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HOUSE BILL 1238

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Takko, Curtis, Simpson and Moeller

Read first time 01/15/2007. Referred to Committee on Local Government.

1            AN ACT Relating to water-sewer districts; amending RCW 36.55.060,  
2 44.04.170, 57.08.005, and 57.08.120; adding new sections to chapter  
3 57.24 RCW; and adding a new section to chapter 35.21 RCW.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 57.24 RCW  
6 to read as follows:

7            (1) If a district acquires either water facilities or sewer  
8 facilities, or both from a city, and the district and the city within  
9 which the facilities are located enter into an agreement stating that  
10 the district will seek annexation of territory within that city, the  
11 district commissioners may initiate a process for the annexation of  
12 such territory.

13            (2) The annexation process shall commence upon the adoption of a  
14 resolution by the commissioners calling for the question of annexation  
15 to be submitted to the voters of the territory proposed for annexation  
16 and setting forth the boundaries thereof. The resolution must be filed  
17 with the county legislative authority of each county in which the  
18 territory proposed for annexation is located.

1 (3) Upon receipt of the resolution, the county legislative  
2 authority shall cause a hearing to be held as provided in section 2 of  
3 this act.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 57.24 RCW  
5 to read as follows:

6 (1) If a resolution calling for an annexation election as provided  
7 in section 1 of this act is presented for hearing, the legislative  
8 authority of each county in which the territory proposed for annexation  
9 is located shall hear the resolution or may adjourn and reconvene the  
10 hearing as deemed necessary for its purposes. The hearing, however,  
11 may not exceed four weeks in duration. Any person, firm, or  
12 corporation may appear before the legislative authority or authorities  
13 and make objections to the proposed boundary lines or to annexation of  
14 the territory described in the resolution.

15 (2) Upon a final hearing, each county legislative authority may  
16 make changes to the proposed boundary lines within the county as it  
17 deems proper and shall formally establish and define the boundaries.  
18 Each legislative authority also shall find whether the proposed  
19 annexation will be conducive to the public health, welfare, and  
20 convenience and whether it will be of special benefit to the land  
21 included within the boundaries of the proposed annexation. No lands  
22 that will not, in the judgment of the legislative authority, benefit by  
23 inclusion therein, may be included within the boundaries of the  
24 territory as established and defined. The legislative authority may  
25 not include within the territory proposed for annexation any territory  
26 outside of the boundary lines described in the resolution adopted by  
27 the district under section 1(2) of this act.

28 (3) Upon the entry of the findings of the final hearing, each  
29 county legislative authority, if it finds the proposed annexation  
30 satisfies the requirements of subsection (2) of this section, shall  
31 give notice of a special election to be held within the boundaries of  
32 the territory proposed for annexation for the purpose of determining  
33 whether the same shall be annexed to the district. The notice shall:

34 (a) Describe the boundaries established by the legislative  
35 authority;

36 (b) State the name of the district to which the territory is  
37 proposed to be annexed;

1 (c) Be published in a newspaper of general circulation in the  
2 territory proposed for annexation at least once a week for a minimum of  
3 two successive weeks prior to the election;

4 (d) Be posted for the same period in at least four public places  
5 within the boundaries of the territory proposed for annexation; and

6 (e) Designate the places within the territory proposed for  
7 annexation where the election shall be held.

8 (4) The proposition to the voters shall be expressed on ballots  
9 containing the words:

10 For Annexation to District

11 or

12 Against Annexation to District

13 The county legislative authority shall name the persons to act as  
14 judges at that election.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 57.24 RCW  
16 to read as follows:

17 (1) The annexation election shall be held on the date designated in  
18 the notice and shall be conducted in accordance with the general  
19 election laws of the state. Qualified voters residing within the  
20 territory proposed for annexation shall be permitted to vote at the  
21 election.

22 (2) If the majority of the votes cast upon the question of such  
23 election are for annexation, the territory concerned shall immediately  
24 be deemed annexed to the district and the same shall then forthwith be  
25 a part of the district, the same as though originally included in that  
26 district.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 57.24 RCW  
28 to read as follows:

29 The method of annexation provided for in sections 1 through 3 of  
30 this act is an alternative method and is additional to other methods  
31 provided for in this chapter.

32 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.21 RCW  
33 to read as follows:

34 Cities shall, in the predesign phase of construction projects

1 involving relocation of sewer and/or water facilities, consult with  
2 public utilities operating water/sewer systems in order to coordinate  
3 design.

