

CERTIFICATION OF ENROLLMENT

SENATE BILL 5512

52nd Legislature
1991 Regular Session

Passed by the Senate April 22, 1991
Yeas 45 Nays 0

President of the Senate

Passed by the House April 18, 1991
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5512** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5512

AS AMENDED BY THE HOUSE

Passed Legislature - 1991 Regular Session

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 56.12.015, 56.20.030, 56.20.080, 57.12.015, 57.16.060, and 57.16.090;
3 adding a new section to chapter 56.08 RCW; adding a new section to
4 chapter 57.08 RCW; and 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 56.12.015 and 1990 c 259 s 23 are each amended to read
14 as follows:

1 If a three-member board of commissioners of any sewer district with
2 any number of customers determines by resolution (~~and approves by~~
3 ~~unanimous vote of the board~~) that it would be in the best interest of
4 the district to increase the number of commissioners from three to
5 five, or if the board of a sewer district with any number of customers
6 is presented with a petition signed by ten percent of the registered
7 voters resident within the district who voted in the last general
8 municipal election calling for an increase in the number of
9 commissioners of the district, the board shall submit a resolution to
10 the county auditor requesting that an election be held. Upon receipt
11 of the resolution, the county auditor shall call a special election to
12 be held within the sewer district in accordance with RCW 29.13.010 and
13 29.13.020, at which election a proposition in substantially the
14 following language shall be submitted to the voters:

15 Shall the Board of Commissioners of(Name and/or No. of
16 sewer district)..... be increased from three to five members?

17 Yes

18 No

19 If the proposition receives a majority approval at the election the
20 board of commissioners of the sewer district shall be increased to five
21 members. In any sewer district with more than ten thousand customers,
22 if a three-member board of commissioners determines by resolution and
23 approves by unanimous vote of the board that it would be in the best
24 interest of the district to increase the number of commissioners from
25 three to five, the number of commissioners shall be so increased,
26 without an election, unless within ninety days of adoption of that
27 resolution, a petition requesting an election and signed by at least
28 ten percent of the registered voters who voted in the last general

1 municipal election is filed with the board. If such a petition is
2 received, the board shall submit the resolution and the petition to the
3 county auditor, who shall call a special election in the manner
4 described in this section and in accordance with the provisions of RCW
5 29.13.010 and 29.13.020.

6 The two positions created on boards of sewer commissioners by this
7 section shall be filled initially as for a vacancy, except that the
8 appointees shall draw lots, one appointee to serve until the next
9 general sewer district election after the appointment, at which two
10 commissioners shall be elected for six-year terms, and the other
11 appointee to serve until the second general sewer district election
12 after the appointment, at which two commissioners shall be elected for
13 six-year terms.

14 **Sec. 3.** RCW 56.20.030 and 1986 c 256 s 2 are each amended to read
15 as follows:

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

27 After the hearing and the expiration of the ten-day period for
28 filing written protests, the commissioners shall have jurisdiction to
29 overrule protests and proceed with any such improvement initiated by

1 petition or resolution. The jurisdiction of the commissioners to
2 proceed with any improvement initiated by resolution shall be divested:
3 (a) By protests filed with the secretary of the board ((before the
4 public hearing)) no later than ten days after the hearing, signed by
5 the owners, according to the records of the county auditor, of at least
6 forty percent of the area of land within the proposed local district or
7 (b) by the commissioners not adopting a resolution ordering the
8 improvement at a public hearing held not more than ninety days from the
9 day the resolution of intention was adopted, unless the commissioners
10 file with the county auditor a copy of the notice required by RCW
11 56.20.020, and in no event at a hearing held more than two years from
12 the day the resolution of intention was adopted.

