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HOUSE BILL 1379

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Cooper, Wood, Haugen and Zellinsky.

Read first time January 28, 1991. Referred to Committee on Local Government.

1            AN ACT Relating to sewer and water districts; amending RCW  
2 56.20.030, 56.20.080, 57.16.060, and 57.16.090; adding a new section to  
3 chapter 56.08 RCW; adding a new section to chapter 57.08 RCW; and  
4 prescribing penalties.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 56.08 RCW  
7 to read as follows:

8            It is unlawful and a misdemeanor to make, or cause to be made, or  
9 to maintain any sewer connection with any sewer of any sewer district,  
10 or with any sewer which is connected directly or indirectly with any  
11 sewer of any sewer district without having permission from the sewer  
12 district.

13            **Sec. 2.** RCW 56.20.030 and 1986 c 256 s 2 are each amended to read  
14 as follows:

1           Whether the improvement is initiated by petition or resolution, the  
2 board shall conduct a public hearing at the time and place designated  
3 in the notice to property owners. At this hearing the board shall hear  
4 objections from any person affected by the formation of the local  
5 district and may make such changes in the boundaries of the district or  
6 such modifications in plans for the proposed improvement as shall be  
7 deemed necessary. The board may not change the boundaries of the  
8 district to include property not previously included in it without  
9 first passing a new resolution of intention and giving a new notice to  
10 property owners in the manner and form and within the time provided in  
11 this chapter for the original notice.

12           After the hearing and the expiration of the ten-day period for  
13 filing written protests, the commissioners shall have jurisdiction to  
14 overrule protests and proceed with any such improvement initiated by  
15 petition or resolution. The jurisdiction of the commissioners to  
16 proceed with any improvement initiated by resolution shall be divested:  
17 (a) By protests filed with the secretary of the board ((before the  
18 public hearing)) no later than ten days after the hearing, signed by  
19 the owners, according to the records of the county auditor, of at least  
20 forty percent of the area of land within the proposed local district or  
21 (b) by the commissioners not adopting a resolution ordering the  
22 improvement at a public hearing held not more than ninety days from the  
23 day the resolution of intention was adopted, unless the commissioners  
24 file with the county auditor a copy of the notice required by RCW  
25 56.20.020, and in no event at a hearing held more than two years from  
26 the day the resolution of intention was adopted.

27           If the commissioners find that the district should be formed, they  
28 shall by resolution form the district and order the improvement. After  
29 execution of the resolution forming the district, the secretary of the  
30 board of commissioners shall publish, in a legal publication that

1 serves the area subject to the district, a notice setting forth that a  
2 resolution has been passed forming the district and that a lawsuit  
3 challenging the jurisdiction or authority of the sewer district to  
4 proceed with the improvement and creating the district must be filed,  
5 and notice to the sewer district served, within thirty days of the  
6 publication of the notice. The notice shall set forth the nature of  
7 the appeal. Property owners bringing the appeal shall follow the  
8 procedures as set forth under appeal under RCW 56.20.080. Whenever a  
9 resolution forming a district has been adopted, the formation is  
10 conclusive in all things upon all parties, and cannot be contested or  
11 questioned in any manner in any proceeding whatsoever by any person not  
12 commencing a lawsuit in the manner and within the time provided in this  
13 section, except for lawsuits made under RCW 56.20.080.

14       Following an appeal, if it is unsuccessful or if no appeal is made  
15 under RCW 56.20.080, the commissioners may proceed with the improvement  
16 and provide the general funds of the sewer district to be applied  
17 thereto, adopt detailed plans of the utility local improvement district  
18 and declare the estimated cost thereof, acquire all necessary land  
19 therefor, pay all damages caused thereby, and commence in the name of  
20 the sewer district such eminent domain proceedings and supplemental  
21 assessment or reassessment proceedings to pay all eminent domain awards  
22 as may be necessary to entitle the district to proceed with the work.  
23 The board of sewer commissioners shall proceed with the work and file  
24 with the county treasurer of each county in which the real property is  
25 to be assessed its roll levying special assessments in the amount to be  
26 paid by special assessment against the property situated within the  
27 local improvement district in proportion to the special benefits to be  
28 derived by the property therein from the improvement.