4 **Sec. 6.** RCW 36.55.060 and 1963 c 4 s 36.55.060 are each amended to  
5 read as follows:

6 (1) Any person constructing or operating any utility on or along a  
7 county road shall be liable to the county for all necessary expense  
8 incurred in restoring the county road to a suitable condition for  
9 travel.

10 (2) No franchise shall be granted for a period of longer than fifty  
11 years.

12 (3) No exclusive franchise or privilege shall be granted.

13 (4) The facilities of the holder of any such franchise shall be  
14 removed at the expense of the holder thereof, to some other location on  
15 such county road in the event it is to be constructed, altered, or  
16 improved or becomes a primary state highway and such removal is  
17 reasonably necessary for the construction, alteration, or improvement  
18 thereof.

19 (5) Counties shall, in the predesign phase of construction projects  
20 involving relocation of sewer and/or water facilities, consult with  
21 public utilities operating water/sewer systems in order to coordinate  
22 design.

23 **Sec. 7.** RCW 44.04.170 and 1999 c 153 s 59 are each amended to read  
24 as follows:

25 It shall be the duty of each association of municipal corporations  
26 or municipal officers, which is recognized by law and utilized as an  
27 official agency for the coordination of the policies and/or  
28 administrative programs of municipal corporations, to submit  
29 biennially, or oftener as necessary, to the governor and to the  
30 legislature the joint recommendations of such participating  
31 municipalities regarding changes which would affect the efficiency of  
32 such municipal corporations. Such associations shall include but shall  
33 not be limited to the Washington state association of fire  
34 commissioners(~~(, a state association of water/wastewater districts,)~~)  
35 and the Washington state school directors' association.

1       **Sec. 8.** RCW 57.08.005 and 2004 c 202 s 1 are each amended to read  
2 as follows:

3       A district shall have the following powers:

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

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

17       (3) To construct, condemn and purchase, add to, maintain, and  
18 supply waterworks to furnish the district and inhabitants thereof and  
19 any other persons, both within and without the district, with an ample  
20 supply of water for all uses and purposes public and private with full  
21 authority to regulate and control the use, content, distribution, and  
22 price thereof in such a manner as is not in conflict with general law  
23 and may construct, acquire, or own buildings and other necessary  
24 district facilities. Where a customer connected to the district's  
25 system uses the water on an intermittent or transient basis, a district  
26 may charge for providing water service to such a customer, regardless  
27 of the amount of water, if any, used by the customer. District  
28 waterworks may include facilities which result in combined water supply  
29 and electric generation, if the electricity generated thereby is a  
30 byproduct of the water supply system. That electricity may be used by  
31 the district or sold to any entity authorized by law to use or  
32 distribute electricity. Electricity is deemed a byproduct when the  
33 electrical generation is subordinate to the primary purpose of water  
34 supply. For such purposes, a district may take, condemn and purchase,  
35 acquire, and retain water from any public or navigable lake, river or  
36 watercourse, or any underflowing water, and by means of aqueducts or  
37 pipeline conduct the same throughout the district and any city or town  
38 therein and carry it along and upon public highways, roads, and

1 streets, within and without such district. For the purpose of  
2 constructing or laying aqueducts or pipelines, dams, or waterworks or  
3 other necessary structures in storing and retaining water or for any  
4 other lawful purpose such district may occupy the beds and shores up to  
5 the high water mark of any such lake, river, or other watercourse, and  
6 may acquire by purchase or condemnation such property or property  
7 rights or privileges as may be necessary to protect its water supply  
8 from pollution. For the purposes of waterworks which include  
9 facilities for the generation of electricity as a byproduct, nothing in  
10 this section may be construed to authorize a district to condemn  
11 electric generating, transmission, or distribution rights or facilities  
12 of entities authorized by law to distribute electricity, or to acquire  
13 such rights or facilities without the consent of the owner;

14 (4) To purchase and take water from any municipal corporation,  
15 private person, or entity. A district contiguous to Canada may  
16 contract with a Canadian corporation for the purchase of water and for  
17 the construction, purchase, maintenance, and supply of waterworks to  
18 furnish the district and inhabitants thereof and residents of Canada  
19 with an ample supply of water under the terms approved by the board of  
20 commissioners;

