cost and expense of such lake or beach improvement and
19 maintenance activities to be borne by each lot, tract, parcel of land,
20 or other property. The treasurer shall immediately post the proposed
21 special assessment roll upon his or her index of special assessments
22 against the properties affected by the lake or beach improvement or
23 maintenance activities.

24 **Sec. 6.** RCW 36.61.250 and 1985 c 398 s 25 are each amended to read
25 as follows:

26 Except when lake or beach management district bonds are outstanding
27 or when an existing contract might otherwise be impaired, the county
28 legislative authority may stop the imposition of annual special
29 assessments if, in its opinion, the public interest will be served by
30 such action.

31 **Sec. 7.** RCW 36.61.260 and 2008 c 301 s 23 are each amended to read
32 as follows:

33 (1) Counties may issue lake or beach management district revenue
34 bonds in accordance with this section. Lake or beach management

1 district bonds may be issued to obtain money sufficient to cover that
2 portion of the special assessments that are not paid within the thirty-
3 day period provided in RCW 36.61.190.

4 (2) Whenever lake or beach management district revenue bonds are
5 proposed to be issued, the county legislative authority shall create a
6 special fund or funds for the lake or beach management district from
7 which all or a portion of the costs of the lake or beach improvement
8 and maintenance activities shall be paid. Lake or beach management
9 district bonds shall not be issued in excess of the costs and expenses
10 of the lake or beach improvement and maintenance activities and shall
11 not be issued prior to twenty days after the thirty days allowed for
12 the payment of special assessments without interest or penalties.

13 (3) Lake or beach management district revenue bonds shall be
14 exclusively payable from the special fund or funds and from a guaranty
15 fund that the county may have created out of a portion of proceeds from
16 the sale of the lake or beach management district bonds.

17 ~~((+2))~~ (4)(a) Lake or beach management district revenue bonds
18 shall not constitute a general indebtedness of the county issuing the
19 bond nor an obligation, general or special, of the state. The owner of
20 any lake or beach management district revenue bond shall not have any
21 claim for the payment thereof against the county that issues the bonds
22 except for: (i) With respect to revenue bonds payable from special
23 assessments, payment from the special assessments made for the lake or
24 beach improvement or maintenance activities for which the lake or beach
25 management district bond was issued and from the special fund or funds,
26 and a lake or beach management district guaranty fund, that may have
27 been created; and (ii) with respect to revenue bonds payable from rates
28 and charges, payment from rates and charges deposited in the special
29 fund or funds that the county may have created for that purpose.
30 Revenue bonds may be payable from both special assessments and from
31 rates and charges. The county shall not be liable to the owner of any
32 lake or beach management district bond for any loss to ~~((the))~~ a lake
33 or beach management district guaranty fund occurring in the lawful
34 operation of the fund. The owner of a lake or beach management
35 district bond shall not have any claim against the state arising from
36 the lake or beach management district bond, rates and charges, special
37 assessments, or guaranty fund. Tax revenues shall not be used to
38 secure or guarantee the payment of the principal of or interest on lake

1 or beach management district bonds. Notwithstanding the provisions of
2 this subsection, nothing in this section may be interpreted as limiting
3 a county's issuance of bonds pursuant to RCW 36.67.010 in order to
4 assist in the financing of improvements to lakes or beaches located
5 within or partially within the boundaries of the county, including
6 without limitation lakes or beaches located within a lake or beach
7 management district.

8 (b) The substance of the limitations included in this subsection
9 (4) shall be plainly printed, written, engraved, or reproduced on:
10 ((a)) (i) Each lake or beach management district bond that is a
11 physical instrument; ((b)) (ii) the official notice of sale; and
12 ((c)) (iii) each official statement associated with the lake or beach
13 management district bonds.

14 ((3)) (5) If the county fails to make any principal or interest
15 payments on any lake or beach management district bond or to promptly
16 collect any special assessment securing ((the)) lake or beach
17 management district revenue bonds when due, the owner of the lake or
18 beach management district revenue bond may obtain a writ of mandamus
19 from any court of competent jurisdiction requiring the county to
20 collect the special assessments, foreclose on the related lien, and
21 make payments out of the special fund or guaranty fund if one exists.
22 Any number of owners of lake or beach management districts may join as
23 plaintiffs.

