
HOUSE BILL 1367

State of Washington 65th Legislature 2017 Regular Session

By Representatives MacEwen, Haler, and Muri

Read first time 01/18/17. Referred to Committee on Local Government.

1 AN ACT Relating to facilitating the maintenance and repair of
2 private roadways impacting the public interest; adding a new chapter
3 to Title 35 RCW; adding a new chapter to Title 35A RCW; and adding a
4 new chapter to Title 36 RCW.

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

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

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

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

5 NEW SECTION. **Sec. 2.** A city or town may construct, reconstruct,
6 and repair private roadways when the city or town receives a petition
7 under section 1 of this act and adopts a resolution required under
8 section 3 of this act. From any available funds, the city or town may
9 either pay the entire costs of the construction, reconstruction, or
10 repair, or contribute a portion of the funds to pay the costs of such
11 improvements.

12 NEW SECTION. **Sec. 3.** (1) Under this chapter, a city or town may
13 only undertake the construction, reconstruction, or repair of a
14 private roadway pursuant to a resolution of the legislative body of
15 the city or town. The resolution must state whether all or a
16 specified portion of the cost of the improvements will be borne by
17 the abutting property owners at their own cost and expense as
18 provided in the petition under section 1 of this act. The amount of
19 cost and expense borne by the abutting property owners, as provided
20 in the resolution, may not exceed the amount specified in the
21 petition under section 1 of this act. If the abutting owners are
22 required to pay for all or a portion of the costs of the improvements
23 and fail to pay for the costs, the city or town may perform and
24 complete the improvements and assess the cost against the abutting
25 owners for the portion of costs attributable to the property owners
26 in the manner provided in the petition, but adjusted for any
27 modifications authorized under this subsection. The city or town may
28 not increase the total amount of funds that will be contributed by
29 the abutting property owners in excess of the amount specified in the
30 petition submitted under section 1 of this act, but the resolution
31 may modify the amount contributed by each property owner to reflect a
32 more fair allocation among the property owners.

33 (2) Any resolution submitted under subsection (1) of this section
34 must include a declaration of public use that specifically identifies
35 the significant public uses necessitating the construction,
36 reconstruction, or repair of a private roadway.

37 (3) If the abutting owners are required to pay for all or a
38 portion of the costs of the improvements as provided under subsection

1 (1) of this section, the cost assigned to each property owner must be
2 consistent with the allocated contribution amounts specified on the
3 petition, but adjusted for any modifications authorized under
4 subsection (1) of this section.

5 (4) The legislative body of the city or town must provide a
6 public hearing on the resolution prior to its adoption. Notice of the
7 public hearing on the resolution must be published in the official
8 newspaper or regularly published official publication of the city or
9 town for two consecutive weeks before the time of hearing. At least
10 ten days before the date fixed for the hearing, the city or town must
11 provide notice of the date of the hearing to each owner or reputed
12 owner of the abutting property by mailing to the owner or reputed
13 owner of the property a notice of the date of hearing at the address
14 shown on the tax rolls of the county treasurer. An affidavit must be
15 filed with the city or town before the hearing showing that notice,
16 by publication and mailing, was made as required in this section. The
17 hearing may be postponed to a definite date until the hearing is
18 held. At the hearing, the legislative body of the city or town must
19 hear persons who appear for or against the improvement and determine
20 whether it will proceed with the improvement; whether it will make
21 any changes to the original plan; and what the changes will be, if
22 any. This action may be taken by motion adopted in a manner as
23 determined by the legislative body.

24 NEW SECTION. **Sec. 4.** When all or any portion of the cost is to
25 be assessed against abutting property owners, the city or town may
26 create a "private roadway construction fund No. . . ." to be
27 numbered differently for each improvement and with warrants drawn on
28 this fund the cost of the respective improvements may be paid. The
29 city or town may loan the amounts necessary to pay for any costs of
30 the improvement loan to the private roadway construction fund. If
31 assessments are made for the improvement, then payments for the
32 improvement must be paid into the particular private roadway
33 improvement fund. If any funds are available over the amounts
34 necessary to pay outstanding warrants, any advances or loans made to
35 the fund must be repaid. If warrants are drawn on any such fund that
36 are not paid for lack of sufficient funds, they must be stamped as
37 such and bear interest until called and paid at a rate established by
38 the city or town by resolution.

