

ESB 6031 - H COMM AMD
By Committee on Finance

ADOPTED 03/07/2014

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

3 "Sec. 1. RCW 36.61.010 and 2008 c 301 s 1 are each amended to read
4 as follows:

5 (1) The legislature finds that the environmental, recreational, and
6 aesthetic values of many of the state's lakes are threatened by
7 eutrophication and other deterioration and that existing governmental
8 authorities are unable to adequately improve and maintain the quality
9 of the state's lakes.

10 (2) The legislature intends that an ecosystem-based beach
11 management approach should be used to help promote the health of
12 aquatic ecosystems and that such a management approach be undertaken in
13 a manner that retains ecosystem values within the state. This
14 management approach should use long-term strategies that focus on
15 reducing nutrient inputs from human activities affecting the aquatic
16 ecosystem, such as decreasing nutrients into storm water sewers,
17 decreasing fertilizer application, promoting the proper disposal of pet
18 waste, promoting the use of vegetative borders, promoting the reduction
19 of nutrients from on-site septic systems where appropriate, and
20 protecting riparian areas. Organic debris, including vegetation,
21 driftwood, seaweed, kelp, and organisms, are extremely important to
22 beach ecosystems.

23 (3) The legislature further finds that it is in the public interest
24 to promote the conservation and stewardship of shorelines and upland
25 properties adjoining lakes and beaches in order to: (a) Conserve
26 natural or scenic resources; (b) protect riparian habitats and water
27 quality; (c) promote conservation of soils, wetlands, shorelines, or
28 tidal marshes; (d) enhance the value of lakes or beaches to the public
29 as well as the benefit of abutting or neighboring parks, forests,
30 wildlife preserves, nature reservations or sanctuaries, or other open

1 space; (e) enhance recreation opportunities; (f) preserve historic
2 sites; and (g) protect visual quality along highway, road, street,
3 trail, recreational, and other corridors or scenic vistas.

4 (4) It is the purpose of this chapter to establish a governmental
5 mechanism by which property owners can embark on a program of lake or
6 beach improvement and maintenance for their and the general public's
7 benefit, health, and welfare. Public property, including state
8 property, shall be considered the same as private property in this
9 chapter, except liens for special assessments and liens for rates and
10 charges shall not extend to public property. Lake bottom property and
11 marine property below the line of the ordinary high water mark shall
12 not be considered to be benefitted, shall not be subject to special
13 assessments or rates and charges, and shall not receive voting rights
14 under this chapter.

15 **Sec. 2.** RCW 36.61.020 and 2008 c 301 s 3 are each amended to read
16 as follows:

17 (1) Any county may create lake or beach management districts to
18 finance: (a) The improvement and maintenance of lakes or beaches
19 located within or partially within the boundaries of the county; and
20 (b) the acquisition of real property or property rights within or
21 outside a lake or beach management district including, by way of
22 example, conservation easements authorized under RCW 64.04.130, and to
23 promote the conservation and stewardship of shorelines as well as the
24 conservation and stewardship of upland properties adjoining lakes or
25 beaches for conservation or for minimal development. All or a portion
26 of a lake or beach and the adjacent land areas may be included within
27 one or more lake or beach management districts. More than one lake or
28 beach, or portions of lakes or beaches, and the adjacent land areas may
29 be included in a single lake or beach management district.

30 (2) For the purposes of this chapter, the term "improvement"
31 includes, among other things, the acquisition of real property and
32 property rights within or outside a lake or beach management district
33 for the purposes set forth in RCW 36.61.010 and this section.

34 (3) Special assessments or rates and charges may be imposed on the
35 property included within a lake or beach management district to finance
36 lake or beach improvement and maintenance activities, including:

37 ((+1)) (a) Controlling or removing aquatic plants and vegetation;

1 ~~((+2+))~~ (b) improving water quality; ~~((+3+))~~ (c) controlling water
2 levels; ~~((+4+))~~ (d) treating and diverting storm water; ~~((+5+))~~ (e)
3 controlling agricultural waste; ~~((+6+))~~ (f) studying lake or marine
4 water quality problems and solutions; ~~((+7+))~~ (g) cleaning and
5 maintaining ditches and streams entering the lake or marine waters or
6 leaving the lake; ~~((+8+))~~ (h) monitoring air quality; (i) the
7 acquisition of real property and property rights; and ~~((+9+))~~ (j) the
8 related administrative, engineering, legal, and operational costs,
9 including the costs of creating the lake or beach management district.

