
SENATE BILL 6587

State of Washington

56th Legislature

2000 Regular Session

By Senators T. Sheldon, McCaslin, Haugen and Hale

Read first time 01/19/2000. Referred to Committee on State & Local Government.

1 AN ACT Relating to the merger of water-sewer districts into cities;
2 amending RCW 35.13A.070, 36.93.090, and 36.93.105; adding a new chapter
3 to Title 35 RCW; creating a new section; recodifying RCW 35.13A.010,
4 35.13A.070, 35.13A.090, and 35.13A.100; and repealing RCW 35.13A.020,
5 35.13A.030, 35.13A.0301, 35.13A.040, 35.13A.050, 35.13A.060,
6 35.13A.080, and 35.13A.900.

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

8 NEW SECTION. **Sec. 1.** (1) Whenever a district and all of the
9 cities in which any portion of the district's territory is located
10 agree that the district or any portion thereof shall be merged into the
11 city or cities, the district and the city or cities shall enter into an
12 agreement providing for the merger.

13 (2) Unless the agreement provides otherwise, on the effective date
14 of the merger as established in the agreement:

15 (a) All of the funds and other property, real and personal, of the
16 district shall vest in and become the property of the city or cities,
17 in the proportion stated in the agreement, subject to all financial,
18 statutory, or contractual obligations of the district for the security
19 or performance of which the property may have been pledged; and

1 (b) Any outstanding indebtedness of any form, owed by the district,
2 shall remain the obligation of the area of the district. The city or
3 cities shall take all actions necessary to fulfill any obligation
4 assumed by the city or cities, and shall make such levies, assessments,
5 or charges for service upon such area or the users of service in the
6 area as necessary to pay such indebtedness at maturity.

7 (3)(a) Within ten days of the approval of the agreement by the
8 legislative bodies of the district and the city or cities, the
9 legislative bodies shall transmit the agreement to the legislative
10 authority of each county in which the district is located, the
11 department of health, and the department of ecology. Within sixty days
12 of the transmission of the agreement, the legislative authority of each
13 county in which the district is located shall fix a time and place for
14 a hearing on the merger. Notice of the hearing shall be published at
15 least once a week for two consecutive weeks in a newspaper of general
16 circulation in the district. The notice shall state or depict the
17 boundaries of the portion of the district proposed to be merged into
18 the city or cities.

19 (b) The district and the city or cities shall submit information to
20 the county legislative authority establishing that the proposed merger
21 agreement is in the best interests of public health and general
22 welfare, based on factors including but not limited to: (i)
23 Topography, drainage basins, and other engineering or operational
24 concerns; (ii) water rights and supplies; (iii) employee concerns; (iv)
25 compliance with chapter 36.70A RCW; (v) comprehensive plans and county-
26 wide planning policies adopted under chapter 36.70A RCW, and other
27 regional policies; (vi) the likelihood of significant growth in the
28 area and probable need for utility services in the next ten years;
29 (vii) the probable effect of the proposal on cost and adequacy of
30 utility services in the area; (viii) the effect of the proposal on the
31 finances, debt structure, and contractual obligations and rights of all
32 affected governmental units; and (ix) any applicable service agreements
33 or interlocal annexation agreements. Prior to the hearing, the
34 department of health shall review the proposed merger agreement and
35 provide comments to the county legislative authority on the proposed
36 agreement. Prior to the hearing, the department of ecology shall
37 review the proposed merger agreement and provide comments to the county
38 legislative authority on the impact, if any, of the proposed agreement
39 on water rights.

1 (c) Upon conclusion of the hearing, the county legislative
2 authority shall pass an ordinance that either approves or disapproves
3 the proposed merger agreement, or remands the proposed agreement to the
4 district and the city or cities to further address identified issues.
5 If the district is located in more than one county, the legislative
6 authorities of all of the counties in which the district is located
7 must approve the proposed agreement. If a county legislative authority
8 does not pass an ordinance that either approves, disapproves, or
9 remands the proposed agreement within one hundred twenty days of the
10 transmission of the agreement to the county, the county legislative
11 authority shall be deemed to have approved the proposed agreement.