13 If the commissioners find that the district should be formed, they
14 shall by resolution form the district and order the improvement. After
15 execution of the resolution forming the district, the secretary of the
16 board of commissioners shall publish, in a legal publication that
17 serves the area subject to the district, a notice setting forth that a
18 resolution has been passed forming the district and that a lawsuit
19 challenging the jurisdiction or authority of the sewer district to
20 proceed with the improvement and creating the district must be filed,
21 and notice to the sewer district served, within thirty days of the
22 publication of the notice. The notice shall set forth the nature of
23 the appeal. Property owners bringing the appeal shall follow the
24 procedures as set forth under appeal under RCW 56.20.080. Whenever a
25 resolution forming a district has been adopted, the formation is
26 conclusive in all things upon all parties, and cannot be contested or
27 questioned in any manner in any proceeding whatsoever by any person not
28 commencing a lawsuit in the manner and within the time provided in this
29 section, except for lawsuits made under RCW 56.20.080.

1 Following an appeal, if it is unsuccessful or if no appeal is made
2 under RCW 56.20.080, the commissioners may proceed with the improvement
3 and provide the general funds of the sewer district to be applied
4 thereto, adopt detailed plans of the utility local improvement district
5 and declare the estimated cost thereof, acquire all necessary land
6 therefor, pay all damages caused thereby, and commence in the name of
7 the sewer district such eminent domain proceedings and supplemental
8 assessment or reassessment proceedings to pay all eminent domain awards
9 as may be necessary to entitle the district to proceed with the work.
10 The board of sewer commissioners shall proceed with the work and file
11 with the county treasurer of each county in which the real property is
12 to be assessed its roll levying special assessments in the amount to be
13 paid by special assessment against the property situated within the
14 local improvement district in proportion to the special benefits to be
15 derived by the property therein from the improvement.

16 **Sec. 4.** RCW 56.20.080 and 1971 ex.s. c 272 s 11 are each amended
17 to read as follows:

18 The decision of the sewer commission upon any objections made
19 within the time and in the manner herein prescribed, may be reviewed by
20 the superior court upon an appeal thereto taken in the following
21 manner. Such appeal shall be made by filing written notice of appeal
22 with the secretary of said sewer commission and with the clerk of the
23 superior court in the county in which the real property is situated
24 within ten days after publication of a notice that the resolution
25 confirming such assessment roll has been adopted, and such notice of
26 appeal shall describe the property and set forth the objections of such
27 appellant to such assessment. Within ten days from the filing of such
28 notice of appeal with the clerk of the superior court, the appellant
29 shall file with the clerk of said court, a transcript consisting of the

1 assessment roll and his or her objections thereto, together with the
2 resolution confirming such assessment roll and the record of the sewer
3 district commission with reference to said assessment, which
4 transcript, upon payment of the necessary fees therefor, shall be
5 furnished by such secretary of said sewer commission and by him or her
6 certified to contain full, true and correct copies of all matters and
7 proceedings required to be included in such transcript. Such fees shall
8 be the same as the fees payable to the county clerk for the preparation
9 and certification of transcripts on appeal to the supreme court or the
10 court of appeals in civil actions. At the time of the filing of the
11 notice of appeal with the clerk of the superior court a sufficient bond
12 in the penal sum of two hundred dollars, with sureties thereon as
13 provided by law for appeals in civil cases, shall be filed conditioned
14 to prosecute such appeal without delay, and if unsuccessful, to pay all
15 costs to which the sewer district is put by reason of such appeal. The
16 court may order the appellant upon application therefor, to execute and
17 file such additional bond or bonds as the necessity of the case may
18 require. Within three days after such transcript is filed in the
19 superior court, as aforesaid, the appellant shall give written notice
20 to the secretary of such sewer district, that such transcript is filed.
21 Said notice shall state a time, not less than three days from the
22 service thereof, when the appellant will call up the said cause for
23 hearing. The superior court shall, at said time or at such further
24 time as may be fixed by order of the court, hear and determine such
25 appeal without a jury, and such cause shall have preference over all
26 civil causes pending in said court, except proceedings under an act
27 relating to eminent domain in such sewer district and actions of
28 forcible entry and detainer. The judgment of the court shall confirm,
29 unless the court shall find from the evidence that such assessment is
30 either founded upon a fundamentally wrong basis or a decision of the

