

SSB 6208 - H AMD 1213

By Representative Upthegrove

ADOPTED 03/10/2004

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 57.08.005 and 2003 c 394 s 5 are each amended to read  
4 as follows:

5 A district shall have the following powers:

6 (1) To acquire by purchase or condemnation, or both, all lands,  
7 property and property rights, and all water and water rights, both  
8 within and without the district, necessary for its purposes. The right  
9 of eminent domain shall be exercised in the same manner and by the same  
10 procedure as provided for cities and towns, insofar as consistent with  
11 this title, except that all assessment or reassessment rolls to be  
12 prepared and filed by eminent domain commissioners or commissioners  
13 appointed by the court shall be prepared and filed by the district, and  
14 the duties devolving upon the city treasurer are imposed upon the  
15 county treasurer;

16 (2) To lease real or personal property necessary for its purposes  
17 for a term of years for which that leased property may reasonably be  
18 needed;

19 (3) To construct, condemn and purchase, add to, maintain, and  
20 supply waterworks to furnish the district and inhabitants thereof and  
21 any other persons, both within and without the district, with an ample  
22 supply of water for all uses and purposes public and private with full  
23 authority to regulate and control the use, content, distribution, and  
24 price thereof in such a manner as is not in conflict with general law  
25 and may construct, acquire, or own buildings and other necessary  
26 district facilities. Where a customer connected to the district's  
27 system uses the water on an intermittent or transient basis, a district  
28 may charge for providing water service to such a customer, regardless  
29 of the amount of water, if any, used by the customer. District  
30 waterworks may include facilities which result in combined water supply

1 and electric generation, if the electricity generated thereby is a  
2 byproduct of the water supply system. That electricity may be used by  
3 the district or sold to any entity authorized by law to use or  
4 distribute electricity. Electricity is deemed a byproduct when the  
5 electrical generation is subordinate to the primary purpose of water  
6 supply. For such purposes, a district may take, condemn and purchase,  
7 acquire, and retain water from any public or navigable lake, river or  
8 watercourse, or any underflowing water, and by means of aqueducts or  
9 pipeline conduct the same throughout the district and any city or town  
10 therein and carry it along and upon public highways, roads, and  
11 streets, within and without such district. For the purpose of  
12 constructing or laying aqueducts or pipelines, dams, or waterworks or  
13 other necessary structures in storing and retaining water or for any  
14 other lawful purpose such district may occupy the beds and shores up to  
15 the high water mark of any such lake, river, or other watercourse, and  
16 may acquire by purchase or condemnation such property or property  
17 rights or privileges as may be necessary to protect its water supply  
18 from pollution. For the purposes of waterworks which include  
19 facilities for the generation of electricity as a byproduct, nothing in  
20 this section may be construed to authorize a district to condemn  
21 electric generating, transmission, or distribution rights or facilities  
22 of entities authorized by law to distribute electricity, or to acquire  
23 such rights or facilities without the consent of the owner;

24 (4) To purchase and take water from any municipal corporation,  
25 private person, or entity. A district contiguous to Canada may  
26 contract with a Canadian corporation for the purchase of water and for  
27 the construction, purchase, maintenance, and supply of waterworks to  
28 furnish the district and inhabitants thereof and residents of Canada  
29 with an ample supply of water under the terms approved by the board of  
30 commissioners;

31 (5) To construct, condemn and purchase, add to, maintain, and  
32 operate systems of sewers for the purpose of furnishing the district,  
33 the inhabitants thereof, and persons outside the district with an  
34 adequate system of sewers for all uses and purposes, public and  
35 private, including but not limited to on-site sewage disposal  
36 facilities, approved septic tanks or approved septic tank systems, on-  
37 site sanitary sewerage systems, inspection services and maintenance

