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**HOUSE BILL 2454**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representative MacEwen

AN ACT Relating to authorizing cities and counties to facilitate the maintenance and repair of private roadways impacting the public interest; and adding a new chapter to Title 36 RCW.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Local jurisdiction" means any city, town, or county.

(2) "Private roadway" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons.

(3) "Public use" means the use of a private roadway by a governmental entity related to police or fire protection services or any other governmental service requiring the use of a private roadway as the vehicular roadway for ingress or egress by the governmental entity.

NEW SECTION. **Sec.**  (1) A local jurisdiction may not authorize the financing for the construction, reconstruction, or repair of a private roadway under this chapter unless the jurisdiction receives a petition signed by the owners abutting the roadway, according to the records of the county within which the roadway is located, constituting an aggregate amount of the majority of the lineal frontage upon the contemplated roadway improvement.

(2) A petition submitted under this section must set forth the nature and territorial extent of the proposed roadway improvement, and the fact that the petition signers are the owners, according to the records of the county within which the roadway is located, of a majority of the lineal frontage upon the contemplated roadway improvement. The petition must also provide the financial contribution that will be provided by each of the property owners abutting the portion of the roadway improvement and a proposed timeline for completing the roadway improvement.

(3) Upon the filing of a petition under this section, the county must determine whether the petition is sufficient. If the county finds the petition to be sufficient, the county may adopt a resolution under section 4 of this act.

NEW SECTION. **Sec.**  A local jurisdiction is authorized to construct, reconstruct, and repair private roadways where the local jurisdiction receives a petition under section 2 of this act and adopts a resolution required under section 4 of this act. The local jurisdiction may pay the entire costs of the construction, reconstruction, or repair from any available funds or contribute a portion of the funds to pay the costs of the improvements.

NEW SECTION. **Sec.**  (1) A local jurisdiction may not undertake the construction, reconstruction, or repair of a private roadway under this chapter except pursuant to a resolution of the legislative body of the local jurisdiction. The resolution must state whether all or a specified portion of the cost of the improvements will be borne by the abutting property owners at their own cost and expense as provided in the petition under section 2 of this act. The amount of cost and expense borne by the abutting property owners, as provided in the resolution, may not exceed the amount specified in the petition under section 2 of this act. If the abutting owners are required to pay for all or a portion of the costs of the improvements and fail to pay for the costs, the local jurisdiction may perform and complete the improvements and assess the cost against the abutting owners for the portion of costs attributable to the property owners in the manner provided in the petition, but adjusted for any modifications authorized under this subsection. The local jurisdiction may not increase the total amount of funds that will be contributed by the abutting property owners in excess of the amount specified in the petition submitted under section 2 of this act, but the resolution may modify the amount contributed by each property owner to reflect a more fair allocation among the property owners.

(2) The resolution must include a declaration of public use that specifically identifies the significant public uses necessitating the constructing, reconstructing, or repairing of a private roadway.

(3) If the abutting owners are required to pay for all or a portion of the costs of the improvements as provided under subsection (1) of this section, the cost assigned to each property owner must be consistent with the allocated contribution amounts specified on the petition, but adjusted for any modifications authorized under subsection (1) of this section.

(4) The legislative body of the local jurisdiction must provide a public hearing on the resolution prior to its adoption. Notice of the public hearing on the resolution must be published for two consecutive weeks before the time of hearing in the official newspaper or regularly published official publication of the city or town. The local jurisdiction must provide notice of the date of the hearing to each owner or reputed owner of the abutting property by mailing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer, at the address shown thereon a notice of the date of hearing, the mailing to be at least ten days before the date fixed for the hearing. If the publication and mailing is made as required in this section, proof thereof by affidavit must be filed with the local jurisdiction before the hearing. The hearing may be postponed from time to time to a definite date until the hearing is held. At the time of hearing, the legislative body of the local jurisdiction must hear persons who appear for or against the improvement, and determine whether it will or will not proceed with the improvement and whether it will make any changes in the original plan, and what the changes will be. This action may be taken by motion adopted in the usual manner.

NEW SECTION. **Sec.**  When all or any portion of the cost is to be assessed against abutting property owners, the local jurisdiction may create a "private roadway construction fund No. ...." to be numbered differently for each improvement; and with warrants drawn on this fund the cost of the respective improvements may be paid. The local jurisdiction may advance as a loan to the private roadway construction fund from any available funds the amounts necessary to pay any costs of the improvement. When any assessments are made for the improvement, payments therefor must be paid into the particular private roadway improvement fund; and whenever any funds are available over the amounts necessary to pay outstanding warrants any advances or loans made to the fund must be repaid. Whenever warrants are drawn on any such fund which are not paid for want of sufficient funds, they must be so stamped and must bear interest until called and paid at a rate established by the local jurisdiction by resolution.

NEW SECTION. **Sec.**  Where all or any portion of the costs are to be assessed against the abutting property by the local jurisdiction, an assessment roll must be prepared by the proper official of the local jurisdiction and must conform with the allocation of costs specified in the petition under section 2 of this act, but adjusted for any modifications authorized under subsection (1) of this section. The assessment roll must describe the property assessed, the name of the owner, if known, otherwise stating that the owner is unknown and fixing the amount of the assessment. The assessment roll must be filed with the appropriate official of the local jurisdiction, and when so filed, the local jurisdiction by resolution must fix a date for hearing the proposed assessment roll and direct the clerk of the local jurisdiction to give notice of the hearing and the time and place thereof. The notice of hearing must be mailed to the person whose name appears on the county treasurer's tax roll as the owner or reputed owner of the property, at the address shown thereon, and must be published before the date fixed for the hearing for two consecutive weeks in the official newspaper or regular official publication of the city. The notice must be mailed and first publication made at least ten days before the hearing date. Proof of mailing and publication must be made by affidavit and must be filed with the appropriate official of the local jurisdiction before the date fixed for the hearing. Following the hearing the local jurisdiction must by resolution affirm, modify, or reject or order recasting of the assessment roll. An appeal may be taken to the superior court from the ordinance confirming the assessment roll in the same manner as is provided for appeals from the assessment roll by chapters 35.43 through 35.54 RCW, inclusive, as now or hereafter amended.

NEW SECTION. **Sec.**  The local jurisdiction must by resolution provide whether the full amount of the assessment must be paid in one payment or whether it may be paid in installments and must prescribe the time and amount of such payments; and if more than one payment is provided for, the local jurisdiction may by resolution provide for interest on unpaid installments and fix the rate thereof.

NEW SECTION. **Sec.**  The assessment roll as affirmed or modified by the local jurisdiction must be filed with the treasurer of the local jurisdiction for collection, and the amount thereof including interest, if any, becomes a lien against the property described therein from the date of the filing. Whenever any payment on any assessment or installment is delinquent and unpaid for a period of thirty days or more the lien may be foreclosed in the same manner and with the same effect as is provided by chapters 35.43 through 35.54 RCW, inclusive, as now or hereafter amended. Whenever the deed is issued after the sale therein provided, the regularity, validity, and correctness of the proceedings relating to such improvement and the assessment therefor is final and conclusive and no action may thereafter be brought by or in behalf of any person to set aside such deed.

NEW SECTION. **Sec.**  This chapter is supplemental and additional to any and all other laws relating to construction, reconstruction, and repair of private roadways in local jurisdictions.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 36 RCW.

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