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HOUSE BILL 2795

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State of Washington

61st Legislature

2010 Regular Session

By Representatives Pettigrew, Santos, and Simpson

Read first time 01/14/10. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to water-sewer district assumptions; amending RCW  
2 35.13A.020, 35.13A.030, 35.13A.040, 35.13A.050, and 36.93.105; adding  
3 new sections to chapter 35.13A RCW; and adding a new section to chapter  
4 35.21 RCW.

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

6 **Sec. 1.** RCW 35.13A.020 and 1999 c 153 s 28 are each amended to  
7 read as follows:

8 (1) Except as provided in section 5 of this act, whenever all of  
9 the territory of a district is included within the corporate boundaries  
10 of a city, the city legislative body may adopt a resolution or  
11 ordinance to assume jurisdiction over (~~all of~~) the entire district.

12 (2) Upon the assumption, all real and personal property,  
13 franchises, rights, assets, taxes levied but not collected for the  
14 district for other than indebtedness, water, sewer, and drainage  
15 facilities, and all other facilities and equipment of the district  
16 shall become the property of the city subject to all financial,  
17 statutory, or contractual obligations of the district for the security  
18 or performance of which the property may have been pledged. The city,  
19 in addition to its other powers, shall have the power to manage,

1 control, maintain, and operate the property, facilities and equipment  
2 and to fix and collect service and other charges from owners and  
3 occupants of properties so served by the city, subject, however, to any  
4 outstanding indebtedness, bonded or otherwise, of the district payable  
5 from taxes, assessments, or revenues of any kind or nature and to any  
6 other contractual obligations of the district.

7 (3) The city may by resolution or ordinance of its legislative  
8 body, assume the obligation of paying such district indebtedness and of  
9 levying and of collecting or causing to be collected the district  
10 taxes, assessments, and utility rates and charges of any kind or nature  
11 to pay and secure the payment of the indebtedness, according to all of  
12 the terms, conditions and covenants incident to the indebtedness, and  
13 shall assume and perform all other outstanding contractual obligation  
14 of the district in accordance with all of their terms, conditions, and  
15 covenants. An assumption shall not be deemed to impair the obligation  
16 of any indebtedness or other contractual obligation. During the period  
17 until the outstanding indebtedness of the district has been discharged,  
18 the territory of the district and the owners and occupants of property  
19 therein, shall continue to be liable for its and their proportionate  
20 share of the indebtedness, including any outstanding assessments levied  
21 within any local improvement district or utility local improvement  
22 district thereof. The city shall assume the obligation of causing the  
23 payment of the district's indebtedness, collecting the district's  
24 taxes, assessments, and charges, and observing and performing the other  
25 district contractual obligations. The legislative body of the city  
26 shall act as the officers of the district for the purpose of certifying  
27 the amount of any property tax to be levied and collected therein, and  
28 causing service and other charges and assessments to be collected from  
29 the property or owners or occupants thereof, enforcing the collection  
30 and performing all other acts necessary to ensure performance of the  
31 district's contractual obligations in the same manner and by the same  
32 means as if the territory of the district had not been included within  
33 the boundaries of a city.

34 When a city assumes the obligation of paying the outstanding  
35 indebtedness, and if property taxes or assessments have been levied and  
36 service and other charges have accrued for this purpose but have not  
37 been collected by the district prior to the assumption, the same when  
38 collected shall belong and be paid to the city and be used by the city

1 so far as necessary for payment of the indebtedness of the district  
2 existing and unpaid on the date the city assumes the indebtedness. Any  
3 funds received by the city which have been collected for the purpose of  
4 paying any bonded or other indebtedness of the district, shall be used  
5 for the purpose for which they were collected and for no other purpose.  
6 Any outstanding indebtedness shall be paid as provided in the terms,  
7 conditions, and covenants of the indebtedness. All funds of the  
8 district on deposit with the county treasurer at the time of title  
9 transfer shall be used by the city solely for the benefit of the  
10 assumed utility and shall not be transferred to or used for the benefit  
11 of the city's general fund.

12 **Sec. 2.** RCW 35.13A.030 and 1999 c 153 s 29 are each amended to  
13 read as follows:

14 Except as provided in section 5 of this act, whenever a portion of  
15 a district equal to at least sixty percent of the area or sixty percent  
16 of the assessed valuation of the real property lying within such  
17 district, is included within the corporate boundaries of a city, the  
18 city may assume by ordinance the full and complete management and  
19 control of that portion of the entire district not included within  
20 another city, whereupon the provisions of RCW 35.13A.020 shall be  
21 operative; or the city may proceed directly under the provisions of RCW  
22 35.13A.050.

23 **Sec. 3.** RCW 35.13A.040 and 1999 c 153 s 30 are each amended to  
24 read as follows:

25 Except as provided in section 5 of this act, whenever the portion  
26 of a district included within the corporate boundaries of a city is  
27 less than sixty percent of the area of the district and less than sixty  
28 percent of the assessed valuation of the real property within the  
29 district, the city may elect to proceed under the provisions of RCW  
30 35.13A.050.

31 **Sec. 4.** RCW 35.13A.050 and 1971 ex.s. c 95 s 5 are each amended to  
32 read as follows:

33 When electing under RCW 35.13A.030 or 35.13A.040 to proceed under  
34 this section, the city may assume, by ordinance, jurisdiction of the  
35 district's responsibilities, property, facilities and equipment within

1 the corporate limits of the city: PROVIDED, That if on the effective  
2 date of such an ordinance the territory of the district included within  
3 the city contains any facilities serving or designed to serve any  
4 portion of the district outside the corporate limits of the city or if  
5 the territory lying within the district and outside the city contains  
6 any facilities serving or designed to serve territory included within  
7 the city (which facilities are hereafter in this section called the  
8 "serving facilities"), the city or district shall for the economically  
9 useful life of any such serving facilities make available sufficient  
10 capacity therein to serve the sewage or water requirements of such  
11 territory, to the extent that such facilities were designed to serve  
12 such territory at a rate charged to the municipality being served which  
13 is reasonable to all parties. Nothing in this section exempts a city  
14 from section 5 of this act.