10 (4) Special assessments or rates and charges may be imposed
11 annually on all the land in a lake or beach management district for the
12 duration of the lake or beach management district without a related
13 issuance of lake or beach management district bonds or revenue bonds.
14 Special assessments also may be imposed in the manner of special
15 assessments in a local improvement district with each landowner being
16 given the choice of paying the entire special assessment in one
17 payment, or to paying installments, with lake or beach management
18 district bonds being issued to obtain moneys not derived by the initial
19 full payment of the special assessments, and the installments covering
20 all of the costs related to issuing, selling, and redeeming the lake or
21 beach management district bonds.

22 NEW SECTION. Sec. 3. A new section is added to chapter 36.61 RCW
23 to read as follows:

24 A proposal to acquire real property or property rights within or
25 outside of a lake or beach management district in accordance with RCW
26 36.61.020 is subject to the following limitations and requirements:
27 (1) The real property or property rights proposed for acquisition must
28 be in a county located west of the crest of the Cascade mountain range
29 that plans under RCW 36.70A.040 and has a population of more than forty
30 thousand and fewer than sixty-five thousand persons as of April 1,
31 2013, as determined by the office of financial management; and (2)
32 prior to the acquisition of real property or property rights, the
33 proposal must have the written approval of a majority of the property
34 owners of the district, as determined by the tax rolls of the county
35 assessor.

1 **Sec. 4.** RCW 36.61.070 and 2008 c 301 s 9 are each amended to read
2 as follows:

3 (1) After the public hearing, the county legislative authority may
4 adopt a resolution submitting the question of creating the lake or
5 beach management district to the owners of land within the proposed
6 lake or beach management district, including publicly owned land, if
7 the county legislative authority finds that it is in the public
8 interest to create the lake or beach management district and the
9 financing of the lake or beach improvement and maintenance activities
10 is feasible. The resolution shall also include: ~~((+1))~~ (a) A plan
11 describing the proposed lake or beach improvement and maintenance
12 activities which avoid adverse impacts on fish and wildlife and provide
13 for appropriate measures to protect and enhance fish and wildlife;
14 ~~((+2))~~ (b) the number of years the lake or beach management district
15 will exist; ~~((+3))~~ (c) the amount to be raised by special assessments
16 or rates and charges; ~~((+4))~~ (d) if special assessments are to be
17 imposed, whether the special assessments shall be imposed annually for
18 the duration of the lake or beach management district or only once with
19 the possibility of installments being imposed and lake or beach
20 management bonds being issued, or both, and, if both types of special
21 assessments are proposed to be imposed, the lake or beach improvement
22 or maintenance activities proposed to be financed by each type of
23 special assessment; ~~((+5))~~ (e) if rates and charges are to be imposed,
24 a description of the proposed rates and charges and the possibility of
25 revenue bonds being issued that are payable from the rates and charges;
26 and ~~((+6))~~ (f) the estimated special assessment or rate and charge
27 proposed to be imposed on each parcel included in the proposed lake or
28 beach management district.

29 (2) No lake or beach management district may be created by a county
30 that includes territory located in another county without the approval
31 of the legislative authority of the other county.

32 **Sec. 5.** RCW 36.61.220 and 2008 c 301 s 21 are each amended to read
33 as follows:

34 Within ~~((fifteen))~~ thirty days after a county creates a lake or
35 beach management district, the county shall cause to be filed with the
36 county treasurer, a description of the lake or beach improvement and
37 maintenance activities proposed that the lake or beach management

1 district finances, the lake or beach management district number, and a
2 copy of the diagram or print showing the boundaries of the lake or
3 beach management district and preliminary special assessment roll or
4 abstract of the same showing thereon the lots, tracts, parcels of land,
5 and other property that will be specially benefitted thereby and the
6 estimated cost and expense of such lake or beach improvement and
7 maintenance activities to be borne by each lot, tract, parcel of land,
8 or other property. The treasurer shall immediately post the proposed
9 special assessment roll upon his or her index of special assessments
10 against the properties affected by the lake or beach improvement or
11 maintenance activities.

12 **Sec. 6.** RCW 36.61.250 and 1985 c 398 s 25 are each amended to read
13 as follows:

14 Except when lake or beach management district bonds are outstanding
15 or when an existing contract might otherwise be impaired, the county
16 legislative authority may stop the imposition of annual special
17 assessments if, in its opinion, the public interest will be served by
18 such action.