1 council or other legislative body thereon was arbitrary or capricious,
2 or both; in which event the judgment of the court shall correct, modify
3 or annul the assessment insofar as the same affects the property of the
4 appellant. A certified copy of the decision of the court shall be
5 filed with the officer who shall have the custody of the assessment
6 roll, and he or she shall modify and correct such assessment roll in
7 accordance with such decision. An appeal shall lie to the supreme
8 court or the court of appeals from the judgment of the superior court,
9 as in other cases, however, such appeal must be taken within fifteen
10 days after the date of the entry of the judgment of such superior
11 court, and the record and opening brief of the appellant in said cause
12 shall be filed in the supreme court or the court of appeals within
13 sixty days after the appeal shall have been taken by notice as provided
14 in this title. The time for filing such record and serving and filing
15 of briefs in this section prescribed may be extended by order of the
16 superior court, or by stipulation of the parties concerned. The
17 supreme court or the court of appeals on such appeal may correct,
18 change, modify, confirm or annul the assessment insofar as the same
19 affects the property of the appellant. A certified copy of the order
20 of the supreme court or the court of appeals upon such appeal shall be
21 filed with the officer having custody of such assessment roll, who
22 shall thereupon modify and correct such assessment roll in accordance
23 with such decision.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 57.08 RCW
25 to read as follows:

26 It is unlawful and a misdemeanor to make, or cause to be made, or
27 to maintain any sewer connection with any sewer of any water district,
28 or with any sewer which is connected directly or indirectly with any

1 sewer of any water district without having permission from the water
2 district.

3 **Sec. 6.** RCW 57.12.015 and 1990 c 259 s 29 are each amended to read
4 as follows:

5 In the event a three-member board of commissioners of any water
6 district with any number of customers determines by resolution (~~and~~
7 ~~approves by unanimous vote of the board~~) that it would be in the best
8 interest of the district to increase the number of commissioners from
9 three to five, or in the event the board of a district with any number
10 of customers is presented with a petition signed by ten percent of the
11 registered voters resident within the district who voted in the last
12 general municipal election calling for an increase in the number of
13 commissioners of the district, the board shall submit a resolution to
14 the county auditor requesting that an election be held. Upon receipt
15 of the resolution, the county auditor shall call a special election to
16 be held within the water district in accordance with RCW 29.13.010 and
17 29.13.020, at which election a proposition in substantially the
18 following language shall be submitted to the voters:

19 Shall the Board of Commissioners of
20 (Name and/or No. of water district) be increased from three to five
21 members?

22 Yes

23 No

24 If the proposition receives a majority approval at the election the
25 board of commissioners of the water district shall be increased to five
26 members. In any water district with more than ten thousand customers,
27 if a three-member board of commissioners determines by resolution and

1 approves by unanimous vote of the board that it would be in the best
2 interest of the district to increase the number of commissioners from
3 three to five, the number of commissioners shall be so increased,
4 without an election, unless within ninety days of adoption of that
5 resolution a petition requesting an election and signed by at least ten
6 percent of the registered voters who voted in the last general
7 municipal election is filed with the board. If such a petition is
8 received, the board shall submit the resolution and the petition to the
9 county auditor, who shall call a special election in the manner
10 described in this section and in accordance with the provisions of RCW
11 29.13.010 and 29.13.020.

12 The two positions created on boards of water commissioners by this
13 section shall be filled initially as for a vacancy, except that the
14 appointees shall draw lots, one appointee to serve until the next
15 general water district election after the appointment, at which two
16 commissioners shall be elected for six-year terms, and the other
17 appointee to serve until the second general water district election
18 after the appointment, at which two commissioners shall be elected for
19 six-year terms.

