
HOUSE BILL 2218

State of Washington 63rd Legislature 2014 Regular Session

By Representatives Haigh, MacEwen, and Blake

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

1 AN ACT Relating to lake and beach management districts; amending
2 RCW 36.61.010, 36.61.020, 36.61.070, 36.61.220, 36.61.250, and
3 36.61.260; and adding a new section to chapter 36.61 RCW.

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

5 **Sec. 1.** RCW 36.61.010 and 2008 c 301 s 1 are each amended to read
6 as follows:

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

12 (2) The legislature intends that an ecosystem-based beach
13 management approach should be used to help promote the health of
14 aquatic ecosystems and that such a management approach be undertaken in
15 a manner that retains ecosystem values within the state. This
16 management approach should use long-term strategies that focus on
17 reducing nutrient inputs from human activities affecting the aquatic
18 ecosystem, such as decreasing nutrients into storm water sewers,
19 decreasing fertilizer application, promoting the proper disposal of pet

1 waste, promoting the use of vegetative borders, promoting the reduction
2 of nutrients from on-site septic systems where appropriate, and
3 protecting riparian areas. Organic debris, including vegetation,
4 driftwood, seaweed, kelp, and organisms, are extremely important to
5 beach ecosystems.

6 (3) The legislature further finds that it is in the public interest
7 to promote the conservation and stewardship of shorelines and upland
8 properties adjoining lakes and beaches in order to: (a) Conserve
9 natural or scenic resources; (b) protect riparian habitats and water
10 quality; (c) promote conservation of soils, wetlands, shorelines, or
11 tidal marshes; (d) enhance the value of lakes or beaches to the public
12 as well as the benefit of abutting or neighboring parks, forests,
13 wildlife preserves, nature reservations or sanctuaries, or other open
14 space; (e) enhance recreation opportunities; (f) preserve historic
15 sites; and (g) protect visual quality along highway, road, street,
16 trail, recreational, and other corridors or scenic vistas.

17 (4) It is the purpose of this chapter to establish a governmental
18 mechanism by which property owners can embark on a program of lake or
19 beach improvement and maintenance for their and the general public's
20 benefit, health, and welfare. Public property, including state
21 property, shall be considered the same as private property in this
22 chapter, except liens for special assessments and liens for rates and
23 charges shall not extend to public property. Lake bottom property and
24 marine property below the line of the ordinary high water mark shall
25 not be considered to be benefitted, shall not be subject to special
26 assessments or rates and charges, and shall not receive voting rights
27 under this chapter.

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

30 (1) Any county may create lake or beach management districts to
31 finance: (a) The improvement and maintenance of lakes or beaches
32 located within or partially within the boundaries of the county; and
33 (b) the acquisition of real property or property rights within or
34 outside a lake or beach management district including, by way of
35 example, conservation easements authorized under RCW 64.04.130, and to
36 promote the conservation and stewardship of shorelines as well as the
37 conservation and stewardship of upland properties adjoining lakes or

1 beaches for conservation or for minimal development. All or a portion
2 of a lake or beach and the adjacent land areas may be included within
3 one or more lake or beach management districts. More than one lake or
4 beach, or portions of lakes or beaches, and the adjacent land areas may
5 be included in a single lake or beach management district.

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

10 (3) Special assessments or rates and charges may be imposed on the
11 property included within a lake or beach management district to finance
12 lake or beach improvement and maintenance activities, including:
13 ~~((1))~~ (a) Controlling or removing aquatic plants and vegetation;
14 ~~((2))~~ (b) improving water quality; ~~((3))~~ (c) controlling water
15 levels; ~~((4))~~ (d) treating and diverting storm water; ~~((5))~~ (e)
16 controlling agricultural waste; ~~((6))~~ (f) studying lake or marine
17 water quality problems and solutions; ~~((7))~~ (g) cleaning and
18 maintaining ditches and streams entering the lake or marine waters or
19 leaving the lake; ~~((8))~~ (h) monitoring air quality; (i) the
20 acquisition of real property and property rights; and ~~((9))~~ (j) the
21 related administrative, engineering, legal, and operational costs,
22 including the costs of creating the lake or beach management district.

23 (4) Special assessments or rates and charges may be imposed
24 annually on all the land in a lake or beach management district for the
25 duration of the lake or beach management district without a related
26 issuance of lake or beach management district bonds or revenue bonds.
27 Special assessments also may be imposed in the manner of special
28 assessments in a local improvement district with each landowner being
29 given the choice of paying the entire special assessment in one
30 payment, or to paying installments, with lake or beach management
31 district bonds being issued to obtain moneys not derived by the initial
32 full payment of the special assessments, and the installments covering
33 all of the costs related to issuing, selling, and redeeming the lake or
34 beach management district bonds.