19 **Sec. 7.** RCW 36.61.260 and 2008 c 301 s 23 are each amended to read
20 as follows:

21 (1) Counties may issue lake or beach management district revenue
22 bonds in accordance with this section. Lake or beach management
23 district bonds may be issued to obtain money sufficient to cover that
24 portion of the special assessments that are not paid within the thirty-
25 day period provided in RCW 36.61.190.

26 (2) Whenever lake or beach management district revenue bonds are
27 proposed to be issued, the county legislative authority shall create a
28 special fund or funds for the lake or beach management district from
29 which all or a portion of the costs of the lake or beach improvement
30 and maintenance activities shall be paid. Lake or beach management
31 district bonds shall not be issued in excess of the costs and expenses
32 of the lake or beach improvement and maintenance activities and shall
33 not be issued prior to twenty days after the thirty days allowed for
34 the payment of special assessments without interest or penalties.

35 (3) Lake or beach management district revenue bonds shall be

1 exclusively payable from the special fund or funds and from a guaranty
2 fund that the county may have created out of a portion of proceeds from
3 the sale of the lake or beach management district bonds.

4 ~~((+2))~~ (4)(a) Lake or beach management district revenue bonds
5 shall not constitute a general indebtedness of the county issuing the
6 bond nor an obligation, general or special, of the state. The owner of
7 any lake or beach management district revenue bond shall not have any
8 claim for the payment thereof against the county that issues the bonds
9 except for: (i) With respect to revenue bonds payable from special
10 assessments, payment from the special assessments made for the lake or
11 beach improvement or maintenance activities for which the lake or beach
12 management district bond was issued and from the special fund or funds,
13 and a lake or beach management district guaranty fund, that may have
14 been created; and (ii) with respect to revenue bonds payable from rates
15 and charges, payment from rates and charges deposited in the special
16 fund or funds that the county may have created for that purpose.
17 Revenue bonds may be payable from both special assessments and from
18 rates and charges. The county shall not be liable to the owner of any
19 lake or beach management district bond for any loss to ~~((the))~~ a lake
20 or beach management district guaranty fund occurring in the lawful
21 operation of the fund. The owner of a lake or beach management
22 district bond shall not have any claim against the state arising from
23 the lake or beach management district bond, rates and charges, special
24 assessments, or guaranty fund. Tax revenues shall not be used to
25 secure or guarantee the payment of the principal of or interest on lake
26 or beach management district bonds. Notwithstanding the provisions of
27 this subsection, nothing in this section may be interpreted as limiting
28 a county's issuance of bonds pursuant to RCW 36.67.010 in order to
29 assist in the financing of improvements to lakes or beaches located
30 within or partially within the boundaries of the county, including
31 without limitation lakes or beaches located within a lake or beach
32 management district.

33 (b) The substance of the limitations included in this subsection
34 (4) shall be plainly printed, written, engraved, or reproduced on:
35 ~~((+a))~~ (i) Each lake or beach management district bond that is a
36 physical instrument; ~~((+b))~~ (ii) the official notice of sale; and
37 ~~((+c))~~ (iii) each official statement associated with the lake or beach
38 management district bonds.

1 ~~((3))~~ (5) If the county fails to make any principal or interest
2 payments on any lake or beach management district bond or to promptly
3 collect any special assessment securing ~~((the))~~ lake or beach
4 management district revenue bonds when due, the owner of the lake or
5 beach management district revenue bond may obtain a writ of mandamus
6 from any court of competent jurisdiction requiring the county to
7 collect the special assessments, foreclose on the related lien, and
8 make payments out of the special fund or guaranty fund if one exists.
9 Any number of owners of lake or beach management districts may join as
10 plaintiffs.

11 ~~((4))~~ (6) A county may create a lake or beach management district
12 bond guaranty fund for each issue of lake or beach management district
13 bonds. The guaranty fund shall only exist for the life of the lake or
14 beach management district bonds with which it is associated. A portion
15 of the bond proceeds may be placed into a guaranty fund. Unused moneys
16 remaining in the guaranty fund during the last two years of the
17 installments shall be used to proportionally reduce the required level
18 of installments and shall be transferred into the special fund into
19 which installment payments are placed. A county may, in the discretion
20 of the legislative authority of the county, deposit amounts into a lake
21 or beach management district bond guaranty fund from any money legally
22 available for that purpose. Any amounts remaining in the guaranty fund
23 after the repayment of all revenue bonds secured thereby and the
24 payment of assessment installments, may be applied to lake or beach
25 improvement and maintenance activities or to other district purposes.

