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**SUBSTITUTE SENATE BILL 5110**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** Senate Committee on Government Operations (originally sponsored by Senators Haugen, Drew and Winsley)

Read first time 02/11/93.

1 AN ACT Relating to water and sewer districts; amending RCW  
2 56.08.070, 57.08.010, 57.08.050, and 57.08.170; reenacting and amending  
3 RCW 56.08.010; adding a new chapter to Title 56 RCW; and adding a new  
4 chapter to Title 57 RCW.

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

6 **Sec. 1.** RCW 56.08.010 and 1989 c 389 s 2 and 1989 c 308 s 1 are  
7 each reenacted and amended to read as follows:

8 A sewer district may acquire by purchase or by condemnation and  
9 purchase all lands, property rights, water, and water rights, both  
10 within and without the district, necessary for its purposes. A sewer  
11 district may lease real or personal property necessary for its purposes  
12 for a term of years for which such leased property may reasonably be  
13 needed where in the opinion of the board of sewer commissioners such  
14 property may not be needed permanently or substantial savings to the  
15 district can be effected thereby. The right of eminent domain shall be  
16 exercised in the same manner and by the same procedure as provided for  
17 cities and towns, insofar as consistent with the provisions of this  
18 title, except that all assessments or reassessment rolls required to  
19 be filed by eminent domain commissioners or commissioners appointed by

1 the court shall be prepared and filed by the district, and the duties  
2 devolving upon the city treasurer shall be imposed upon the county  
3 treasurer for the purposes hereof. A sewer district may construct,  
4 condemn and purchase, add to, maintain, and operate systems of sewers,  
5 including necessary support facilities and buildings, for the purpose  
6 of furnishing the district and inhabitants thereof with an adequate  
7 system of sewers for all uses and purposes, public and private(~~(~~  
8 ~~including~~)). Systems of sewers include but are not limited to on-site  
9 sewage disposal facilities, approved septic tanks or approved septic  
10 tank systems, other facilities and systems for the collection,  
11 interception, treatment, and disposal of wastewater, and for the  
12 control of pollution from wastewater and for the protection,  
13 preservation, and rehabilitation of surface and underground waters,  
14 facilities for the drainage of storm or surface waters, public  
15 highways, streets, and roads with full authority to regulate the use  
16 and operation thereof and the service rates to be charged (~~and may~~  
17 ~~construct, acquire, or own buildings and other necessary district~~  
18 ~~facilities~~)). Such sewage facilities may include facilities which  
19 result in combined sewage disposal, treatment, or drainage and electric  
20 generation, provided that the electricity generated thereby is a  
21 byproduct of the system of sewers. Such electricity may be used by the  
22 sewer district or sold to any entity authorized by law to distribute  
23 electricity. Such electricity is a byproduct when the electrical  
24 generation is subordinate to the primary purpose of sewage disposal,  
25 treatment, or drainage. For such purposes a district may conduct  
26 sewage throughout the district and throughout other political  
27 subdivisions within the district, and construct and lay sewer pipe  
28 along and upon public highways, roads, and streets, within and without  
29 the district, and condemn and purchase or acquire land and rights of  
30 way necessary for such sewer pipe. A district may erect sewage  
31 treatment plants, within or without the district, and may acquire by  
32 purchase or condemnation, properties or privileges necessary to be had  
33 to protect any lakes, rivers, or watercourses and also other areas of  
34 land from pollution, from its sewers or its sewage treatment plant.  
35 For the purposes of sewage facilities which include facilities which  
36 result in combined sewage disposal, treatment, or drainage and electric  
37 generation where the electric generation is a byproduct, nothing in  
38 this section may be construed to authorize a district to condemn  
39 electric generating, transmission, or distribution rights or facilities

1 of entities authorized by law to distribute electricity, or to acquire  
2 such rights or facilities without the consent of the owner. A district  
3 may charge property owners seeking to connect to the district system of  
4 sewers, as a condition to granting the right to so connect, in addition  
5 to the cost of such connection, such reasonable connection charge as  
6 the board of commissioners shall determine to be proper in order that  
7 such property owners shall bear their equitable share of the cost of  
8 such system. For purposes of calculating a connection charge, the  
9 board of commissioners shall determine the pro rata share of the cost  
10 of existing facilities and facilities planned for construction within  
11 the next ten years and contained in an adopted comprehensive plan and  
12 other costs borne by the district which are directly attributable to  
13 the improvements required by property owners seeking to connect to the  
14 system. The cost of existing facilities shall not include those  
15 portions of the system which have been donated or which have been paid  
16 for by grants.