35 **Sec. 3.** RCW 36.61.070 and 2008 c 301 s 9 are each amended to read
36 as follows:

37 (1) After the public hearing, the county legislative authority may

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

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

29 **Sec. 4.** RCW 36.61.220 and 2008 c 301 s 21 are each amended to read
30 as follows:

31 Within ~~((fifteen))~~ thirty days after a county creates a lake or
32 beach management district, the county shall cause to be filed with the
33 county treasurer, a description of the lake or beach improvement and
34 maintenance activities proposed that the lake or beach management
35 district finances, the lake or beach management district number, and a
36 copy of the diagram or print showing the boundaries of the lake or
37 beach management district and preliminary special assessment roll or

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

9 **Sec. 5.** RCW 36.61.250 and 1985 c 398 s 25 are each amended to read
10 as follows:

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

16 **Sec. 6.** RCW 36.61.260 and 2008 c 301 s 23 are each amended to read
17 as follows:

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

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

32 (3) Lake or beach management district revenue bonds shall be
33 exclusively payable from the special fund or funds and from a guaranty
34 fund that the county may have created out of a portion of proceeds from
35 the sale of the lake or beach management district bonds.

1 (~~(2)~~) (4)(a) Lake or beach management district revenue bonds
2 shall not constitute a general indebtedness of the county issuing the
3 bond nor an obligation, general or special, of the state. The owner of
4 any lake or beach management district revenue bond shall not have any
5 claim for the payment thereof against the county that issues the bonds
6 except for: (i) With respect to revenue bonds payable from special
7 assessments, payment from the special assessments made for the lake or
8 beach improvement or maintenance activities for which the lake or beach
9 management district bond was issued and from the special fund or funds,
10 and a lake or beach management district guaranty fund, that may have
11 been created; and (ii) with respect to revenue bonds payable from rates
12 and charges, payment from rates and charges deposited in the special
13 fund or funds that the county may have created for that purpose.
14 Revenue bonds may be payable from both special assessments and from
15 rates and charges. The county shall not be liable to the owner of any
16 lake or beach management district bond for any loss to (~~the~~) a lake
17 or beach management district guaranty fund occurring in the lawful
18 operation of the fund. The owner of a lake or beach management
19 district bond shall not have any claim against the state arising from
20 the lake or beach management district bond, rates and charges, special
21 assessments, or guaranty fund. Tax revenues shall not be used to
22 secure or guarantee the payment of the principal of or interest on lake
23 or beach management district bonds. Notwithstanding the provisions of
24 this subsection, nothing in this section may be interpreted as limiting
25 a county's issuance of bonds pursuant to RCW 36.67.010 in order to
26 assist in the financing of improvements to lakes or beaches located
27 within or partially within the boundaries of the county, including
28 without limitation lakes or beaches located within a lake or beach
29 management district.

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

36 (~~(3)~~) (5) If the county fails to make any principal or interest
37 payments on any lake or beach management district bond or to promptly
38 collect any special assessment securing (~~the~~) lake or beach

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

8 ~~((+4))~~ (6) A county may create a lake or beach management district
9 bond guaranty fund for each issue of lake or beach management district
10 bonds. The guaranty fund shall only exist for the life of the lake or
11 beach management district bonds with which it is associated. A portion
12 of the bond proceeds may be placed into a guaranty fund. Unused moneys
13 remaining in the guaranty fund during the last two years of the
14 installments shall be used to proportionally reduce the required level
15 of installments and shall be transferred into the special fund into
16 which installment payments are placed. A county may, in the discretion
17 of the legislative authority of the county, deposit amounts into a lake
18 or beach management district bond guaranty fund from any money legally
19 available for that purpose. Any amounts remaining in the guaranty fund
20 after the repayment of all revenue bonds secured thereby and the
21 payment of assessment installments, may be applied to lake or beach
22 improvement and maintenance activities or to other county purposes.

23 ~~((+5))~~ (7) Lake or beach management district bonds shall be issued
24 and sold in accordance with chapter 39.46 RCW. The authority to create
25 a special fund or funds shall include the authority to create accounts
26 within a fund.

27 NEW SECTION. Sec. 7. A new section is added to chapter 36.61 RCW
28 to read as follows:

29 (1) In connection with the acquisition of real property or property
30 rights within or outside a lake or beach management district, a county
31 may: (a) Own real property and property rights, including without
32 limitation conservation easements; (b) transfer real property and
33 property rights to another state or local governmental entity; (c)
34 contract with a public or private entity, including without limitation
35 a financial institution with trust powers, a municipal corporation, or
36 a nonprofit corporation, to hold real property or property rights such
37 as conservation easements in trust for the purposes of the lake and

1 beach management district, and, in connection with those services, to
2 pay the reasonable costs of that financial institution or nonprofit
3 corporation; (d) monitor and enforce the terms of a real property right
4 such as a conservation easement, or for that purpose to contract with
5 a public or private entity, including without limitation a financial
6 institution with trust powers, a municipal corporation, or a nonprofit
7 corporation; (e) impose terms, conditions, and encumbrances upon real
8 property or property rights acquired in respect of a lake or beach
9 management district, and amend the same; and (f) accept gifts, grants,
10 and loans in connection with the acquisition of real property and
11 property rights for lake or beach management district purposes.

12 (2) If a county transfers real property or property rights to a
13 financial institution, municipal corporation, or nonprofit corporation
14 to hold that property or property rights in trust for purposes of the
15 district, the terms of the transfer must provide that the financial
16 institution, municipal corporation, or nonprofit corporation may not
17 sell, pledge, or hypothecate the property or property rights for any
18 purpose, and must further provide for the transfer of the property or
19 property rights back to the county in the event of a material breach of
20 the terms of the transfer.

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

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