
SENATE BILL 5512

State of Washington

52nd Legislature

1991 Regular Session

By Senators McCaslin and Madsen.

Read first time February 4, 1991. Referred to Committee on Governmental Operations.

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.