20 **Sec. 7.** RCW 57.16.060 and 1986 c 256 s 3 are each amended to read
21 as follows:

22 Local improvement districts or utility local improvement districts
23 to carry out the whole or any portion of the general comprehensive plan
24 of improvements or plan providing for additions and betterments to the
25 original general comprehensive plan previously adopted may be initiated
26 either by resolution of the board of water commissioners or by petition
27 signed by the owners according to the records of the office of the
28 applicable county auditor of at least fifty-one percent of the area of

1 the land within the limits of the local improvement district to be
2 created.

3 In case the board of water commissioners desires to initiate the
4 formation of a local improvement district or a utility local
5 improvement district by resolution, it shall first pass a resolution
6 declaring its intention to order such improvement, setting forth the
7 nature and territorial extent of such proposed improvement, designating
8 the number of the proposed local improvement district or utility local
9 improvement district, and describing the boundaries thereof, stating
10 the estimated cost and expense of the improvement and the proportionate
11 amount thereof which will be borne by the property within the proposed
12 district, and fixing a date, time, and place for a public hearing on
13 the formation of the proposed local district.

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

1 the proportionate amount thereof which will be borne by the property
2 within the proposed local district, and fixing a date, time, and place
3 for a public hearing on the formation of the proposed local district.

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

1 percent of the area of land within the proposed district file written
2 protests with the secretary of the board, the power of the water
3 commissioners to proceed with the creation of the proposed district
4 shall be divested; (3) provide the name and address of the secretary of
5 the board; and (4) state the hours and location within the water
6 district where the names of the property owners within the proposed
7 district are kept available for public perusal. In the case of the
8 notice given each owner or reputed owner by mail, the notice shall set
9 forth the estimated amount of the cost and expense of such improvement
10 to be borne by the particular lot, tract, parcel of land, or other
11 property.

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

23 After the hearing and the expiration of the ten-day period for
24 filing written protests, the commissioners shall have jurisdiction to
25 overrule protests and proceed with any such improvement initiated by
26 petition or resolution. The jurisdiction of the commissioners to
27 proceed with any improvement initiated by resolution shall be divested
28 by protests filed with the secretary of the board (~~before the public~~
29 ~~hearing~~) no later than ten days after the hearing, signed by the
30 owners, according to the records of the applicable county auditor, of

1 at least forty percent of the area of land within the proposed local
2 district.

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

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

1 to be paid by special assessment against the property situated within
2 the improvement district in proportion to the special benefits to be
3 derived by the property therein from the improvement.

4 **Sec. 8.** RCW 57.16.090 and 1988 c 202 s 53 are each amended to read
5 as follows:

6 The decision of the water district commission upon any objections
7 made within the time and in the manner herein prescribed, may be
8 reviewed by the superior court upon an appeal thereto taken in the
9 following manner. Such appeal shall be made by filing written notice
10 of appeal with the secretary of said water district commission and with
11 the clerk of the superior court in the county in which the real
12 property is situated within ten days after publication of a notice that
13 the resolution confirming such assessment roll has been adopted, and
14 such notice of appeal shall describe the property and set forth the
15 objections of such appellant to such assessment; and within ten days
16 from the filing of such notice of appeal with the clerk of the superior
17 court, the appellant shall file with the clerk of the court, a
18 transcript consisting of the assessment roll and the appellant's
19 objections thereto, together with the resolution confirming such
20 assessment roll and the record of the water district commission with
21 reference to the assessment, which transcript, upon payment of the
22 necessary fees therefor, shall be furnished by the secretary of the
23 water district commission certified by the secretary to contain full,
24 true and correct copies of all matters and proceedings required to be
25 included in such transcript. Such fees shall be the same as the fees
26 payable to the county clerk for the preparation and certification of
27 transcripts on appeal to the supreme court or the court of appeals in
28 civil actions. At the time of the filing of the notice of appeal with
29 the clerk of the superior court a sufficient bond in the penal sum of

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

1 modify and correct such assessment roll in accordance with such
2 decision.