21 (5) To construct, condemn and purchase, add to, maintain, and  
22 operate systems of sewers for the purpose of furnishing the district,  
23 the inhabitants thereof, and persons outside the district with an  
24 adequate system of sewers for all uses and purposes, public and  
25 private, including but not limited to on-site sewage disposal  
26 facilities, approved septic tanks or approved septic tank systems, on-  
27 site sanitary sewerage systems, inspection services and maintenance  
28 services for private and public on-site systems, point and nonpoint  
29 water pollution monitoring programs that are directly related to the  
30 sewerage facilities and programs operated by a district, other  
31 facilities, programs, and systems for the collection, interception,  
32 treatment, and disposal of wastewater, and for the control of pollution  
33 from wastewater with full authority to regulate the use and operation  
34 thereof and the service rates to be charged. Under this chapter, after  
35 July 1, 1998, any requirements for pumping the septic tank of an on-  
36 site sewage system should be based, among other things, on actual  
37 measurement of accumulation of sludge and scum by a trained inspector,  
38 trained owner's agent, or trained owner. Training must occur in a

1 program approved by the state board of health or by a local health  
2 officer. Sewage facilities may include facilities which result in  
3 combined sewage disposal or treatment and electric or natural gas  
4 generation, except that the electricity or natural gas generated  
5 thereby is a byproduct of the system of sewers. Such electricity or  
6 natural gas may be used by the district or sold to any entity  
7 authorized by law to distribute electricity or natural gas.  
8 Electricity ~~((is))~~ and natural gas are deemed ~~((a))~~ byproducts when the  
9 electrical or natural gas generation is subordinate to the primary  
10 purpose of sewage disposal or treatment. The district may also sell  
11 surplus natural gas, which may be produced as a byproduct. For such  
12 purposes a district may conduct sewage throughout the district and  
13 throughout other political subdivisions within the district, and  
14 construct and lay sewer pipe along and upon public highways, roads, and  
15 streets, within and without the district, and condemn and purchase or  
16 acquire land and rights of way necessary for such sewer pipe. A  
17 district may erect sewage treatment plants within or without the  
18 district, and may acquire, by purchase or condemnation, properties or  
19 privileges necessary to be had to protect any lakes, rivers, or  
20 watercourses and also other areas of land from pollution from its  
21 sewers or its sewage treatment plant. For the purposes of sewage  
22 facilities which include facilities that result in combined sewage  
23 disposal or treatment and electric generation where the electric  
24 generation is a byproduct, nothing in this section may be construed to  
25 authorize a district to condemn electric generating, transmission, or  
26 distribution rights or facilities of entities authorized by law to  
27 distribute electricity, or to acquire such rights or facilities without  
28 the consent of the owners;

29 (6)(a) To construct, condemn and purchase, add to, maintain, and  
30 operate systems of drainage for the benefit and use of the district,  
31 the inhabitants thereof, and persons outside the district with an  
32 adequate system of drainage, including but not limited to facilities  
33 and systems for the collection, interception, treatment, and disposal  
34 of storm or surface waters, and for the protection, preservation, and  
35 rehabilitation of surface and underground waters, and drainage  
36 facilities for public highways, streets, and roads, with full authority  
37 to regulate the use and operation thereof and, except as provided in  
38 (b) of this subsection, the service rates to be charged.

1 (b) The rate a district may charge under this section for storm or  
2 surface water sewer systems or the portion of the rate allocable to the  
3 storm or surface water sewer system of combined sanitary sewage and  
4 storm or surface water sewer systems shall be reduced by a minimum of  
5 ten percent for any new or remodeled commercial building that utilizes  
6 a permissive rainwater harvesting system. Rainwater harvesting systems  
7 shall be properly sized to utilize the available roof surface of the  
8 building. The jurisdiction shall consider rate reductions in excess of  
9 ten percent dependent upon the amount of rainwater harvested.