1       **Sec. 3.** RCW 56.20.080 and 1971 ex.s. c 272 s 11 are each amended  
2 to read as follows:

3       The decision of the sewer commission upon any objections made  
4 within the time and in the manner herein prescribed, may be reviewed by  
5 the superior court upon an appeal thereto taken in the following  
6 manner. Such appeal shall be made by filing written notice of appeal  
7 with the secretary of said sewer commission and with the clerk of the  
8 superior court in the county in which the real property is situated  
9 within ten days after publication of a notice that the resolution  
10 confirming such assessment roll has been adopted, and such notice of  
11 appeal shall describe the property and set forth the objections of such  
12 appellant to such assessment. Within ten days from the filing of such  
13 notice of appeal with the clerk of the superior court, the appellant  
14 shall file with the clerk of said court, a transcript consisting of the  
15 assessment roll and his or her objections thereto, together with the  
16 resolution confirming such assessment roll and the record of the sewer  
17 district commission with reference to said assessment, which  
18 transcript, upon payment of the necessary fees therefor, shall be  
19 furnished by such secretary of said sewer commission and by him or her  
20 certified to contain full, true and correct copies of all matters and  
21 proceedings required to be included in such transcript. Such fees shall  
22 be the same as the fees payable to the county clerk for the preparation  
23 and certification of transcripts on appeal to the supreme court or the  
24 court of appeals in civil actions. At the time of the filing of the  
25 notice of appeal with the clerk of the superior court a sufficient bond  
26 in the penal sum of two hundred dollars, with sureties thereon as  
27 provided by law for appeals in civil cases, shall be filed conditioned  
28 to prosecute such appeal without delay, and if unsuccessful, to pay all  
29 costs to which the sewer district is put by reason of such appeal. The  
30 court may order the appellant upon application therefor, to execute and

1 file such additional bond or bonds as the necessity of the case may  
2 require. Within three days after such transcript is filed in the  
3 superior court, as aforesaid, the appellant shall give written notice  
4 to the secretary of such sewer district, that such transcript is filed.  
5 Said notice shall state a time, not less than three days from the  
6 service thereof, when the appellant will call up the said cause for  
7 hearing. The superior court shall, at said time or at such further  
8 time as may be fixed by order of the court, hear and determine such  
9 appeal without a jury, and such cause shall have preference over all  
10 civil causes pending in said court, except proceedings under an act  
11 relating to eminent domain in such sewer district and actions of  
12 forcible entry and detainer. The judgment of the court shall confirm,  
13 unless the court shall find from the evidence that such assessment is  
14 either founded upon a fundamentally wrong basis or a decision of the  
15 council or other legislative body thereon was arbitrary or capricious,  
16 or both; in which event the judgment of the court shall correct, modify  
17 or annul the assessment insofar as the same affects the property of the  
18 appellant. A certified copy of the decision of the court shall be  
19 filed with the officer who shall have the custody of the assessment  
20 roll, and he or she shall modify and correct such assessment roll in  
21 accordance with such decision. An appeal shall lie to the supreme  
22 court or the court of appeals from the judgment of the superior court,  
23 as in other cases, however, such appeal must be taken within fifteen  
24 days after the date of the entry of the judgment of such superior  
25 court, and the record and opening brief of the appellant in said cause  
26 shall be filed in the supreme court or the court of appeals within  
27 sixty days after the appeal shall have been taken by notice as provided  
28 in this title. The time for filing such record and serving and filing  
29 of briefs in this section prescribed may be extended by order of the  
30 superior court, or by stipulation of the parties concerned. The

1 supreme court or the court of appeals on such appeal may correct,  
2 change, modify, confirm or annul the assessment insofar as the same  
3 affects the property of the appellant. A certified copy of the order  
4 of the supreme court or the court of appeals upon such appeal shall be  
5 filed with the officer having custody of such assessment roll, who  
6 shall thereupon modify and correct such assessment roll in accordance  
7 with such decision.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 57.08 RCW  
9 to read as follows:

10 It is unlawful and a misdemeanor to make, or cause to be made, or  
11 to maintain any sewer connection with any sewer of any water district,  
12 or with any sewer which is connected directly or indirectly with any  
13 sewer of any water district without having permission from the water  
14 district.

15 **Sec. 5.** RCW 57.16.060 and 1986 c 256 s 3 are each amended to read  
16 as follows:

17 Local improvement districts or utility local improvement districts  
18 to carry out the whole or any portion of the general comprehensive plan  
19 of improvements or plan providing for additions and betterments to the  
20 original general comprehensive plan previously adopted may be initiated  
21 either by resolution of the board of water commissioners or by petition  
22 signed by the owners according to the records of the office of the  
23 applicable county auditor of at least fifty-one percent of the area of  
24 the land within the limits of the local improvement district to be  
25 created.

26 In case the board of water commissioners desires to initiate the  
27 formation of a local improvement district or a utility local  
28 improvement district by resolution, it shall first pass a resolution

1 declaring its intention to order such improvement, setting forth the  
2 nature and territorial extent of such proposed improvement, designating  
3 the number of the proposed local improvement district or utility local  
4 improvement district, and describing the boundaries thereof, stating  
5 the estimated cost and expense of the improvement and the proportionate  
6 amount thereof which will be borne by the property within the proposed  
7 district, and fixing a date, time, and place for a public hearing on  
8 the formation of the proposed local district.