17 The connection charge may include interest charges applied from the  
18 date of construction of the sewer system until the connection, or for  
19 a period not to exceed ten years, whichever is shorter, at a rate  
20 commensurate with the rate of interest applicable to the district at  
21 the time of construction or major rehabilitation of the sewer system,  
22 or at the time of installation of the sewer lines to which the property  
23 owner is seeking to connect.

24 A district may permit payment of the cost of connection and the  
25 reasonable connection charge to be paid with interest in installments  
26 over a period not exceeding fifteen years. The county treasurer may  
27 charge and collect a fee of three dollars per parcel for each year for  
28 the treasurer's services. Such fees shall be a charge to be included  
29 as part of each annual installment, and shall be credited to the county  
30 current expense fund by the county treasurer. A district may compel  
31 all property owners within the sewer district located within an area  
32 served by the district system of sewers to connect their private drain  
33 and sewer systems with the district system under such penalty as the  
34 sewer commissioners shall prescribe by resolution. The district may  
35 for such purpose enter upon private property and connect the private  
36 drains or sewers with the district system and the cost thereof shall be  
37 charged against the property owner and shall be a lien upon property  
38 served.

1 Revenues from connection charges excluding permit fees are to be  
2 considered payments in aid of construction as defined by department of  
3 revenue rule.

4 NEW SECTION. **Sec. 2.** A sewer district may include along with,  
5 or as part of its regular customer billings, a request for voluntary  
6 contributions to assist qualified low-income residential customers of  
7 the district in paying their sewer district bills. All funds received  
8 by the district in response to such requests shall be transmitted to  
9 the grantee of the department of community development which  
10 administers federally funded energy assistance programs for the state  
11 in the district's service area or to a charitable organization within  
12 the district's service area. All such funds shall be used solely to  
13 supplement assistance to low-income residential customers of the  
14 district in paying their sewer district bills. The grantee or  
15 charitable organization shall be responsible to determine which of the  
16 district's customers are qualified for low-income assistance and the  
17 amount of assistance to be provided to those who are qualified.

18 NEW SECTION. **Sec. 3.** All assistance provided under this  
19 chapter shall be disbursed by the grantee or charitable organization.  
20 Where possible the sewer district will be paid on behalf of the  
21 customer by the grantee or the charitable organization. When direct  
22 vendor payment is not feasible, a check will be issued jointly payable  
23 to the customer and the sewer district. The availability of funds for  
24 assistance to a district's low-income customers as a result of  
25 voluntary contributions shall not reduce the amount of assistance for  
26 which the district's customers are eligible under the federally funded  
27 energy assistance programs administered by the grantee of the  
28 department of community development within the district's service area.  
29 The grantee or charitable organization shall provide the district with  
30 a quarterly report on January 15th, April 15th, July 15th, and October  
31 15th which includes information concerning the total amount of funds  
32 received from the district, the names of all recipients of assistance  
33 from these funds, the amount received by each recipient, and the amount  
34 of funds received from the district currently on hand and available for  
35 future low-income assistance.

1        NEW SECTION.    **Sec. 4.**        Contributions received under a program  
2 implemented by a sewer district in compliance with this chapter shall  
3 not be considered a commingling of funds.

4        **Sec. 5.**    RCW 56.08.070 and 1989 c 105 s 1 are each amended to read  
5 as follows:

6        (1) All materials purchased and work ordered, the estimated cost of  
7 which is in excess of five thousand dollars shall be let by contract.  
8 All contract projects, the estimated cost of which is less than fifty  
9 thousand dollars, may be awarded to a contractor on the small works  
10 roster. The small works roster shall be comprised of all responsible  
11 contractors who have requested to be on the list. The board of sewer  
12 commissioners may set up uniform procedures to prequalify contractors  
13 for inclusion on the small works roster. The board of sewer  
14 commissioners shall authorize by resolution a procedure for securing  
15 telephone and/or written quotations from the contractors on the small  
16 works roster to assure establishment of a competitive price and for  
17 awarding contracts to the lowest responsible bidder. Such procedure  
18 shall require that a good faith effort be made to request quotations  
19 from all contractors on the small works roster. Immediately after an  
20 award is made, the bid quotations obtained shall be recorded, open to  
21 public inspection, and available by telephone inquiry. The small works  
22 roster shall be revised once a year. All contract projects equal to or  
23 in excess of fifty thousand dollars shall be let by competitive  
24 bidding. Before awarding any competitive contract the board of sewer  
25 commissioners shall cause a notice to be published in a newspaper in  
26 general circulation where the district is located at least once, ten  
27 days before the letting of such contract, inviting sealed proposals for  
28 such work, plans and specifications which must at the time of  
29 publication of such notice be on file in the office of the board of  
30 sewer commissioners subject to public inspection. Such notice shall  
31 state generally the work to be done and shall call for proposals for  
32 doing the same to be sealed and filed with the board of sewer  
33 commissioners on or before the day and hour named therein.

34        (2) Each bid shall be accompanied by a bid proposal deposit in the  
35 form of a certified check, cashier's check, postal money order, or  
36 surety bond payable to the order of the county treasurer for a sum not  
37 less than five percent of the amount of the bid and no bid shall be  
38 considered unless accompanied by such bid proposal deposit. At the

1 time and place named such bids shall be publicly opened and read and  
2 the board of sewer commissioners shall proceed to canvass the bids and  
3 may let such contract to the lowest responsible bidder upon plans and  
4 specifications: PROVIDED, That no contract shall be let in excess of  
5 the cost of ((said)) the materials or work(~~(, or if in the opinion~~  
6 ~~of))~~. The board of sewer commissioners (~~(all bids are unsatisfactory~~  
7 ~~they))~~ may reject all (~~(of them))~~ bids for good cause and readvertise  
8 and in such case all checks, cash or bid bonds shall be returned to the  
9 bidders. If such contract be let, then all checks, cash or bid bonds  
10 shall be returned to the bidders, except that of the successful bidder,  
11 which shall be retained until a contract shall be entered into for the  
12 purchase of such materials or doing such work, and a bond to perform  
13 such work furnished with sureties satisfactory to the board of sewer  
14 commissioners in the full amount of the contract price between the  
15 bidder and the commission in accordance with bid. If ((said)) the  
16 bidder fails to enter into ((said)) the contract in accordance with  
17 ((said)) the bid and furnish such bond within ten days from the date at  
18 which he or she is notified that he or she is the successful bidder,  
19 the ((said)) check, cash or bid bonds and the amount thereof shall be  
20 forfeited to the sewer district.

21 (3) In the event of an emergency when the public interest or  
22 property of the sewer district would suffer material injury or damage  
23 by delay, upon resolution of the board of sewer commissioners, or  
24 proclamation of an official designated by the board to act for the  
25 board during such emergencies, declaring the existence of such  
26 emergency and reciting the facts constituting the same, the board, or  
27 the official acting for the board, may waive the requirements of this  
28 chapter with reference to any purchase or contract. In addition, these  
29 requirements may be waived for purchases which are clearly and  
30 legitimately limited to a single source of supply and purchases  
31 involving special facilities, services, or market conditions, in which  
32 instances the purchase price may be best established by direct  
33 negotiation.

34 **Sec. 6.** RCW 57.08.010 and 1991 c 82 s 4 are each amended to read  
35 as follows:

36 (1)(a) A water district may acquire by purchase or condemnation, or  
37 both, all property and property rights and all water and water rights,  
38 both within and without the district, necessary for its purposes.

1 (b) A water district may lease real or personal property necessary  
2 for its purposes for a term of years for which such leased property may  
3 reasonably be needed where in the opinion of the board of water  
4 commissioners such property may not be needed permanently or  
5 substantial savings to the district can be effected thereby.

6 (c) The right of eminent domain shall be exercised in the same  
7 manner and by the same procedure as provided for cities of the third  
8 class, insofar as consistent with the provisions of this title, except  
9 that all assessment rolls to be prepared and filed by eminent domain  
10 commissioners or commissioners appointed by the court shall be prepared  
11 and filed by the water district, and the duties devolving upon the city  
12 treasurer are hereby imposed upon the county treasurer.