24 ((4)) (6) A county may create a lake or beach management district
25 bond guaranty fund for each issue of lake or beach management district
26 bonds. The guaranty fund shall only exist for the life of the lake or
27 beach management district bonds with which it is associated. A portion
28 of the bond proceeds may be placed into a guaranty fund. Unused moneys
29 remaining in the guaranty fund during the last two years of the
30 installments shall be used to proportionally reduce the required level
31 of installments and shall be transferred into the special fund into
32 which installment payments are placed. A county may, in the discretion
33 of the legislative authority of the county, deposit amounts into a lake
34 or beach management district bond guaranty fund from any money legally
35 available for that purpose. Any amounts remaining in the guaranty fund
36 after the repayment of all revenue bonds secured thereby and the
37 payment of assessment installments, may be applied to lake or beach
38 improvement and maintenance activities or to other district purposes.

1 ((+5)) (7) Lake or beach management district bonds shall be issued
2 and sold in accordance with chapter 39.46 RCW. The authority to create
3 a special fund or funds shall include the authority to create accounts
4 within a fund.

5 **Sec. 8.** RCW 36.61.030 and 2008 c 301 s 5 are each amended to read
6 as follows:

7 A lake or beach management district may be initiated upon either
8 the adoption of a resolution of intention by a county legislative
9 authority or the filing of a petition signed by ten landowners or the
10 owners of at least ~~((fifteen))~~ twenty percent of the acreage contained
11 within the proposed lake or beach management district, whichever is
12 greater. A petition or resolution of intention shall set forth: (1)
13 The nature of the lake or beach improvement or maintenance activities
14 proposed to be financed; (2) the amount of money proposed to be raised
15 by special assessments or rates and charges; (3) if special assessments
16 are to be imposed, whether the special assessments will be imposed
17 annually for the duration of the lake or beach management district, or
18 the full special assessments will be imposed at one time, with the
19 possibility of installments being made to finance the issuance of lake
20 or beach management district bonds, or both methods; (4) if rates and
21 charges are to be imposed, the annual amount of revenue proposed to be
22 collected and whether revenue bonds payable from the rates and charges
23 are proposed to be issued; (5) the number of years proposed for the
24 duration of the lake or beach management district; and (6) the proposed
25 boundaries of the lake or beach management district.

26 The county legislative authority may require the posting of a bond
27 of up to five thousand dollars before the county considers the proposed
28 creation of a lake or beach management district initiated by petition.
29 The bond may only be used by the county to finance its costs in
30 studying, holding hearings, making notices, preparing special
31 assessment rolls or rolls showing the rates and charges on each parcel,
32 and conducting elections related to the lake or beach management
33 district if the proposed lake or beach management district is not
34 created.

35 A resolution of intention shall also designate the number of the
36 proposed lake or beach management district, and fix a date, time, and
37 place for a public hearing on the formation of the proposed lake or

1 beach management district. The date for the public hearing shall be at
2 least thirty days and no more than ninety days after the adoption of
3 the resolution of intention unless an emergency exists.

4 Petitions shall be filed with the county legislative authority.
5 The county legislative authority shall determine the sufficiency of the
6 signatures, which shall be conclusive upon all persons. No person may
7 withdraw his or her name from a petition after it is filed. If the
8 county legislative authority determines a petition to be sufficient and
9 the proposed lake or beach management district appears to be in the
10 public interest and the financing of the lake or beach improvement or
11 maintenance activities is feasible, it shall adopt a resolution of
12 intention, setting forth all of the details required to be included
13 when a resolution of intention is initiated by the county legislative
14 authority.