1 services for private and public on-site systems, point and nonpoint  
2 water pollution monitoring programs that are directly related to the  
3 sewerage facilities and programs operated by a district, other  
4 facilities, programs, and systems for the collection, interception,  
5 treatment, and disposal of wastewater, and for the control of pollution  
6 from wastewater with full authority to regulate the use and operation  
7 thereof and the service rates to be charged. Under this chapter, after  
8 July 1, 1998, any requirements for pumping the septic tank of an on-  
9 site sewage system should be based, among other things, on actual  
10 measurement of accumulation of sludge and scum by a trained inspector,  
11 trained owner's agent, or trained owner. Training must occur in a  
12 program approved by the state board of health or by a local health  
13 officer. Sewage facilities may include facilities which result in  
14 combined sewage disposal or treatment and electric generation, except  
15 that the electricity generated thereby is a byproduct of the system of  
16 sewers. Such electricity may be used by the district or sold to any  
17 entity authorized by law to distribute electricity. Electricity is  
18 deemed a byproduct when the electrical generation is subordinate to the  
19 primary purpose of sewage disposal or treatment. For such purposes a  
20 district may conduct sewage throughout the district and throughout  
21 other political subdivisions within the district, and construct and lay  
22 sewer pipe along and upon public highways, roads, and streets, within  
23 and without the district, and condemn and purchase or acquire land and  
24 rights of way necessary for such sewer pipe. A district may erect  
25 sewage treatment plants within or without the district, and may  
26 acquire, by purchase or condemnation, properties or privileges  
27 necessary to be had to protect any lakes, rivers, or watercourses and  
28 also other areas of land from pollution from its sewers or its sewage  
29 treatment plant. For the purposes of sewage facilities which include  
30 facilities that result in combined sewage disposal or treatment and  
31 electric generation where the electric generation is a byproduct,  
32 nothing in this section may be construed to authorize a district to  
33 condemn electric generating, transmission, or distribution rights or  
34 facilities of entities authorized by law to distribute electricity, or  
35 to acquire such rights or facilities without the consent of the owners;  
36 (6)(a) To construct, condemn and purchase, add to, maintain, and  
37 operate systems of drainage for the benefit and use of the district,

1 the inhabitants thereof, and persons outside the district with an  
2 adequate system of drainage, including but not limited to facilities  
3 and systems for the collection, interception, treatment, and disposal  
4 of storm or surface waters, and for the protection, preservation, and  
5 rehabilitation of surface and underground waters, and drainage  
6 facilities for public highways, streets, and roads, with full authority  
7 to regulate the use and operation thereof and, except as provided in  
8 (b) of this subsection, the service rates to be charged.

9 (b) The rate a district may charge under this section for storm or  
10 surface water sewer systems or the portion of the rate allocable to the  
11 storm or surface water sewer system of combined sanitary sewage and  
12 storm or surface water sewer systems shall be reduced by a minimum of  
13 ten percent for any new or remodeled commercial building that utilizes  
14 a permissive rainwater harvesting system. Rainwater harvesting systems  
15 shall be properly sized to utilize the available roof surface of the  
16 building. The jurisdiction shall consider rate reductions in excess of  
17 ten percent dependent upon the amount of rainwater harvested.

18 (c) Drainage facilities may include natural systems. Drainage  
19 facilities may include facilities which result in combined drainage  
20 facilities and electric generation, except that the electricity  
21 generated thereby is a byproduct of the drainage system. Such  
22 electricity may be used by the district or sold to any entity  
23 authorized by law to distribute electricity. Electricity is deemed a  
24 byproduct when the electrical generation is subordinate to the primary  
25 purpose of drainage collection, disposal, and treatment. For such  
26 purposes, a district may conduct storm or surface water throughout the  
27 district and throughout other political subdivisions within the  
28 district, construct and lay drainage pipe and culverts along and upon  
29 public highways, roads, and streets, within and without the district,  
30 and condemn and purchase or acquire land and rights of way necessary  
31 for such drainage systems. A district may provide or erect facilities  
32 and improvements for the treatment and disposal of storm or surface  
33 water within or without the district, and may acquire, by purchase or  
34 condemnation, properties or privileges necessary to be had to protect  
35 any lakes, rivers, or watercourses and also other areas of land from  
36 pollution from storm or surface waters. For the purposes of drainage  
37 facilities which include facilities that also generate electricity as