26 ~~((5))~~ (7) Lake or beach management district bonds shall be issued
27 and sold in accordance with chapter 39.46 RCW. The authority to create
28 a special fund or funds shall include the authority to create accounts
29 within a fund.

30 **Sec. 8.** RCW 36.61.030 and 2008 c 301 s 5 are each amended to read
31 as follows:

32 A lake or beach management district may be initiated upon either
33 the adoption of a resolution of intention by a county legislative
34 authority or the filing of a petition signed by ten landowners or the
35 owners of at least ~~((fifteen))~~ twenty percent of the acreage contained
36 within the proposed lake or beach management district, whichever is
37 greater. A petition or resolution of intention shall set forth: (1)

1 The nature of the lake or beach improvement or maintenance activities
2 proposed to be financed; (2) the amount of money proposed to be raised
3 by special assessments or rates and charges; (3) if special assessments
4 are to be imposed, whether the special assessments will be imposed
5 annually for the duration of the lake or beach management district, or
6 the full special assessments will be imposed at one time, with the
7 possibility of installments being made to finance the issuance of lake
8 or beach management district bonds, or both methods; (4) if rates and
9 charges are to be imposed, the annual amount of revenue proposed to be
10 collected and whether revenue bonds payable from the rates and charges
11 are proposed to be issued; (5) the number of years proposed for the
12 duration of the lake or beach management district; and (6) the proposed
13 boundaries of the lake or beach management district.

14 The county legislative authority may require the posting of a bond
15 of up to five thousand dollars before the county considers the proposed
16 creation of a lake or beach management district initiated by petition.
17 The bond may only be used by the county to finance its costs in
18 studying, holding hearings, making notices, preparing special
19 assessment rolls or rolls showing the rates and charges on each parcel,
20 and conducting elections related to the lake or beach management
21 district if the proposed lake or beach management district is not
22 created.

23 A resolution of intention shall also designate the number of the
24 proposed lake or beach management district, and fix a date, time, and
25 place for a public hearing on the formation of the proposed lake or
26 beach management district. The date for the public hearing shall be at
27 least thirty days and no more than ninety days after the adoption of
28 the resolution of intention unless an emergency exists.

29 Petitions shall be filed with the county legislative authority.
30 The county legislative authority shall determine the sufficiency of the
31 signatures, which shall be conclusive upon all persons. No person may
32 withdraw his or her name from a petition after it is filed. If the
33 county legislative authority determines a petition to be sufficient and
34 the proposed lake or beach management district appears to be in the
35 public interest and the financing of the lake or beach improvement or
36 maintenance activities is feasible, it shall adopt a resolution of
37 intention, setting forth all of the details required to be included

1 when a resolution of intention is initiated by the county legislative
2 authority.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.61 RCW
4 to read as follows:

5 (1) In connection with the acquisition of real property or property
6 rights within or outside a lake or beach management district, a county
7 may: (a) Own real property and property rights, including without
8 limitation conservation easements; (b) transfer real property and
9 property rights to another state or local governmental entity; (c)
10 contract with a public or private entity, including without limitation
11 a financial institution with trust powers, a municipal corporation, or
12 a nonprofit corporation, to hold real property or property rights such
13 as conservation easements in trust for the purposes of the lake and
14 beach management district, and, in connection with those services, to
15 pay the reasonable costs of that financial institution or nonprofit
16 corporation; (d) monitor and enforce the terms of a real property right
17 such as a conservation easement, or for that purpose to contract with
18 a public or private entity, including without limitation a financial
19 institution with trust powers, a municipal corporation, or a nonprofit
20 corporation; (e) impose terms, conditions, and encumbrances upon real
21 property or property rights acquired in respect of a lake or beach
22 management district, and amend the same; and (f) accept gifts, grants,
23 and loans in connection with the acquisition of real property and
24 property rights for lake or beach management district purposes.

25 (2) If a county contracts with a financial institution, municipal
26 corporation, or nonprofit corporation to hold that property or property
27 rights in trust for purposes of the district, the terms of the contract
28 must provide that the financial institution, municipal corporation, or
29 nonprofit corporation may not sell, pledge, or hypothecate the property
30 or property rights for any purpose, and must further provide for the
31 return of the property or property rights back to the county in the
32 event of a material breach of the terms of the contract.