1 NEW SECTION. **Sec. 5.** If any portion of the costs are to be
2 assessed against the abutting property by the city or town, an
3 assessment roll must be prepared by the proper official of the city
4 or town and must conform with the allocation of costs specified in
5 the petition submitted under section 1 of this act, but adjusted for
6 any modifications authorized under this section. The assessment roll
7 must describe the property assessed; state the name of the owner or
8 that the owner is unknown and fix the amount of the assessment. The
9 assessment roll must be filed with the appropriate official of the
10 city or town. When the assessment roll is properly filed, the city or
11 town must, by resolution, fix a date for hearing the proposed
12 assessment roll and direct the clerk of the city or town to give
13 notice of the hearing and the time and place of the hearing. The
14 notice of hearing must be mailed to the person whose name appears on
15 the county treasurer's tax roll as the owner or reputed owner of the
16 property at the address shown on the tax roll, and must be published
17 before the date fixed for the hearing for two consecutive weeks in
18 the official newspaper or regular official publication of the city.
19 The notice must be mailed and first publication made at least ten
20 days before the hearing date. Proof of mailing and publication must
21 be made by affidavit and must be filed with the appropriate official
22 of the city or town before the date fixed for the hearing. Following
23 the hearing the city or town must by resolution affirm, modify, or
24 reject or order recasting of the assessment roll. An appeal may be
25 filed with the superior court from the ordinance confirming the
26 assessment roll in the same manner as provided for appeals from the
27 assessment roll in chapters 35.43 through 35.54 RCW.

28 NEW SECTION. **Sec. 6.** The city or town must by resolution
29 provide whether the full amount of the assessment must be paid in one
30 payment or whether it may be paid in installments and must prescribe
31 the time and amount of such payments. If to be paid in installments,
32 the city or town may by resolution provide for interest on unpaid
33 installments and fix the rate of interest.

34 NEW SECTION. **Sec. 7.** The assessment roll, as affirmed or
35 modified by the city or town, must be filed with the treasurer of the
36 city or town for collection, and the amount of the assessment roll
37 including interest, if any, becomes a lien against the property
38 described therein from the date of the filing. Whenever any payment

1 on any assessment or installment is delinquent and unpaid for a
2 period of thirty days or more, the lien may be foreclosed in the same
3 manner and with the same effect as provided in chapters 35.43 through
4 35.54 RCW. Whenever the deed is issued after the sale therein
5 provided, the regularity, validity, and correctness of the
6 proceedings relating to such improvement and the assessment therefor
7 is final and conclusive and no action may thereafter be brought by or
8 in behalf of any person to set aside such deed.

9 NEW SECTION. **Sec. 8.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise:

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

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

21 NEW SECTION. **Sec. 9.** (1) A code city may not authorize the
22 financing for the construction, reconstruction, or repair of a
23 private roadway under this chapter unless the code city receives a
24 petition signed by the owners abutting the roadway, according to the
25 records of the county within which the roadway is located,
26 constituting an aggregate amount of the majority of the lineal
27 frontage upon the contemplated roadway improvement.

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

37 (3) Upon the filing of a petition under this section, the code
38 city must determine whether the petition is sufficient. If the code

1 city finds the petition to be sufficient, the code city may adopt a
2 resolution under section 3 of this act.

3 NEW SECTION. **Sec. 10.** A code city may construct, reconstruct,
4 and repair private roadways when the code city receives a petition
5 under section 9 of this act and adopts a resolution required under
6 section 11 of this act. From any available funds, the code city may
7 either pay the entire costs of the construction, reconstruction, or
8 repair; or contribute a portion of the funds to pay the costs of such
9 improvements.