9 In case any such local improvement district or utility local  
10 improvement district is initiated by petition, such petition shall set  
11 forth the nature and territorial extent of the proposed improvement  
12 requested to be ordered and the fact that the signers thereof are the  
13 owners according to the records of the applicable county auditor of at  
14 least fifty-one percent of the area of land within the limits of the  
15 local improvement district or utility local improvement district to be  
16 created. Upon the filing of such petition the board shall determine  
17 whether the petition is sufficient, and the board's determination  
18 thereof shall be conclusive upon all persons. No person may withdraw  
19 his or her name from the petition after it has been filed with the  
20 board of water commissioners. If the board finds the petition to be  
21 sufficient, it shall proceed to adopt a resolution declaring its  
22 intention to order the improvement petitioned for, setting forth the  
23 nature and territorial extent of the improvement, designating the  
24 number of the proposed local district and describing the boundaries  
25 thereof, stating the estimated cost and expense of the improvement and  
26 the proportionate amount thereof which will be borne by the property  
27 within the proposed local district, and fixing a date, time, and place  
28 for a public hearing on the formation of the proposed local district.

29 Notice of the adoption of the resolution of intention, whether the  
30 resolution was adopted on the initiative of the board or pursuant to a

1 petition of the property owners, shall be published in at least two  
2 consecutive issues of a newspaper of general circulation in the  
3 proposed local district, the date of the first publication to be at  
4 least fifteen days prior to the date fixed by such resolution for  
5 hearing before the board of water commissioners. Notice of the  
6 adoption of the resolution of intention shall also be given each owner  
7 or reputed owner of any lot, tract, parcel of land, or other property  
8 within the proposed improvement district by mailing the notice at least  
9 fifteen days before the date fixed for the public hearing to the owner  
10 or reputed owner of the property as shown on the tax rolls of the  
11 county treasurer of the county in which the real property is located at  
12 the address shown thereon. Whenever such notices are mailed, the water  
13 commissioners shall maintain a list of such reputed property owners,  
14 which list shall be kept on file at a location within the water  
15 district and shall be made available for public perusal. The notices  
16 shall refer to the resolution of intention and designate the proposed  
17 improvement district by number. The notices shall also set forth the  
18 nature of the proposed improvement, the total estimated cost, the  
19 proportion of total cost to be borne by assessments, the date, time,  
20 and place of the hearing before the board of water commissioners. In  
21 the case of improvements initiated by resolution, the notice shall  
22 also: (1) State that all persons desiring to object to the formation of  
23 the proposed district must file their written protests with the  
24 secretary of the board of water commissioners no later than ten days  
25 after the public hearing; (2) state that if owners of at least forty  
26 percent of the area of land within the proposed district file written  
27 protests with the secretary of the board, the power of the water  
28 commissioners to proceed with the creation of the proposed district  
29 shall be divested; (3) provide the name and address of the secretary of  
30 the board; and (4) state the hours and location within the water



1 district where the names of the property owners within the proposed  
2 district are kept available for public perusal. In the case of the  
3 notice given each owner or reputed owner by mail, the notice shall set  
4 forth the estimated amount of the cost and expense of such improvement  
5 to be borne by the particular lot, tract, parcel of land, or other  
6 property.

7 Whether the improvement is initiated by petition or resolution, the  
8 board shall conduct a public hearing at the time and place designated  
9 in the notice to property owners. At this hearing the board shall hear  
10 objections from any person affected by the formation of the local  
11 district and may make such changes in the boundaries of the district or  
12 such modifications in the plans for the proposed improvement as shall  
13 be deemed necessary. The board may not change the boundaries of the  
14 district to include property not previously included in it without  
15 first passing a new resolution of intention and giving a new notice to  
16 property owners in the manner and form and within the time provided in  
17 this chapter for the original notice.

18 After the hearing and the expiration of the ten-day period for  
19 filing written protests, the commissioners shall have jurisdiction to  
20 overrule protests and proceed with any such improvement initiated by  
21 petition or resolution. The jurisdiction of the commissioners to  
22 proceed with any improvement initiated by resolution shall be divested  
23 by protests filed with the secretary of the board (~~before the public~~  
24 ~~hearing~~) no later than ten days after the hearing, signed by the  
25 owners, according to the records of the applicable county auditor, of  
26 at least forty percent of the area of land within the proposed local  
27 district.