33 (3) Before a lake or beach management district in existence as of
34 the effective date of this section exercises the powers set forth in
35 this section, the legislative authority of the county must provide for
36 an amended resolution of intention and modify the plan for the
37 district, with a public hearing, all as provided in RCW 36.61.050.

1 **Sec. 10.** RCW 36.61.170 and 2008 c 301 s 18 are each amended to
2 read as follows:

3 (1) The total annual special assessments may not exceed the
4 estimated cost of the lake or beach improvement or maintenance
5 activities proposed to be financed by such special assessments, as
6 specified in the resolution of intention. The total of special
7 assessments imposed in a lake or beach management district that are of
8 the nature of special assessments imposed in a local improvement
9 district shall not exceed one hundred fifty percent of the estimated
10 total cost of the lake or beach improvement or maintenance activities
11 that are proposed to be financed by the lake or beach management
12 district as specified in the resolution of intention.

13 (2) After a lake or beach management district has been created, the
14 resolution of intention may be amended to increase or otherwise modify
15 the amount to be financed by the lake or beach management district by
16 using the same procedure in which a lake or beach management district
17 is created, including landowner approvals consistent with the
18 procedures established in RCW 36.61.080 through 36.61.100.

19 NEW SECTION. **Sec. 11.** A new section is added to chapter 36.61 RCW
20 to read as follows:

21 (1) Except when lake or beach management district bonds are
22 outstanding or when an existing contract might otherwise be impaired,
23 a lake or beach management district may be dissolved either by: The
24 county legislative authority upon a finding that the purposes of the
25 district have been accomplished; or a vote of the property owners
26 within the district, if proposed by the legislative authority of the
27 county or through the filing of a sufficient petition signed by the
28 owners of at least twenty percent of the acreage within the district.

29 (2) If the question of dissolution of a district is submitted to
30 property owners, the balloting is subject to the following conditions,
31 which must be included in the instructions mailed with each ballot, as
32 provided in RCW 36.61.080:

33 (a) A ballot must be mailed to each owner or reputed owner of any
34 lot, tract, parcel of land, or other property within the district, with
35 the ballot weighted so that a property owner has one vote for each
36 dollar of special assessment or rates and charges imposed on his or her
37 property;

1 (b) A ballot must be signed by the owner or reputed owner of
2 property according to the assessor's tax rolls;

3 (c) Each ballot must be returned to the county legislative
4 authority no later than 5:00 p.m. of a specified day, which must be at
5 least twenty, but not more than thirty days after the ballots are
6 mailed; and

7 (d) Each property owner must mark his or her ballot for or against
8 the dissolution of the district.

9 (3) If, following the tabulation of the valid ballots, a simple
10 majority of the votes cast are in favor of dissolving the district, the
11 district must be dissolved on the date established in the ballot
12 proposition.

13 (4) A county, although not separately responsible for satisfying
14 the financial obligations of a dissolved district, has full authority
15 to continue imposing special assessments, rates, and charges for a
16 dissolved district until all financial obligations of the district
17 incurred prior to its dissolution have been extinguished or retired."

18 Correct the title.

EFFECT: (1) Limits the authority of a lake or beach management
district (district) to acquire real property or property rights as
proposed in the underlying bill, by specifying that the acquisitions
can only occur in counties meeting specified land use planning,
geographic, and population criteria.

(2) Specifies that amounts remaining in district bond guaranty
funds after repayment of revenue bonds and the payment of other
obligations may be applied to lake or beach improvement and maintenance
activities or to other district purposes (rather than to other county
purposes).

(3) Deletes a proposed section in the underlying bill requiring
proposals for district revenue bonds to be, prior to the issuance of
the bonds, approved in writing by a majority of the property owners of
the district.

(4) Specifies that, after a district has been created, the
resolution of intention that is a governing document for the district
may be amended to increase or otherwise modify (rather than only to
increase) the amount to be financed by the district by using the same
procedure in which a lake or beach management district is created,
including landowner-based ballot approvals.

(5) Increases the landowner petition threshold signature
requirements for a petition calling for the creation of a district from

the owners of at least 15 percent of the acreage of the district to the owners of at least 20 percent of the acreage of the district.

(6) Establishes dissolution process for districts.

(7) Specifies that the dissolution may occur through an action of a county legislative authority or through a landowner-based election process initiated by the county or through a landowner petition process.

(8) Establishes provisions for a dissolution election, including the use of weighted ballots.

(9) Specifies that a county may continue imposing special assessments, rates, and charges for a dissolved district until all financial obligations of the district incurred prior to its dissolution have been extinguished or retired.

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