10 (c) Drainage facilities may include natural systems. Drainage  
11 facilities may include facilities which result in combined drainage  
12 facilities and electric generation, except that the electricity  
13 generated thereby is a byproduct of the drainage system. Such  
14 electricity may be used by the district or sold to any entity  
15 authorized by law to distribute electricity. Electricity is deemed a  
16 byproduct when the electrical generation is subordinate to the primary  
17 purpose of drainage collection, disposal, and treatment. For such  
18 purposes, a district may conduct storm or surface water throughout the  
19 district and throughout other political subdivisions within the  
20 district, construct and lay drainage pipe and culverts along and upon  
21 public highways, roads, and streets, within and without the district,  
22 and condemn and purchase or acquire land and rights of way necessary  
23 for such drainage systems. A district may provide or erect facilities  
24 and improvements for the treatment and disposal of storm or surface  
25 water within or without the district, and may acquire, by purchase or  
26 condemnation, properties or privileges necessary to be had to protect  
27 any lakes, rivers, or watercourses and also other areas of land from  
28 pollution from storm or surface waters. For the purposes of drainage  
29 facilities which include facilities that also generate electricity as  
30 a byproduct, nothing in this section may be construed to authorize a  
31 district to condemn electric generating, transmission, or distribution  
32 rights or facilities of entities authorized by law to distribute  
33 electricity, or to acquire such rights or facilities without the  
34 consent of the owners;

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

37 (8) To compel all property owners within the district located  
38 within an area served by the district's system of sewers to connect



1 their private drain and sewer systems with the district's system under  
2 such penalty as the commissioners shall prescribe by resolution. The  
3 district may for such purpose enter upon private property and connect  
4 the private drains or sewers with the district system and the cost  
5 thereof shall be charged against the property owner and shall be a lien  
6 upon property served;

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

16 (10) Subject to subsection (6) of this section, to fix rates and  
17 charges for water, sewer, and drain service supplied and to charge  
18 property owners seeking to connect to the district's systems, as a  
19 condition to granting the right to so connect, in addition to the cost  
20 of the connection, such reasonable connection charge as the board of  
21 commissioners shall determine to be proper in order that those property  
22 owners shall bear their equitable share of the cost of the system. For  
23 the purposes of calculating a connection charge, the board of  
24 commissioners shall determine the pro rata share of the cost of  
25 existing facilities and facilities planned for construction within the  
26 next ten years and contained in an adopted comprehensive plan and other  
27 costs borne by the district which are directly attributable to the  
28 improvements required by property owners seeking to connect to the  
29 system. The cost of existing facilities shall not include those  
30 portions of the system which have been donated or which have been paid  
31 for by grants. The connection charge may include interest charges  
32 applied from the date of construction of the system until the  
33 connection, or for a period not to exceed ten years, whichever is  
34 shorter, at a rate commensurate with the rate of interest applicable to  
35 the district at the time of construction or major rehabilitation of the  
36 system, or at the time of installation of the lines to which the  
37 property owner is seeking to connect. In lieu of requiring the  
38 installation of permanent local facilities not planned for construction

1 by the district, a district may permit connection to the water and/or  
2 sewer systems through temporary facilities installed at the property  
3 owner's expense, provided the property owner pays a connection charge  
4 consistent with the provisions of this chapter and agrees, in the  
5 future, to connect to permanent facilities when they are installed; or  
6 a district may permit connection to the water and/or sewer systems  
7 through temporary facilities and collect from property owners so  
8 connecting a proportionate share of the estimated cost of future local  
9 facilities needed to serve the property, as determined by the district.  
10 The amount collected, including interest at a rate commensurate with  
11 the rate of interest applicable to the district at the time of  
12 construction of the temporary facilities, shall be held for  
13 contribution to the construction of the permanent local facilities by  
14 other developers or the district. The amount collected shall be deemed  
15 full satisfaction of the proportionate share of the actual cost of  
16 construction of the permanent local facilities. If the permanent local  
17 facilities are not constructed within fifteen years of the date of  
18 payment, the amount collected, including any accrued interest, shall be  
19 returned to the property owner, according to the records of the county  
20 auditor on the date of return. If the amount collected is returned to  
21 the property owner, and permanent local facilities capable of serving  
22 the property are constructed thereafter, the property owner at the time  
23 of construction of such permanent local facilities shall pay a  
24 proportionate share of the cost of such permanent local facilities, in  
25 addition to reasonable connection charges and other charges authorized  
26 by this section. A district may permit payment of the cost of  
27 connection and the reasonable connection charge to be paid with  
28 interest in installments over a period not exceeding fifteen years.  
29 The county treasurer may charge and collect a fee of three dollars for  
30 each year for the treasurer's services. Those fees shall be a charge  
31 to be included as part of each annual installment, and shall be  
32 credited to the county current expense fund by the county treasurer.  
33 Revenues from connection charges excluding permit fees are to be  
34 considered payments in aid of construction as defined by department of  
35 revenue rule. Rates or charges for on-site inspection and maintenance  
36 services may not be imposed under this chapter on the development,  
37 construction, or reconstruction of property.