12 (4) If the legislative bodies of the district and the city or a
13 majority of the cities agree, as an alternative to obtaining the
14 approval of the proposed merger agreement by the county legislative
15 authority under subsection (3) of this section, the district and the
16 city or cities shall submit the approval of the proposed agreement to
17 the voters of the district at the next special or general election.
18 Notice of the election shall be given and the election conducted in
19 accordance with general election laws. If at such election the
20 majority of the voters in the district vote in favor of the proposed
21 agreement, the county canvassing board shall so declare and upon the
22 return of the election the proposed agreement shall be approved.

23 NEW SECTION. **Sec. 2.** (1) Whenever a district or a city proposes
24 that all or a portion of the district be merged into the city, and the
25 district and all of the cities in which any portion of the district's
26 territory is located do not agree to the merger or any of the terms or
27 conditions of the merger, the issue of the proposed merger shall be
28 determined by the legislative authority of each county in which any
29 portion of the district is located. The district or any of the cities,
30 or the district and any of the cities, may initiate the county's or
31 counties' consideration of the proposed merger by adopting a resolution
32 or resolutions stating the intent to merge.

33 (2)(a) The district or the city, or the district and the city or
34 cities, shall submit a certified copy of the resolution or resolutions
35 to the legislative authority of each county in which the district is
36 located. Within sixty days of the submission of the resolution, the
37 legislative authority of each county in which the district is located
38 shall fix a time and place for a hearing on the merger. Notice of the

1 hearing shall be published at least once a week for two consecutive
2 weeks in a newspaper of general circulation in the district. The
3 notice shall state or depict the boundaries of the portion of the
4 district proposed to be merged into the city or cities.

5 (b) The district and the city or cities into which the district
6 would merge shall each submit to the county legislative authority, the
7 department of health, and the department of ecology a merger proposal,
8 or a proposal for no merger, together with information addressing
9 whether the proposal is in the best interests of the public health and
10 general welfare, based on factors including but not limited to: (i)
11 Topography, drainage basins, and other engineering or operational
12 concerns; (ii) water rights and supplies; (iii) employee concerns; (iv)
13 compliance with chapter 36.70A RCW; (v) comprehensive plans and county-
14 wide planning policies adopted under chapter 36.70A RCW, and other
15 regional policies; (vi) the likelihood of significant growth in the
16 area and probable need for utility services in the next ten years;
17 (vii) the probable effect of the proposal on cost and adequacy of
18 utility services in the area; (viii) the effect of the proposal on the
19 finances, debt structure, and contractual obligations and rights of all
20 affected governmental units; and (ix) any applicable service agreements
21 or interlocal annexation agreements. The city or cities shall provide
22 proof to the county legislative authority that the city's comprehensive
23 plan provides for the merger of the district, or portion thereof, into
24 the city. Prior to the hearing, the department of health shall review
25 the merger proposals and provide comments to the county legislative
26 authority on the proposals. Prior to the hearing, the department of
27 ecology shall review the merger proposals and provide comments to the
28 county legislative authority on each proposal's impact, if any, on
29 water rights.

30 (c) Upon conclusion of the hearing, the county legislative
31 authority shall pass an ordinance that either approves a merger
32 proposal, approves a merger proposal with modifications, or disapproves
33 all of the merger proposals. The ordinance shall state the effective
34 date of the merger, which shall be no sooner than one hundred twenty
35 days after the effective date of the ordinance. If the county
36 legislative authority determines to approve a merger proposal with
37 modifications, then the legislative authority shall issue a proposed
38 decision, provide the district and the city or cities with no less than
39 thirty days to submit comments on the proposed decision, and, at the

1 request of either the district or a city, reopen the hearing to receive
2 testimony on the proposed decision. If the district is located in more
3 than one county, the legislative authorities of all of the counties in
4 which the district is located must approve a merger proposal in order
5 for the merger to be effective.

6 (3) If the county ordinance approves a merger proposal and unless
7 the county ordinance provides otherwise:

8 (a) On the effective date of the merger, all of the funds and other
9 property, real and personal, of the district shall vest in and become
10 the property of the city or cities, in the proportion stated in the
11 county ordinance, subject to all financial, statutory, or contractual
12 obligations of the district for the security or performance of which
13 the property may have been pledged; and

14 (b) On the effective date of the merger, any outstanding
15 indebtedness of any form, owed by the district, shall remain the
16 obligation of the area of the district. The city or cities shall take
17 all actions necessary to fulfill any obligation assumed by the city or
18 cities, and shall make such levies, assessments, or charges for service
19 upon such area or the users therein as necessary to pay such
20 indebtedness at maturity.