10 NEW SECTION. **Sec. 11.** (1) Under this chapter, a code city may
11 only undertake the construction, reconstruction, or repair of a
12 private roadway pursuant to a resolution of the legislative body of
13 the code city. The resolution must state whether all or a specified
14 portion of the cost of the improvements will be borne by the abutting
15 property owners at their own cost and expense as provided in the
16 petition under section 9 of this act. The amount of cost and expense
17 borne by the abutting property owners, as provided in the resolution,
18 may not exceed the amount specified in the petition under section 9
19 of this act. If the abutting owners are required to pay for all or a
20 portion of the costs of the improvements and fail to pay for the
21 costs, the code city may perform and complete the improvements and
22 assess the cost against the abutting owners for the portion of costs
23 attributable to the property owners in the manner provided in the
24 petition, but adjusted for any modifications authorized under this
25 subsection. The code city may not increase the total amount of funds
26 that will be contributed by the abutting property owners in excess of
27 the amount specified in the petition submitted under section 9 of
28 this act, but the resolution may modify the amount contributed by
29 each property owner to reflect a more fair allocation among the
30 property owners.

31 (2) Any resolution submitted under subsection (1) of this section
32 must include a declaration of public use that specifically identifies
33 the significant public uses necessitating the construction,
34 reconstruction, or repair of a private roadway.

35 (3) If the abutting owners are required to pay for all or a
36 portion of the costs of the improvements as provided under subsection
37 (1) of this section, the cost assigned to each property owner must be
38 consistent with the allocated contribution amounts specified on the

1 petition, but adjusted for any modifications authorized under
2 subsection (1) of this section.

3 (4) The legislative body of the code city must provide a public
4 hearing on the resolution prior to its adoption. Notice of the public
5 hearing on the resolution must be published in the official newspaper
6 or regularly published official publication of the code city for two
7 consecutive weeks before the time of hearing. At least ten days
8 before the date fixed for the hearing, the code city must provide
9 notice of the date of the hearing to each owner or reputed owner of
10 the abutting property by mailing to the owner or reputed owner of the
11 property a notice of the date of hearing at the address shown on the
12 tax rolls of the county treasurer. An affidavit must be filed with
13 the code city before the hearing showing that notice, by publication
14 and mailing, was made as required in this section. The hearing may be
15 postponed to a definite date until the hearing is held. At the
16 hearing, the legislative body of the code city must hear persons who
17 appear for or against the improvement and determine whether it will
18 proceed with the improvement; whether it will make any changes to the
19 original plan; and what the changes will be, if any. This action may
20 be taken by motion adopted in a manner as determined by the
21 legislative body.

22 NEW SECTION. **Sec. 12.** When all or any portion of the cost is to
23 be assessed against abutting property owners, the code city may
24 create a "private roadway construction fund No. . . ." to be
25 numbered differently for each improvement and with warrants drawn on
26 this fund the cost of the respective improvements may be paid. The
27 code city may loan the amounts necessary to pay for any costs of the
28 improvement loan to the private roadway construction fund. If
29 assessments are made for the improvement, then payments for the
30 improvement must be paid into the particular private roadway
31 improvement fund. If any funds are available over the amounts
32 necessary to pay outstanding warrants, any advances or loans made to
33 the fund must be repaid. If warrants are drawn on any such fund that
34 are not paid for lack of sufficient funds, they must be stamped as
35 such and bear interest until called and paid at a rate established by
36 the code city by resolution.

37 NEW SECTION. **Sec. 13.** If any portion of the costs are to be
38 assessed against the abutting property by the code city, an

1 assessment roll must be prepared by the proper official of the code
2 city and must conform with the allocation of costs specified in the
3 petition submitted under section 9 of this act, but adjusted for any
4 modifications authorized under this section. The assessment roll must
5 describe the property assessed; state the name of the owner or that
6 the owner is unknown and fix the amount of the assessment. The
7 assessment roll must be filed with the appropriate official of the
8 code city. When the assessment roll is properly filed, the code city
9 must, by resolution, fix a date for hearing the proposed assessment
10 roll and direct the clerk of the code city to give notice of the
11 hearing and the time and place of the hearing. The notice of hearing
12 must be mailed to the person whose name appears on the county
13 treasurer's tax roll as the owner or reputed owner of the property at
14 the address shown on the tax roll, and must be published before the
15 date fixed for the hearing for two consecutive weeks in the official
16 newspaper or regular official publication of the city. The notice
17 must be mailed and first publication made at least ten days before
18 the hearing date. Proof of mailing and publication must be made by
19 affidavit and must be filed with the appropriate official of the code
20 city before the date fixed for the hearing. Following the hearing the
21 code city must by resolution affirm, modify, or reject the assessment
22 roll or order recasting of the assessment roll. An appeal may be
23 filed with the superior court from the ordinance confirming the
24 assessment roll in the same manner as provided for appeals from the
25 assessment roll in chapters 35.43 through 35.54 RCW.