13 (d) A water district may construct, condemn and purchase, purchase,  
14 add to, maintain, and supply waterworks, including necessary support  
15 facilities and buildings, to furnish the district and inhabitants  
16 thereof, and any city or town therein and any other persons, both  
17 within and without the district, with an ample supply of water for all  
18 uses and purposes public and private with full authority to regulate  
19 and control the use, content, distribution, and price thereof in such  
20 a manner as is not in conflict with general law (~~and may construct,~~  
21 ~~acquire, or own buildings and other necessary district facilities~~).  
22 Where a customer connected to the district's system uses the water on  
23 an intermittent or transient basis, a district may charge for providing  
24 water service to such a customer, regardless of the amount of water, if  
25 any, used by the customer.

26 (e) A water district contiguous to Canada may contract with a  
27 Canadian corporation for the purchase of water and for the  
28 construction, purchase, maintenance, and supply of waterworks to  
29 furnish the district and inhabitants thereof and residents of Canada  
30 with an ample supply of water under terms approved by the board of  
31 commissioners. Such waterworks may include facilities which result in  
32 combined water supply and electric generation, provided that the  
33 electricity generated thereby is a byproduct of the water supply  
34 system.

35 (f) Such electricity may be used by the water district or sold to  
36 any entity authorized by law to distribute electricity. Such  
37 electricity is a byproduct when the electrical generation is  
38 subordinate to the primary purpose of water supply.

1 (g) For such purposes, a water district may take, condemn and  
2 purchase, purchase, acquire, and retain water from any public or  
3 navigable lake, river, or watercourse, or any underflowing water and,  
4 by means of aqueducts or pipe line conduct the same throughout such  
5 water district and any city or town therein and carry it along and upon  
6 public highways, roads, and streets, within and without such district.

7 (h) For the purpose of constructing or laying aqueducts or pipe  
8 lines, dams, or waterworks or other necessary structures in storing and  
9 retaining water or for any other lawful purpose such water district may  
10 occupy the beds and shores up to the high water mark of any such lake,  
11 river, or other watercourse, and may acquire by purchase or  
12 condemnation such property or property rights or privileges as may be  
13 necessary to protect its water supply from pollution.

14 (i) For the purposes of waterworks which include facilities for the  
15 generation of electricity as a byproduct, nothing in this section may  
16 be construed to authorize a water district to condemn electric  
17 generating, transmission, or distribution rights or facilities of  
18 entities authorized by law to distribute electricity, or to acquire  
19 such rights or facilities without the consent of the owner.

20 (2) A water district may purchase and take water from any municipal  
21 corporation.

22 (3) A water district may fix rates and charges for water supplied  
23 and may charge property owners seeking to connect to the district's  
24 water supply system, as a condition to granting the right to so  
25 connect, in addition to the cost of such connection, such reasonable  
26 connection charge as the board of commissioners shall determine to be  
27 proper in order that such property owners shall bear their equitable  
28 share of the cost of such system.

29 (a) For purposes of calculating a connection charge, the board of  
30 commissioners shall determine the pro rata share of the cost of  
31 existing facilities and facilities planned for construction within the  
32 next ten years and contained in an adopted comprehensive plan and other  
33 costs borne by the district which are directly attributable to the  
34 improvements required by property owners seeking to connect to the  
35 system. The cost of existing facilities shall not include those  
36 portions of the system which have been donated or which have been paid  
37 for by grants.

38 (b) The connection charge may include interest charges applied from  
39 the date of construction of the water system until the connection, or



1 for a period not to exceed ten years, whichever is shorter, at a rate  
2 commensurate with the rate of interest applicable to the district at  
3 the time of construction or major rehabilitation of the water system,  
4 or at the time of installation of the water lines to which the property  
5 owner is seeking to connect.

6 (4)(a) A district may permit payment of the cost of connection and  
7 the reasonable connection charge to be paid with interest in  
8 installments over a period not exceeding fifteen years. The county  
9 treasurer may charge and collect a fee of three dollars for each year  
10 for the treasurer's services. Such fees shall be a charge to be  
11 included as part of each annual installment, and shall be credited to  
12 the county current expense fund by the county treasurer.