1 a byproduct, nothing in this section may be construed to authorize a  
2 district to condemn electric generating, transmission, or distribution  
3 rights or facilities of entities authorized by law to distribute  
4 electricity, or to acquire such rights or facilities without the  
5 consent of the owners;

6 (7) To construct, condemn, acquire, and own buildings and other  
7 necessary district facilities;

8 (8) To compel all property owners within the district located  
9 within an area served by the district's system of sewers to connect  
10 their private drain and sewer systems with the district's system under  
11 such penalty as the commissioners shall prescribe by resolution. The  
12 district may for such purpose enter upon private property and connect  
13 the private drains or sewers with the district system and the cost  
14 thereof shall be charged against the property owner and shall be a lien  
15 upon property served;

16 (9) Where a district contains within its borders, abuts, or is  
17 located adjacent to any lake, stream, ground water as defined by RCW  
18 90.44.035, or other waterway within the state of Washington, to provide  
19 for the reduction, minimization, or elimination of pollutants from  
20 those waters in accordance with the district's comprehensive plan, and  
21 to issue general obligation bonds, revenue bonds, local improvement  
22 district bonds, or utility local improvement bonds for the purpose of  
23 paying all or any part of the cost of reducing, minimizing, or  
24 eliminating the pollutants from these waters;

25 (10) Subject to subsection (6) of this section, to fix rates and  
26 charges for water, sewer, and drain service supplied and to charge  
27 property owners seeking to connect to the district's systems, as a  
28 condition to granting the right to so connect, in addition to the cost  
29 of the connection, such reasonable connection charge as the board of  
30 commissioners shall determine to be proper in order that those property  
31 owners shall bear their equitable share of the cost of the system. For  
32 the purposes of calculating a connection charge, the board of  
33 commissioners shall determine the pro rata share of the cost of  
34 existing facilities and facilities planned for construction within the  
35 next ten years and contained in an adopted comprehensive plan and other  
36 costs borne by the district which are directly attributable to the  
37 improvements required by property owners seeking to connect to the

1 system. The cost of existing facilities shall not include those  
2 portions of the system which have been donated or which have been paid  
3 for by grants. The connection charge may include interest charges  
4 applied from the date of construction of the system until the  
5 connection, or for a period not to exceed ten years, whichever is  
6 shorter, at a rate commensurate with the rate of interest applicable to  
7 the district at the time of construction or major rehabilitation of the  
8 system, or at the time of installation of the lines to which the  
9 property owner is seeking to connect. In lieu of requiring the  
10 installation of permanent local facilities not planned for construction  
11 by the district, a district may permit connection to the water and/or  
12 sewer systems through temporary facilities installed at the property  
13 owner's expense, provided the property owner pays a connection charge  
14 consistent with the provisions of this chapter and agrees, in the  
15 future, to connect to permanent facilities when they are installed; or  
16 a district may permit connection to the water and/or sewer systems  
17 through temporary facilities and collect from property owners so  
18 connecting a proportionate share of the estimated cost of future local  
19 facilities needed to serve the property, as determined by the district.  
20 The amount collected, including interest at a rate commensurate with  
21 the rate of interest applicable to the district at the time of  
22 construction of the temporary facilities, shall be held for  
23 contribution to the construction of the permanent local facilities by  
24 other developers or the district. The amount collected shall be deemed  
25 full satisfaction of the proportionate share of the actual cost of  
26 construction of the permanent local facilities. If the permanent local  
27 facilities are not constructed within fifteen years of the date of  
28 payment, the amount collected, including any accrued interest, shall be  
29 returned to the property owner, according to the records of the county  
30 auditor on the date of return. If the amount collected is returned to  
31 the property owner, and permanent local facilities capable of serving  
32 the property are constructed thereafter, the property owner at the time  
33 of construction of such permanent local facilities shall pay a  
34 proportionate share of the cost of such permanent local facilities, in  
35 addition to reasonable connection charges and other charges authorized  
36 by this section. A district may permit payment of the cost of  
37 connection and the reasonable connection charge to be paid with