26 NEW SECTION. **Sec. 14.** The code city must by resolution provide
27 whether the full amount of the assessment must be paid in one payment
28 or whether it may be paid in installments and must prescribe the time
29 and amount of such payments. If to be paid in installments, the code
30 city may by resolution provide for interest on unpaid installments
31 and fix the rate of interest.

32 NEW SECTION. **Sec. 15.** The assessment roll, as affirmed or
33 modified by the code city, must be filed with the treasurer of the
34 code city for collection, and the amount of the assessment roll
35 including interest, if any, becomes a lien against the property
36 described therein from the date of the filing. Whenever any payment
37 on any assessment or installment is delinquent and unpaid for a
38 period of thirty days or more, the lien may be foreclosed in the same

1 manner and with the same effect as provided in chapters 35.43 through
2 35.54 RCW. Whenever the deed is issued after the sale therein
3 provided, the regularity, validity, and correctness of the
4 proceedings relating to such improvement and the assessment therefor
5 is final and conclusive and no action may thereafter be brought by or
6 in behalf of any person to set aside such deed.

7 NEW SECTION. **Sec. 16.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires
9 otherwise:

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

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

19 NEW SECTION. **Sec. 17.** (1) A county may not authorize the
20 financing for the construction, reconstruction, or repair of a
21 private roadway under this chapter unless the county receives a
22 petition signed by the owners abutting the roadway, according to the
23 records of the county within which the roadway is located,
24 constituting an aggregate amount of the majority of the lineal
25 frontage upon the contemplated roadway improvement.

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

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

1 NEW SECTION. **Sec. 18.** A county may construct, reconstruct, and
2 repair private roadways when the county receives a petition under
3 section 17 of this act and adopts a resolution required under section
4 19 of this act. From any available funds, the county may either pay
5 the entire costs of the construction, reconstruction, or repair; or
6 contribute a portion of the funds to pay the costs of such
7 improvements.

8 NEW SECTION. **Sec. 19.** (1) Under this chapter, a county may only
9 undertake the construction, reconstruction, or repair of a private
10 roadway pursuant to a resolution of the legislative body of the
11 county. The resolution must state whether all or a specified portion
12 of the cost of the improvements will be borne by the abutting
13 property owners at their own cost and expense as provided in the
14 petition under section 17 of this act. The amount of cost and expense
15 borne by the abutting property owners, as provided in the resolution,
16 may not exceed the amount specified in the petition under section 17
17 of this act. If the abutting owners are required to pay for all or a
18 portion of the costs of the improvements and fail to pay for the
19 costs, the county may perform and complete the improvements and
20 assess the cost against the abutting owners for the portion of costs
21 attributable to the property owners in the manner provided in the
22 petition, but adjusted for any modifications authorized under this
23 subsection. The county may not increase the total amount of funds
24 that will be contributed by the abutting property owners in excess of
25 the amount specified in the petition submitted under section 17 of
26 this act, but the resolution may modify the amount contributed by
27 each property owner to reflect a more fair allocation among the
28 property owners.

29 (2) Any resolution submitted under subsection (1) of this section
30 must include a declaration of public use that specifically identifies
31 the significant public uses necessitating the construction,
32 reconstruction, or repair of a private roadway.

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

1 (4) The legislative body of the county must provide a public
2 hearing on the resolution prior to its adoption. Notice of the public
3 hearing on the resolution must be published in the official newspaper
4 or regularly published official publication of the county for two
5 consecutive weeks before the time of hearing. At least ten days
6 before the date fixed for the hearing, the county must provide notice
7 of the date of the hearing to each owner or reputed owner of the
8 abutting property by mailing to the owner or reputed owner of the
9 property a notice of the date of hearing at the address shown on the
10 tax rolls of the county treasurer. An affidavit must be filed with
11 the county before the hearing showing that notice, by publication and
12 mailing, was made as required in this section. The hearing may be
13 postponed to a definite date until the hearing is held. At the
14 hearing, the legislative body of the county must hear persons who
15 appear for or against the improvement and determine whether it will
16 proceed with the improvement; whether it will make any changes to the
17 original plan; and what the changes will be, if any. This action may
18 be taken by motion adopted in a manner as determined by the
19 legislative body.