13 (b) Revenues from connection charges excluding permit fees are to  
14 be considered payments in aid of construction as defined by department  
15 of revenue rule.

16 (5) A district may operate and maintain a park or recreational  
17 facilities on real property that it owns or in which it has an interest  
18 that is not immediately necessary for its purposes.

19 (6) If such park or recreational facilities are operated by a  
20 person other than the district, including a corporation, partnership,  
21 or other business enterprise, the person shall indemnify and hold  
22 harmless the district for any injury or damage caused by the action of  
23 the person.

24 NEW SECTION. **Sec. 7.** A water district may include along with,  
25 or as part of its regular customer billings, a request for voluntary  
26 contributions to assist qualified low-income residential customers of  
27 the district in paying their water district bills. All funds received  
28 by the district in response to such requests shall be transmitted to  
29 the grantee of the department of community development which  
30 administers federally funded energy assistance programs for the state  
31 in the district's service area or to a charitable organization within  
32 the district's service area. All such funds shall be used solely to  
33 supplement assistance to low-income residential customers of the  
34 district in paying their water district bills. The grantee or  
35 charitable organization shall be responsible to determine which of the  
36 district's customers are qualified for low-income assistance and the  
37 amount of assistance to be provided to those who are qualified.

1        NEW SECTION.    **Sec. 8.**        All assistance provided under this  
2 chapter shall be disbursed by the grantee or charitable organization.  
3 Where possible the water district will be paid on behalf of the  
4 customer by the grantee or the charitable organization. When direct  
5 vendor payment is not feasible, a check will be issued jointly payable  
6 to the customer and the water district. The availability of funds for  
7 assistance to a district's low-income customers as a result of  
8 voluntary contributions shall not reduce the amount of assistance for  
9 which the district's customers are eligible under the federally funded  
10 energy assistance programs administered by the grantee of the  
11 department of community development within the district's service area.  
12 The grantee or charitable organization shall provide the district with  
13 a quarterly report on January 15th, April 15th, July 15th, and October  
14 15th which includes information concerning the total amount of funds  
15 received from the district, the names of all recipients of assistance  
16 from these funds, the amount received by each recipient, and the amount  
17 of funds received from the district currently on hand and available for  
18 future low-income assistance.

19        NEW SECTION.    **Sec. 9.**        Contributions received under a program  
20 implemented by a water district in compliance with this chapter shall  
21 not be considered a commingling of funds.

22        **Sec. 10.**    RCW 57.08.050 and 1989 c 105 s 2 are each amended to read  
23 as follows:

24        (1) The board of water commissioners shall have authority to create  
25 and fill such positions and fix salaries and bonds thereof as it may by  
26 resolution provide.

27        (2) All materials purchased and work ordered, the estimated cost of  
28 which is in excess of five thousand dollars shall be let by contract.  
29 All contract projects, the estimated cost of which is less than fifty  
30 thousand dollars, may be awarded to a contractor on the small works  
31 roster. The small works roster shall be comprised of all responsible  
32 contractors who have requested to be on the list. The board of water  
33 commissioners may set up uniform procedures to prequalify contractors  
34 for inclusion on the small works roster. The board of water  
35 commissioners shall authorize by resolution a procedure for securing  
36 telephone and/or written quotations from the contractors on the small  
37 works roster to assure establishment of a competitive price and for

1 awarding contracts to the lowest responsible bidder. Such procedure  
2 shall require that a good faith effort be made to request quotations  
3 from all contractors on the small works roster. Immediately after an  
4 award is made, the bid quotations obtained shall be recorded, open to  
5 public inspection, and available by telephone inquiry. The small works  
6 roster shall be revised once a year. All contract projects equal to or  
7 in excess of fifty thousand dollars shall be let by competitive  
8 bidding. Before awarding any such contract the board of water  
9 commissioners shall cause a notice to be published in a newspaper in  
10 general circulation where the district is located at least once ten  
11 days before the letting of such contract, inviting sealed proposals for  
12 such work, plans and specifications which must at the time of  
13 publication of such notice be on file in the office of the board of  
14 water commissioners subject to public inspection. Such notice shall  
15 state generally the work to be done and shall call for proposals for  
16 doing the same to be sealed and filed with the board of water  
17 commissioners on or before the day and hour named therein.

