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ENGROSSED SENATE BILL 6031

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State of Washington

63rd Legislature

2014 Regular Session

By Senator Sheldon

Read first time 01/14/14. Referred to Committee on Natural Resources & Parks.

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

37 A proposal to acquire real property or property rights within or

1 outside of a lake or beach management district in accordance with RCW  
2 36.61.020 must, prior to the acquisition of the real property or  
3 property rights, have the written approval of a majority of the  
4 property owners of the district, as determined by the tax rolls of the  
5 county assessor.

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

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

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

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

3       Within (~~fifteen~~) thirty days after a county creates a lake or  
4 beach management district, the county shall cause to be filed with the  
5 county treasurer, a description of the lake or beach improvement and  
6 maintenance activities proposed that the lake or beach management  
7 district finances, the lake or beach management district number, and a  
8 copy of the diagram or print showing the boundaries of the lake or  
9 beach management district and preliminary special assessment roll or  
10 abstract of the same showing thereon the lots, tracts, parcels of land,  
11 and other property that will be specially benefitted thereby and the  
12 estimated cost and expense of such lake or beach improvement and  
13 maintenance activities to be borne by each lot, tract, parcel of land,  
14 or other property. The treasurer shall immediately post the proposed  
15 special assessment roll upon his or her index of special assessments  
16 against the properties affected by the lake or beach improvement or  
17 maintenance activities.

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

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

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

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

32       (2) Whenever lake or beach management district revenue bonds are  
33 proposed to be issued, the county legislative authority shall create a  
34 special fund or funds for the lake or beach management district from  
35 which all or a portion of the costs of the lake or beach improvement  
36 and maintenance activities shall be paid. Lake or beach management

1 district bonds shall not be issued in excess of the costs and expenses  
2 of the lake or beach improvement and maintenance activities and shall  
3 not be issued prior to twenty days after the thirty days allowed for  
4 the payment of special assessments without interest or penalties.

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

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

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

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

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

32        ~~((5))~~ (7) Lake or beach management district bonds shall be issued  
33 and sold in accordance with chapter 39.46 RCW. The authority to create  
34 a special fund or funds shall include the authority to create accounts  
35 within a fund.

36        NEW SECTION. Sec. 8. A new section is added to chapter 36.61 RCW  
37 to read as follows:

1 A proposal to issue lake or beach management district revenue bonds  
2 in accordance with RCW 36.61.260 must, prior to the issuance of the  
3 bonds, have the written approval of a majority of the property owners  
4 of the district, as determined by the tax rolls of the county assessor.

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

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

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

35 (3) Before a lake or beach management district in existence as of  
36 the effective date of this section exercises the powers set forth in



1 this section, the legislative authority of the county must provide for  
2 an amended resolution of intention and modify the plan for the  
3 district, with a public hearing, all as provided in RCW 36.61.050.

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