21 NEW SECTION. **Sec. 3.** The ordinance of the county legislative
22 authority under section 1(3) of this act or section 2(2) of this act
23 shall not take effect for thirty days from the date of final passage,
24 during which time the ordinance shall be subject to referendum by the
25 registered voters of the district. The number of registered voters
26 necessary to sign any referendum petition under this section shall be
27 ten percent of the total number of registered voters within the
28 district on the date of the last general election within the district.
29 The power of referendum shall be exercised in the manner set forth in
30 RCW 35.17.240 and 35.17.250.

31 **Sec. 4.** RCW 35.13A.070 and 1997 c 426 s 2 are each amended to read
32 as follows:

33 Notwithstanding any provision of this chapter to the contrary, one
34 or more cities and one or more districts may, through their
35 legislative authorities, authorize a contract with respect to the
36 rights, powers, duties, and obligation of such cities, or districts
37 with regard to the use and ownership of property, the providing of

1 services, the maintenance and operation of facilities, allocation of
2 cost, financing and construction of new facilities, application and use
3 of assets, disposition of liabilities and debts, the performance of
4 contractual obligations, and any other matters arising out of the
5 inclusion, in whole or in part, of the district or districts within any
6 city or cities(~~(, or the assumption by the city of jurisdiction of a~~
7 ~~district under RCW 35.13A.110)~~). The contract may provide for the
8 furnishing of services by any party thereto and the use of city or
9 district facilities or real estate for such purpose, and may also
10 provide for the time during which such district or districts may
11 continue to exercise any rights, privileges, powers, and functions
12 provided by law for such district or districts as if the district or
13 districts or portions thereof were not included within a city (~~(or were~~
14 ~~not subject to an assumption of jurisdiction under RCW 35.13A.110)~~),
15 including but not by way of limitation, the right to promulgate rules
16 and regulations, to levy and collect special assessments, rates,
17 charges, service charges, and connection fees, to adopt and carry out
18 the provisions of a comprehensive plan, and amendments thereto, for a
19 system of improvements, and to issue general obligation bonds or
20 revenue bonds in the manner provided by law. The contract may provide
21 for the transfer to a city of district facilities, property, rights,
22 and powers (~~(as provided in RCW 35.13A.030, 35.13A.050, and 35.13A.110,~~
23 ~~whether or not sixty percent or any of the area or assessed valuation~~
24 ~~of real estate lying within the district or districts is included~~
25 ~~within such city)~~). The contract may provide that any party thereto
26 may authorize, issue, and sell revenue bonds to provide funds for new
27 water or sewer improvements or to refund any water revenue, sewer
28 revenue, or combined water and sewer revenue bonds outstanding of any
29 city, or district which is a party to such contract if such refunding
30 is deemed necessary, providing such refunding will not increase
31 interest costs. The contract may provide that any party thereto may
32 authorize and issue, in the manner provided by law, general obligation
33 or revenue bonds of like amounts, terms, conditions, and covenants as
34 the outstanding bonds of any other party to the contract, and such new
35 bonds may be substituted or exchanged for such outstanding bonds.
36 However, no such exchange or substitution shall be effected in such a
37 manner as to impair the obligation or security of any such outstanding
38 bonds.

1 **Sec. 5.** RCW 36.93.090 and 1996 c 230 s 1608 are each amended to
2 read as follows:

3 Whenever any of the following described actions are proposed in a
4 county in which a board has been established, the initiators of the
5 action shall file within one hundred eighty days a notice of intention
6 with the board: PROVIDED, That when the initiator is the legislative
7 body of a governmental unit, the notice of intention may be filed
8 immediately following the body's first acceptance or approval of the
9 action. The board may review any such proposed actions pertaining to:

10 (1) The: (a) Creation, incorporation, or change in the boundary,
11 other than a consolidation, of any city, town, or special purpose
12 district; (b) consolidation of special purpose districts, but not
13 including consolidation of cities and towns; or (c) dissolution or
14 disincorporation of any city, town, or special purpose district, except
15 that a board may not review the dissolution or disincorporation of a
16 special purpose district which was dissolved or disincorporated
17 pursuant to the provisions of chapter 36.96 RCW: PROVIDED, That the
18 change in the boundary of a city or town arising from the annexation of
19 contiguous city or town owned property held for a public purpose shall
20 be exempted from the requirements of this section; or