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.61 RCW
16 to read as follows:

17 (1) In connection with the acquisition of real property or property
18 rights within or outside a lake or beach management district, a county
19 may: (a) Own real property and property rights, including without
20 limitation conservation easements; (b) transfer real property and
21 property rights to another state or local governmental entity; (c)
22 contract with a public or private entity, including without limitation
23 a financial institution with trust powers, a municipal corporation, or
24 a nonprofit corporation, to hold real property or property rights such
25 as conservation easements in trust for the purposes of the lake and
26 beach management district, and, in connection with those services, to
27 pay the reasonable costs of that financial institution or nonprofit
28 corporation; (d) monitor and enforce the terms of a real property right
29 such as a conservation easement, or for that purpose to contract with
30 a public or private entity, including without limitation a financial
31 institution with trust powers, a municipal corporation, or a nonprofit
32 corporation; (e) impose terms, conditions, and encumbrances upon real
33 property or property rights acquired in respect of a lake or beach
34 management district, and amend the same; and (f) accept gifts, grants,
35 and loans in connection with the acquisition of real property and
36 property rights for lake or beach management district purposes.

1 (2) If a county contracts with a financial institution, municipal
2 corporation, or nonprofit corporation to hold that property or property
3 rights in trust for purposes of the district, the terms of the contract
4 must provide that the financial institution, municipal corporation, or
5 nonprofit corporation may not sell, pledge, or hypothecate the property
6 or property rights for any purpose, and must further provide for the
7 return of the property or property rights back to the county in the
8 event of a material breach of the terms of the contract.

9 (3) Before a lake or beach management district in existence as of
10 the effective date of this section exercises the powers set forth in
11 this section, the legislative authority of the county must provide for
12 an amended resolution of intention and modify the plan for the
13 district, with a public hearing, all as provided in RCW 36.61.050.

14 **Sec. 10.** RCW 36.61.170 and 2008 c 301 s 18 are each amended to
15 read as follows:

16 (1) The total annual special assessments may not exceed the
17 estimated cost of the lake or beach improvement or maintenance
18 activities proposed to be financed by such special assessments, as
19 specified in the resolution of intention. The total of special
20 assessments imposed in a lake or beach management district that are of
21 the nature of special assessments imposed in a local improvement
22 district shall not exceed one hundred fifty percent of the estimated
23 total cost of the lake or beach improvement or maintenance activities
24 that are proposed to be financed by the lake or beach management
25 district as specified in the resolution of intention.

26 (2) After a lake or beach management district has been created, the
27 resolution of intention may be amended to increase or otherwise modify
28 the amount to be financed by the lake or beach management district by
29 using the same procedure in which a lake or beach management district
30 is created, including landowner approvals consistent with the
31 procedures established in RCW 36.61.080 through 36.61.100.

32 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.61 RCW
33 to read as follows:

34 (1) Except when lake or beach management district bonds are
35 outstanding or when an existing contract might otherwise be impaired,
36 a lake or beach management district may be dissolved either by: The

1 county legislative authority upon a finding that the purposes of the
2 district have been accomplished; or a vote of the property owners
3 within the district, if proposed by the legislative authority of the
4 county or through the filing of a sufficient petition signed by the
5 owners of at least twenty percent of the acreage within the district.

6 (2) If the question of dissolution of a district is submitted to
7 property owners, the balloting is subject to the following conditions,
8 which must be included in the instructions mailed with each ballot, as
9 provided in RCW 36.61.080:

10 (a) A ballot must be mailed to each owner or reputed owner of any
11 lot, tract, parcel of land, or other property within the district, with
12 the ballot weighted so that a property owner has one vote for each
13 dollar of special assessment or rates and charges imposed on his or her
14 property;

15 (b) A ballot must be signed by the owner or reputed owner of
16 property according to the assessor's tax rolls;

17 (c) Each ballot must be returned to the county legislative
18 authority no later than 5:00 p.m. of a specified day, which must be at
19 least twenty, but not more than thirty days after the ballots are
20 mailed; and

21 (d) Each property owner must mark his or her ballot for or against
22 the dissolution of the district.

23 (3) If, following the tabulation of the valid ballots, a simple
24 majority of the votes cast are in favor of dissolving the district, the
25 district must be dissolved on the date established in the ballot
26 proposition.

27 (4) A county, although not separately responsible for satisfying
28 the financial obligations of a dissolved district, has full authority
29 to continue imposing special assessments, rates, and charges for a
30 dissolved district until all financial obligations of the district
31 incurred prior to its dissolution have been extinguished or retired.

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