18 (3) Each bid shall be accompanied by a certified or cashier's check  
19 or postal money order payable to the order of the county treasurer for  
20 a sum not less than five percent of the amount of the bid, or  
21 accompanied by a bid bond in an amount not less than five percent of  
22 the bid with a corporate surety licensed to do business in the state,  
23 conditioned that the bidder will pay the district as liquidated damages  
24 the amount specified in the bond, unless ((he)) the bidder enters into  
25 a contract in accordance with his or her bid, and no bid shall be  
26 considered unless accompanied by such check, cash or bid bond. At the  
27 time and place named such bids shall be publicly opened and read and  
28 the board of water commissioners shall proceed to canvass the bids and  
29 may let such contract to the lowest responsible bidder upon plans and  
30 specifications on file or to the best bidder submitting his or her own  
31 plans and specifications: PROVIDED, That no contract shall be let in  
32 excess of the cost of ((said)) the materials or work((, or if in the  
33 ~~opinion of~~)). The board of water commissioners ((all bids are  
34 ~~unsatisfactory they~~)) may reject all ((of them)) bids for good cause  
35 and readvertise and in such case all checks, cash or bid bonds shall be  
36 returned to the bidders. If such contract be let, then all checks,  
37 cash or bid bonds shall be returned to the bidders, except that of the  
38 successful bidder, which shall be retained until a contract shall be  
39 entered into for the purchase of such materials or doing such work, and

1 a bond to perform such work furnished with sureties satisfactory to the  
2 board of water commissioners in the full amount of the contract price  
3 between the bidder and the commission in accordance with the bid. If  
4 ~~((said))~~ the bidder fails to enter into ~~((said))~~ the contract in  
5 accordance with ~~((said))~~ the bid and furnish such bond within ten days  
6 from the date at which he or she is notified that he or she is the  
7 successful bidder, the ~~((said))~~ check, cash or bid bonds and the amount  
8 thereof shall be forfeited to the water district: PROVIDED, That if  
9 the bidder fails to enter into a contract in accordance with ~~((his))~~  
10 the bid, and the board of water commissioners deems it necessary to  
11 take legal action to collect on any bid bond required herein, then the  
12 water district shall be entitled to collect from ~~((said))~~ the bidder  
13 any legal expenses, including reasonable attorneys' fees occasioned  
14 thereby.

15 (4) In the event of an emergency when the public interest or  
16 property of the water district would suffer material injury or damage  
17 by delay, upon resolution of the board of water commissioners, or  
18 proclamation of an official designated by the board to act for the  
19 board during such emergencies, declaring the existence of such  
20 emergency and reciting the facts constituting the same, the board, or  
21 official acting for the board, may waive the requirements of this  
22 chapter with reference to any purchase or contract. In addition, these  
23 requirements may be waived for purchases which are clearly and  
24 legitimately limited to a single source of supply and purchases  
25 involving special facilities, services, or market conditions, in which  
26 instances the purchase price may be best established by direct  
27 negotiation.

28 **Sec. 11.** RCW 57.08.170 and 1991 c 82 s 7 are each amended to read  
29 as follows:

30 A water district may adopt a water conservation plan and emergency  
31 water use restrictions. The district may enforce a water conservation  
32 plan and emergency water use restrictions by imposing a fine as  
33 provided by resolution for failure to comply with any such plan or  
34 restrictions. The commissioners may provide by resolution that if a  
35 fine for failure to comply with the water conservation plan or  
36 emergency water use restrictions is delinquent for a specified period  
37 of time, the district shall ~~((certify the delinquency to the treasurer  
38 of the county in which the real property is located and))~~ serve notice

1 of the delinquency on the subscribing water customer who fails to  
2 comply, and the fine is then a separate item for inclusion on the bill  
3 of the party failing to comply with the water conservation plan or  
4 emergency water use restrictions.

5 Water districts shall collect fines under RCW 57.08.080 and  
6 57.08.090.

7 NEW SECTION. Sec. 12. (1) Sections 2 through 4 of this act shall  
8 constitute a new chapter in Title 56 RCW.

9 (2) Sections 7 through 9 of this act shall constitute a new chapter  
10 in Title 57 RCW.

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