21 (2) The assumption by any city or town of all or part of the
22 assets, facilities, or indebtedness of a special purpose district which
23 lies partially within such city or town, other than the merger of all
24 or any portion of a water-sewer district into a city or town under this
25 act; or

26 (3) The establishment of or change in the boundaries of a mutual
27 water and sewer system or separate sewer system by a water-sewer
28 district pursuant to RCW 57.08.065 (~~or chapter 57.40 RCW~~); or

29 (4) The extension of permanent water or sewer service outside of
30 its existing service area by a city, town, or special purpose district.
31 The service area of a city, town, or special purpose district shall
32 include all of the area within its corporate boundaries plus, (a) for
33 extensions of water service, the area outside of the corporate
34 boundaries which it is designated to serve pursuant to a coordinated
35 water system plan approved in accordance with RCW 70.116.050; and (b)
36 for extensions of sewer service, the area outside of the corporate
37 boundaries which it is designated to serve pursuant to a comprehensive
38 sewerage plan approved in accordance with chapter 36.94 RCW and RCW
39 90.48.110.

1 **Sec. 6.** RCW 36.93.105 and 1999 c 153 s 46 are each amended to read
2 as follows:

3 The following actions shall not be subject to potential review by
4 a boundary review board:

5 (1) Annexations of territory to a water-sewer district pursuant to
6 RCW 36.94.410 through 36.94.440;

7 (2) Merger of a water-sewer district, or any portion of a water-
8 sewer district, into a city or town under this act;

9 (3) Revisions of city or town boundaries pursuant to RCW 35.21.790
10 or 35A.21.210;

11 (~~(3)~~) (4) Adjustments to city or town boundaries pursuant to RCW
12 35.13.340; and

13 (~~(4)~~) (5) Adjustments to city and town boundaries pursuant to RCW
14 35.13.300 through 35.13.330.

15 NEW SECTION. **Sec. 7.** Sections 1 through 3 of this act constitute
16 a new chapter in Title 35 RCW.

17 NEW SECTION. **Sec. 8.** RCW 35.13A.010, 35.13A.070, 35.13A.090, and
18 35.13A.100 are each recodified as sections in the new chapter created
19 in section 7 of this act.

20 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
21 repealed:

22 (1) RCW 35.13A.020 (Assumption authorized--Disposition of
23 properties and rights--Outstanding indebtedness--Management and
24 control) and 1999 c 153 s 28, 1998 c 326 s 2, & 1971 ex.s. c 95 s 2;

25 (2) RCW 35.13A.030 (Assumption of control if sixty percent or more
26 of area or valuation within city) and 1999 c 153 s 29 & 1971 ex.s. c 95
27 s 3;

28 (3) RCW 35.13A.0301 (Assumption of water-sewer district before July
29 1, 1999--Limitations) and 1998 c 326 s 3;

30 (4) RCW 35.13A.040 (Assumption of control if less than sixty
31 percent of area or valuation within city) and 1999 c 153 s 30 & 1971
32 ex.s. c 95 s 4;

33 (5) RCW 35.13A.050 (Territory containing facilities within or
34 without city--Duties of city or district--Rates and charges--Assumption
35 of responsibility--Outstanding indebtedness--Properties and rights) and
36 1971 ex.s. c 95 s 5;

1 (6) RCW 35.13A.060 (District in more than one city--Assumption of
2 responsibilities--Duties of cities) and 1999 c 153 s 31 & 1971 ex.s. c
3 95 s 6;

4 (7) RCW 35.13A.080 (Dissolution of water district or sewer
5 district) and 1997 c 426 s 3 & 1971 ex.s. c 95 s 8; and

6 (8) RCW 35.13A.900 (Severability--1971 ex.s. c 95) and 1971 ex.s.
7 c 95 s 12.

8 NEW SECTION. **Sec. 10.** Any contract between a district and a city
9 that relates to the assumption of all or any portion of a district by
10 a city or cities, and that exists on the effective date of this
11 section, shall remain in full force and effect notwithstanding the
12 repeal or amendment of any of the sections in chapter 35.13A RCW by
13 this act.

14 NEW SECTION. **Sec. 11.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

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