15 In the event a city proceeds under this section, the district may  
16 elect upon a favorable vote of a majority of all voters within the  
17 district voting upon such propositions to require the city to assume  
18 responsibility for the operation and maintenance of the district's  
19 property, facilities and equipment throughout the entire district and  
20 to pay the city a charge for such operation and maintenance which is  
21 reasonable under all of the circumstances.

22 A city acquiring property, facilities and equipment under the  
23 provisions of this section shall acquire such property, facilities and  
24 equipment, and fix and collect service and other charges from owners  
25 and occupants of properties served by the city, subject, to any  
26 contractual obligations of the district which relate to the property,  
27 facilities, or equipment so acquired by the city or which are secured  
28 by taxes, assessments or revenues from the territory of the district  
29 included within the city. In such cases, the property included within  
30 the city and the owners and occupants thereof shall continue to be  
31 liable for payment of its and their proportionate share of any  
32 outstanding district indebtedness. The district and its officers shall  
33 continue to levy taxes and assessments on and to collect service and  
34 other charges from such property, or owners or occupants thereof, to  
35 enforce such collections, and to perform all other acts necessary to  
36 insure performance of the district's contractual obligations in the  
37 same manner and by the same means as if the territory of the district  
38 had not been included within the boundaries of a city.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 35.13A RCW  
2 to read as follows:

3        (1) A city choosing to impose a tax under section 7 of this act may  
4 not assume jurisdiction of all or part of a water-sewer district  
5 without voter approval of a ballot proposition authorizing the  
6 assumption.    Ballot propositions under this section must be submitted  
7 to all registered voters of the district.    If a majority of the votes  
8 cast on the proposition are in favor of the assumption, the assumption  
9 may proceed as authorized by this chapter.

10       (2) Elections under this section must be conducted in accordance  
11 with general election law, and the election costs must be borne by the  
12 city seeking approval to assume jurisdiction of the district.

13       NEW SECTION.    **Sec. 6.**    A new section is added to chapter 35.13A RCW  
14 to read as follows:

15       (1) Following the passage of a resolution by a city to assume all  
16 or part of a special purpose water-sewer district under this chapter,  
17 a feasibility study of the assumption must be conducted.    The study  
18 must be completed within six months of the passage of the resolution to  
19 assume the district.    The study is not required if the board of  
20 commissioners of the district consents to the assumption.

21       (2) The study must be jointly and equally funded by the city and  
22 the district through a mutually agreed upon contract with a qualified  
23 independent consultant with professional expertise involving public  
24 water and sewer systems.    The study must address the impact of the  
25 proposed assumption on the city and district.    Issues to be considered  
26 must be mutually agreed upon by the city and district and must include,  
27 but are not limited to, engineering and operational impacts, assumption  
28 costs to the city and district, including potential impacts on future  
29 water-sewer rates, bond ratings and future borrowing costs, the status  
30 of existing water rights, and other issues jointly agreed upon.

31       (3) The findings of the study must be presented as a public record  
32 and must be available to the registered voters of the entire district.  
33 If the method of assumption requires the submission of a ballot  
34 proposition to all registered voters of the district, the findings of  
35 the study must be made available to these voters prior to a vote on the  
36 proposed assumption.

1 (4) This section is applicable to assumptions of jurisdiction of  
2 water-sewer districts by cities that were initiated prior to the  
3 effective date of this section and which are pending as of that date,  
4 and assumptions of jurisdiction that are initiated on or after the  
5 effective date of this section.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 35.21 RCW  
7 to read as follows:

8 (1) A city or town in which a water-sewer district operates works,  
9 plants, or facilities for the distribution and sale of water or sewer  
10 services may levy and collect from the district a tax on the gross  
11 revenues derived by the district from the sale of water or sewer  
12 services within the city or town, exclusive of the revenues derived  
13 from the sale of water or sewer services for purposes of resale. The  
14 tax when levied must be a debt of the district, and may be collected as  
15 such. The district may add the amount of tax to the rates or charges  
16 it makes for water or sewer services sold within the limits of the city  
17 or town.

18 (2)(a) A city or town imposing a tax under this section:

19 (i) May not impose a franchise fee or other charge on the water-  
20 sewer district; and

21 (ii) May only do so through an interlocal agreement with the  
22 district under chapter 39.34 RCW.

23 (b) The interlocal agreement required by this subsection (2) must  
24 identify the district as the collection and pass-through entity, with  
25 revenues submitted to the city or town. The interlocal agreement may  
26 include provisions addressing city or town assumptions of the water-  
27 sewer district and the expenditure of revenues collected under this  
28 section in areas of the district that are located within the corporate  
29 limits of the city or town.

30 **Sec. 8.** RCW 36.93.105 and 1999 c 153 s 46 are each amended to read  
31 as follows:

32 The following actions shall not be subject to potential review by  
33 a boundary review board:

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

1           (2) Revisions of city or town boundaries pursuant to RCW 35.21.790  
2 or 35A.21.210;

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

5           (4) Adjustments to city and town boundaries pursuant to RCW  
6 35.13.300 through 35.13.330; and

7           (5) The attempted or completed assumption of a water-sewer district  
8 involving only one city occurring after the voter determination of a  
9 ballot proposition under section 5 of this act.

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