20 NEW SECTION. **Sec. 20.** When all or any portion of the cost is to
21 be assessed against abutting property owners, the county may create a
22 "private roadway construction fund No. . . ." to be numbered
23 differently for each improvement; and with warrants drawn on this
24 fund the cost of the respective improvements may be paid. The county
25 may loan the amounts necessary to pay for any costs of the
26 improvement loan to the private roadway construction fund. If
27 assessments are made for the improvement, then payments for the
28 improvement must be paid into the particular private roadway
29 improvement fund. If any funds are available over the amounts
30 necessary to pay outstanding warrants, any advances or loans made to
31 the fund must be repaid. If warrants are drawn on any such fund that
32 are not paid for lack of sufficient funds, they must be stamped as
33 such and bear interest until called and paid at a rate established by
34 the county by resolution.

35 NEW SECTION. **Sec. 21.** If any portion of the costs are to be
36 assessed against the abutting property by the county, an assessment
37 roll must be prepared by the proper official of the county and must
38 conform with the allocation of costs specified in the petition

1 submitted under section 17 of this act, but adjusted for any
2 modifications authorized under this section. The assessment roll must
3 describe the property assessed; state the name of the owner or that
4 the owner is unknown and fix the amount of the assessment. The
5 assessment roll must be filed with the appropriate official of the
6 county. When the assessment roll is properly filed, the county must,
7 by resolution, fix a date for hearing the proposed assessment roll
8 and direct the clerk of the county to give notice of the hearing and
9 the time and place of the hearing. The notice of hearing must be
10 mailed to the person whose name appears on the county treasurer's tax
11 roll as the owner or reputed owner of the property at the address
12 shown on the tax roll, and must be published before the date fixed
13 for the hearing for two consecutive weeks in the official newspaper
14 or regular official publication of the city. The notice must be
15 mailed and first publication made at least ten days before the
16 hearing date. Proof of mailing and publication must be made by
17 affidavit and must be filed with the appropriate official of the
18 county before the date fixed for the hearing. Following the hearing
19 the county must by resolution affirm, modify, or reject the
20 assessment roll or order recasting of the assessment roll. An appeal
21 may be filed with the superior court from the ordinance confirming
22 the assessment roll in the same manner as provided for appeals from
23 the assessment roll in chapters 35.43 through 35.54 RCW.

24 NEW SECTION. **Sec. 22.** The county must by resolution provide
25 whether the full amount of the assessment must be paid in one payment
26 or whether it may be paid in installments and must prescribe the time
27 and amount of such payments. If to be paid in installments, the
28 county may by resolution provide for interest on unpaid installments
29 and fix the rate of interest.

30 NEW SECTION. **Sec. 23.** The assessment roll, as affirmed or
31 modified by the county, must be filed with the treasurer of the
32 county for collection, and the amount of the assessment roll
33 including interest, if any, becomes a lien against the property
34 described therein from the date of the filing. Whenever any payment
35 on any assessment or installment is delinquent and unpaid for a
36 period of thirty days or more, the lien may be foreclosed in the same
37 manner and with the same effect as provided in chapters 35.43 through
38 35.54 RCW. Whenever the deed is issued after the sale therein

1 provided, the regularity, validity, and correctness of the
2 proceedings relating to such improvement and the assessment therefor
3 is final and conclusive and no action may thereafter be brought by or
4 in behalf of any person to set aside such deed.

5 NEW SECTION. **Sec. 24.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise:

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

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

17 NEW SECTION. **Sec. 25.** Sections 1 through 8 of this act
18 constitute a new chapter in Title 35 RCW.

19 NEW SECTION. **Sec. 26.** Sections 9 through 16 of this act
20 constitute a new chapter in Title 35A RCW.

21 NEW SECTION. **Sec. 27.** Sections 17 through 24 of this act
22 constitute a new chapter in Title 36 RCW.

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