1 interest in installments over a period not exceeding fifteen years.  
2 The county treasurer may charge and collect a fee of three dollars for  
3 each year for the treasurer's services. Those fees shall be a charge  
4 to be included as part of each annual installment, and shall be  
5 credited to the county current expense fund by the county treasurer.  
6 Revenues from connection charges excluding permit fees are to be  
7 considered payments in aid of construction as defined by department of  
8 revenue rule. Rates or charges for on-site inspection and maintenance  
9 services may not be imposed under this chapter on the development,  
10 construction, or reconstruction of property.

11 Before adopting on-site inspection and maintenance utility  
12 services, or incorporating residences into an on-site inspection and  
13 maintenance or sewer utility under this chapter, notification must be  
14 provided, prior to the applicable public hearing, to all residences  
15 within the proposed service area that have on-site systems permitted by  
16 the local health officer. The notice must clearly state that the  
17 residence is within the proposed service area and must provide  
18 information on estimated rates or charges that may be imposed for the  
19 service.

20 A water-sewer district shall not provide on-site sewage system  
21 inspection, pumping services, or other maintenance or repair services  
22 under this section using water-sewer district employees unless the on-  
23 site system is connected by a publicly owned collection system to the  
24 water-sewer district's sewerage system, and the on-site system  
25 represents the first step in the sewage disposal process.

26 Except as otherwise provided in RCW 90.03.525, any public entity  
27 and public property, including the state of Washington and state  
28 property, shall be subject to rates and charges for sewer, water, storm  
29 water control, drainage, and street lighting facilities to the same  
30 extent private persons and private property are subject to those rates  
31 and charges that are imposed by districts. In setting those rates and  
32 charges, consideration may be made of in-kind services, such as stream  
33 improvements or donation of property;

34 (11) To contract with individuals, associations and corporations,  
35 the state of Washington, and the United States;

36 (12) To employ such persons as are needed to carry out the

1 district's purposes and fix salaries and any bond requirements for  
2 those employees;

3 (13) To contract for the provision of engineering, legal, and other  
4 professional services as in the board of commissioner's discretion is  
5 necessary in carrying out their duties;

6 (14) To sue and be sued;

7 (15) To loan and borrow funds and to issue bonds and instruments  
8 evidencing indebtedness under chapter 57.20 RCW and other applicable  
9 laws;

10 (16) To transfer funds, real or personal property, property  
11 interests, or services subject to RCW 57.08.015;

12 (17) To levy taxes in accordance with this chapter and chapters  
13 57.04 and 57.20 RCW;

14 (18) To provide for making local improvements and to levy and  
15 collect special assessments on property benefitted thereby, and for  
16 paying for the same or any portion thereof in accordance with chapter  
17 57.16 RCW;

18 (19) To establish street lighting systems under RCW 57.08.060;

19 (20) To exercise such other powers as are granted to water-sewer  
20 districts by this title or other applicable laws; and

21 (21) To exercise any of the powers granted to cities and counties  
22 with respect to the acquisition, construction, maintenance, operation  
23 of, and fixing rates and charges for waterworks and systems of sewerage  
24 and drainage."

**SSB 6208 - H AMD 1213**  
By Representative Upthegrove

**ADOPTED 03/10/2004**

25 On page 1, line 1 of the title, after "connections;" strike the  
26 remainder of the title and insert "and amending RCW 57.08.005."

EFFECT: (1) Creates an additional option in which a water-sewer



district may make connection to a property through temporary facilities installed at the property owner's expense, provided the property owner pays the requisite connection charge and agrees to connect to permanent facilities when they are installed;

(2) In the event permanent local facilities are constructed after the connection fees have been refunded to the property owner in accordance with the provisions of the bill, the property owner at the time of construction of such permanent facilities shall pay a proportionate share of the cost of such permanent local facilities, in addition to reasonable connection charges and other charges authorized by statute;

(3) Creates a reference point for the determination of the rate of interest that shall apply to connection fees collected from a property owner.

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