

FINAL BILL REPORT

SSB 5795

C 96 L 15

Synopsis as Enacted

Brief Description: Authorizing municipalities to create assessment reimbursement areas for the construction or improvement of water or sewer facilities.

Sponsors: Senate Committee on Government Operations & Security (originally sponsored by Senators Roach and Liias).

Senate Committee on Government Operations & Security House Committee on Local Government

Background: Contract for Water or Sewer Facilities. The governing body of any county, city, town, or drainage district (municipality) may contract with the owners of real estate for the construction of certain water or sewer facilities to connect with public water or sewer systems and serve the affected real estate. At the owner's request, a municipality must contract with the owner for the construction or improvement of water or sewer facilities that the owner elects to install at their own expense. An owner's request may only require a contract in certain locations, including the following:

- where a municipality's ordinances require the facilities to be improved or constructed as a prerequisite to further property development;
- locations where the proposed improvement or construction will be consistent with the comprehensive plans and development regulations of the municipalities through which the facilities will be constructed or will serve; and
- within the municipality's corporate limits or within ten miles of the municipality's corporate limits.

Additionally, the owner must submit a request for a contract to the municipality prior to approval of the water or sewer facility by the municipality. The contracts must be filed and recorded with the county auditor and must contain conditions required by the municipality in accordance with its adopted policies and standards.

Unless the municipality notifies the owner of its intent to request a comprehensive plan approval, the owner must request a comprehensive plan approval for the water or sewer facility, if required. Connection of the water or sewer facility to the municipal system must be conditioned upon specified requirements:

- construction of the water or sewer facility according to plans and specifications approved by the municipality;
- inspection and approval of the water or sewer facility by the municipality; and

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- payment by the owner to the municipality of all of the municipality's costs associated with the water or sewer facility including, but not limited to, engineering, legal, and administrative costs.

Contracts between municipalities and real estate owners must provide for the pro rata reimbursement to the owner or the owner's assigns for 20 or more years. The reimbursements must:

- be within the contract's effective period;
- be for a portion of the costs of the water or sewer facilities improved or constructed in accordance with the contract; and
- be from latecomer fees received by the municipality from property owners who subsequently connect to or use the water or sewer facilities, but who did not contribute to the original cost of the facilities.

Unless provided otherwise by ordinance or contract, municipalities that participate in the financing of water or sewer facilities improved through the contractually-based process are entitled to a pro rata share of the reimbursement based on the respective contribution of the owner and the municipality. Municipalities seeking reimbursements are also entitled to collect fees that are reasonable and proportionate to expenses incurred in complying with contracts with real estate owners for the construction or improvement of water or sewer facilities.

Within 120 days of the completion of a water or sewer facility, the owners of the real estate must submit the total cost of the water or sewer facility to the applicable municipality. This information must be used by the municipality as the basis for determining reimbursements by future users who benefit from the water or sewer facility, but who did not contribute to the original cost of the water or sewer facility.

The provisions governing contracts with real estate owners for the construction or improvement of water or sewer facilities do not create a private right of action for damages against a municipality for failing to comply with specified requirements. A municipality or its officials, employees, or agents may not be held liable for failure to collect a latecomer fee unless the failure was willful or intentional. Failure to comply with requirements for contracts with real estate owners for the construction or improvement of water or sewer facilities does not relieve a municipality of future compliance requirements.

Assessment Reimbursement Areas—Street Projects. For road or street improvements, counties, cities, and towns are currently authorized to create assessment reimbursement areas without the participation of property owners, finance the costs of improvements, and become the sole beneficiary of reimbursements for the project. The assessment is formulated by the county, city, or town based on a determination of which parcels adjacent to the improvements would require similar street improvements upon development. Reimbursements are a pro rata share of the construction and administration costs of the project, and the share of each property owner is determined using a method of cost apportionment based on benefits to the property owner.

Summary: As an alternative to the statutory procedures described above for financing the construction or improvement of water or sewer facilities, municipalities may create an

assessment reimbursement area on their own initiative without the participation of a private property owner. Following the creation of an assessment reimbursement area, the municipality may finance all of the costs associated with the construction or improvement and become the sole beneficiary of reimbursements. A municipality may only establish an assessment reimbursement area in locations where a municipality's ordinances require water or sewer facilities to be improved or constructed as a prerequisite to further property development or redevelopment.

To create an assessment reimbursement area, a municipality must:

- define the boundaries of the area based upon a determination of which parcels in the proposed area would require construction or improvement of water or sewer facilities upon development or redevelopment, or would be allowed connection to or usage of constructed or improved water or sewer facilities;
- send by certified mail a preliminary determination of the assessment reimbursement area boundaries and assessments, along with a description of property owners' rights and options, to each owner of record of real property within the proposed assessment reimbursement area; and
- record the final determination of the assessment reimbursement area boundaries and assessments with the county auditor.

Within 20 days of the preliminary determination's mailing, property owners within the proposed area may submit a written request for a public hearing. If it is submitted, the municipality must hold a public hearing on the assessment reimbursement area. Notice of the hearing must be provided to all affected property owners. Any rulings of the legislative authority of the municipality are determinative and final, but subject to judicial review.

A municipality may be reimbursed only for the costs associated with construction or improvements of facilities that benefit property that will connect to or use the water or sewer facilities within the assessment reimbursement area. Reimbursement may only occur when a property is developed or redeveloped in a manner requiring connection to or use of the water or sewer facilities, or when a property is requesting connection to or use of the water or sewer facilities. The reimbursement may be no greater than a property's pro rata share of costs associated with construction of the water or sewer facilities required to meet utility service and fire suppression standards. The reimbursement share for each property owner must be based on the benefit to the property owner from the project. The municipality's administrative and legal costs are not subject to reimbursement. A municipality may not receive reimbursement of costs for the portion of construction or improvements that benefit the general public, which is the portion of the water or sewer facilities that only benefit property outside of the assessment reimbursement area.

Votes on Final Passage:

Senate	38	10
House	57	40

Effective: July 24, 2015