1 Before adopting on-site inspection and maintenance utility  
2 services, or incorporating residences into an on-site inspection and  
3 maintenance or sewer utility under this chapter, notification must be  
4 provided, prior to the applicable public hearing, to all residences  
5 within the proposed service area that have on-site systems permitted by  
6 the local health officer. The notice must clearly state that the  
7 residence is within the proposed service area and must provide  
8 information on estimated rates or charges that may be imposed for the  
9 service.

10 A water-sewer district shall not provide on-site sewage system  
11 inspection, pumping services, or other maintenance or repair services  
12 under this section using water-sewer district employees unless the on-  
13 site system is connected by a publicly owned collection system to the  
14 water-sewer district's sewerage system, and the on-site system  
15 represents the first step in the sewage disposal process.

16 Except as otherwise provided in RCW 90.03.525, any public entity  
17 and public property, including the state of Washington and state  
18 property, shall be subject to rates and charges for sewer, water, storm  
19 water control, drainage, and street lighting facilities to the same  
20 extent private persons and private property are subject to those rates  
21 and charges that are imposed by districts. In setting those rates and  
22 charges, consideration may be made of in-kind services, such as stream  
23 improvements or donation of property;

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

26 (12) To employ such persons as are needed to carry out the  
27 district's purposes and fix salaries and any bond requirements for  
28 those employees;

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

32 (14) To sue and be sued;

33 (15) To loan and borrow funds and to issue bonds and instruments  
34 evidencing indebtedness under chapter 57.20 RCW and other applicable  
35 laws;

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

1 (17) To levy taxes in accordance with this chapter and chapters  
2 57.04 and 57.20 RCW;

3 (18) To provide for making local improvements and to levy and  
4 collect special assessments on property benefitted thereby, and for  
5 paying for the same or any portion thereof in accordance with chapter  
6 57.16 RCW;

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

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

10 (21) To exercise any of the powers granted to cities and counties  
11 with respect to the acquisition, construction, maintenance, operation  
12 of, and fixing rates and charges for waterworks and systems of sewerage  
13 and drainage.

14 **Sec. 9.** RCW 57.08.120 and 1996 c 230 s 319 are each amended to  
15 read as follows:

16 A district may lease out real property which it owns or in which it  
17 has an interest and which is not immediately necessary for its purposes  
18 upon such terms as the board of commissioners deems proper. No such  
19 lease shall be made until the district has first caused notice thereof  
20 to be published twice in a newspaper in general circulation in the  
21 district, the first publication to be at least fifteen days and the  
22 second at least seven days prior to the making of such lease. The  
23 notice shall describe the property, the lessee, and the lease payments.  
24 A hearing shall be held pursuant to the terms of the notice, at which  
25 time any and all persons who may be interested shall have the right to  
26 appear and to be heard.

27 No such lease shall be made unless secured by a bond conditioned on  
28 the performance of the terms of the lease, with surety satisfactory to  
29 the commissioners and with a penalty of not less than one-sixth of the  
30 term of the lease or for one year's rental, whichever is greater.

31 No such lease shall be made for a term longer than (~~twenty-five~~)  
32 fifty years. In cases involving leases of more than five years, the  
33 commissioners may provide for or stipulate to acceptance of a bond  
34 conditioned on the performance of a part of the term for five years or  
35 more whenever it is further provided that the lessee must procure and  
36 deliver to the commissioners renewal bonds with like terms and  
37 conditions no more than two years prior nor less than one year prior to

1 the expiration of such bond during the entire term of the lease.  
2 However, no such bond shall be construed to secure the furnishing of  
3 any other bond by the same surety or indemnity company. The board of  
4 commissioners may require a reasonable security deposit in lieu of a  
5 bond on leased property owned by a district.

6 The commissioners may accept as surety on any bond required by this  
7 section an approved surety company, or may accept in lieu thereof a  
8 secured interest in property of a value at least twice the amount of  
9 the bond required, conditioned further that in the event the  
10 commissioners determine that the value of the bond security has become  
11 or is about to become impaired, additional security shall be required  
12 from the lessee.

13 The authority granted under this section shall not be exercised by  
14 the board of commissioners unless the property is declared by  
15 resolution of the board of commissioners to be property for which there  
16 is a future need by the district and for the use of which provision is  
17 made in the comprehensive plan of the district as the same may be  
18 amended from time to time.

--- END ---