28 If the commissioners find that the district should be formed, they  
29 shall by resolution form the district and order the improvement. After  
30 execution of the resolution forming the district, the secretary of the

1 board of commissioners shall publish, in a legal publication that  
2 serves the area subject to the district, a notice setting forth that a  
3 resolution has been passed forming the district and that a lawsuit  
4 challenging the jurisdiction or authority of the water district to  
5 proceed with the improvement and creating the district must be filed,  
6 and notice to the water district served, within thirty days of the  
7 publication of the notice. The notice shall set forth the nature of  
8 the appeal. Property owners bringing the appeal shall follow the  
9 procedures as set forth under appeal under RCW 57.16.090. Whenever a  
10 resolution forming a district has been adopted, the formation is  
11 conclusive in all things upon all parties, and cannot be contested or  
12 questioned in any manner in any proceeding whatsoever by any person not  
13 commencing a lawsuit in the manner and within the time provided in this  
14 section, except for lawsuits made under RCW 57.16.090.

15       Following an appeal, if it is unsuccessful or if no appeal is made  
16 under RCW 57.16.090, the commissioners may proceed with the improvement  
17 and provide the general funds of the water district to be applied  
18 thereto, adopt detailed plans of the local improvement district or  
19 utility local improvement district and declare the estimated cost  
20 thereof, acquire all necessary land therefor, pay all damages caused  
21 thereby, and commence in the name of the water district such eminent  
22 domain proceedings as may be necessary to entitle the district to  
23 proceed with the work. The board shall thereupon proceed with the work  
24 and file with the county treasurer of the county in which the real  
25 property is located its roll levying special assessments in the amount  
26 to be paid by special assessment against the property situated within  
27 the improvement district in proportion to the special benefits to be  
28 derived by the property therein from the improvement.

1       **Sec. 6.** RCW 57.16.090 and 1988 c 202 s 53 are each amended to read  
2 as follows:

3       The decision of the water district commission upon any objections  
4 made within the time and in the manner herein prescribed, may be  
5 reviewed by the superior court upon an appeal thereto taken in the  
6 following manner. Such appeal shall be made by filing written notice  
7 of appeal with the secretary of said water district commission and with  
8 the clerk of the superior court in the county in which the real  
9 property is situated within ten days after publication of a notice that  
10 the resolution confirming such assessment roll has been adopted, and  
11 such notice of appeal shall describe the property and set forth the  
12 objections of such appellant to such assessment; and within ten days  
13 from the filing of such notice of appeal with the clerk of the superior  
14 court, the appellant shall file with the clerk of the court, a  
15 transcript consisting of the assessment roll and the appellant's  
16 objections thereto, together with the resolution confirming such  
17 assessment roll and the record of the water district commission with  
18 reference to the assessment, which transcript, upon payment of the  
19 necessary fees therefor, shall be furnished by the secretary of the  
20 water district commission certified by the secretary to contain full,  
21 true and correct copies of all matters and proceedings required to be  
22 included in such transcript. Such fees shall be the same as the fees  
23 payable to the county clerk for the preparation and certification of  
24 transcripts on appeal to the supreme court or the court of appeals in  
25 civil actions. At the time of the filing of the notice of appeal with  
26 the clerk of the superior court a sufficient bond in the penal sum of  
27 two hundred dollars, with at least two sureties, to be approved by the  
28 judge of said court, conditioned to prosecute such appeal without  
29 delay, and if unsuccessful to pay all costs to which the water district  
30 is put by reason of such appeal. The court may order the appellant

1 upon application therefor, to execute and file such additional bond or  
2 bonds as the necessity of the case may require. Within three days  
3 after such transcript is filed in the superior court, the appellant  
4 shall give written notice to the secretary of such water district, that  
5 such transcript is filed. The notice shall state a time, not less than  
6 three days from the service thereof, when the appellant will call up  
7 the cause for hearing; and the superior court shall, at said time or at  
8 such further time as may be fixed by order of the court, hear and  
9 determine such appeal without a jury; and such cause shall have  
10 preference over all civil causes pending in the court, except  
11 proceedings under an act relating to eminent domain and actions of  
12 forcible entry and detainer. The judgment of the court shall confirm,  
13 unless the court shall find from the evidence that such assessment is  
14 either founded upon the fundamentally wrong basis or a decision of the  
15 council or other legislative body thereon was arbitrary or capricious,  
16 or both; in which event the judgment of the court shall correct, modify  
17 or annul the assessment insofar as the same affects the property of the  
18 appellant. A certified copy of the decision of the court shall be  
19 filed with the officer who shall have custody of the assessment roll,  
20 who shall modify and correct such assessment roll in accordance with  
21 such decision. Appellate review of the judgment of the superior court  
22 may be sought as in other civil cases. However, the review must be  
23 sought within fifteen days after the date of the entry of the judgment  
24 of such superior court. A certified copy of the order of the supreme  
25 court or the court of appeals upon such appeal shall be filed with the  
26 officer having custody of such assessment roll, who shall thereupon  
27 modify and correct such assessment roll in accordance with such  
28 decision.