
SENATE BILL 5645

State of Washington

68th Legislature

2023 Regular Session

By Senator MacEwen

1 AN ACT Relating to stormwater control facilities and county
2 jurisdiction; and amending RCW 36.89.050 and 36.89.080.

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

4 **Sec. 1.** RCW 36.89.050 and 1970 ex.s. c 30 s 5 are each amended
5 to read as follows:

6 (1) A county may finance, acquire, construct, develop, improve,
7 maintain and operate any open space, park, recreation and community
8 facilities, public health and safety facilities, stormwater control
9 facilities and highways authorized by this chapter either solely or
10 in conjunction with one or more governmental agencies. Any
11 governmental agency is authorized to participate in such financing,
12 acquisition, construction, development, improvement, use, maintenance
13 and operation and to convey, dedicate or lease any lands, properties
14 or facilities to any county for the purposes provided in this chapter
15 and RCW 86.12.020, on such terms as may be fixed by agreement between
16 the respective governing commissions or legislative bodies without
17 submitting the matter to a vote of the electors unless the provisions
18 of general law applicable to the incurring of public indebtedness
19 shall require such submission.

20 (2) No county shall proceed under the authority of this chapter
21 to construct or improve any stormwater control facility or highway or

1 part thereof lying within the limits of a city or town except with
2 the prior consent of such city or town. By agreement between their
3 respective legislative bodies, cities, towns and counties may provide
4 that upon completion of any stormwater control facility or highway or
5 portion thereof constructed pursuant to this chapter within any city
6 or town, the city or town shall accept the same for maintenance and
7 operation and that such stormwater control facility or highway or
8 portion thereof shall thereupon become a part of the respective
9 stormwater control facility or highway system of the city or town.

10 (3) (a) A county that intends to extend or improve any stormwater
11 control facility or part thereof lying within the limits of any
12 operating diking or drainage district where the stormwater control
13 facility interacts with or changes water movement within a diking or
14 drainage district must notify and consult with the diking or drainage
15 district.

16 (b) Diking or drainage districts and counties by written
17 agreement may provide that upon completion of any stormwater control
18 facility or portion thereof constructed pursuant to this chapter
19 within any diking or drainage district, the diking or drainage
20 district may accept the same for maintenance and operation and that
21 such stormwater control facility or portion thereof shall thereupon
22 become a part of the respective stormwater control facility system of
23 the diking or drainage district.

24 (c) A diking district that maintains and operates a stormwater
25 control facility or portion thereof is eligible to receive amounts
26 from the rates and charges assessed pursuant to RCW 36.89.080 to pay
27 for its costs stemming from those actions, including an equitable
28 portion of administrative costs.

29 (4) A county may transfer to any other governmental agency the
30 ownership, operation and maintenance of any open space, park,
31 recreation and community facility acquired by the county pursuant to
32 this chapter, which lies wholly or partly within such governmental
33 agency, pursuant to an agreement entered into between the legislative
34 bodies of the county and such governmental agency: PROVIDED, That
35 such transfer shall be subject to the condition that either such
36 facility shall continue to be used for the same purposes or that
37 other equivalent facilities within the county shall be conveyed to
38 the county in exchange therefor.

1 **Sec. 2.** RCW 36.89.080 and 2021 c 176 s 5214 are each amended to
2 read as follows:

3 (1) Subject to subsections (2) and (3) of this section, any
4 county legislative authority may provide by resolution for revenues
5 by fixing rates and charges for the furnishing of service to those
6 served or receiving benefits or to be served or to receive benefits
7 from any stormwater control facility or contributing to an increase
8 of surface water runoff. In fixing rates and charges, the county
9 legislative authority may in its discretion consider:

10 (a) Services furnished or to be furnished;

11 (b) Benefits received or to be received;

12 (c) The character and use of land or its water runoff
13 characteristics;

14 (d) The public benefit nonprofit corporation status, as defined
15 in RCW 24.03A.245, of the land user;

16 (e) Income level of persons served or provided benefits under
17 this chapter, including senior citizens and individuals with
18 disabilities; or

19 (f) Any other matters which present a reasonable difference as a
20 ground for distinction.

21 (2) The rate a county may charge under this section for
22 stormwater control facilities shall be reduced by a minimum of ten
23 percent for any new or remodeled commercial building that utilizes a
24 permissive rainwater harvesting system. Rainwater harvesting systems
25 shall be properly sized to utilize the available roof surface of the
26 building. The jurisdiction shall consider rate reductions in excess
27 of ten percent dependent upon the amount of rainwater harvested.

28 (3) Rates and charges authorized under this section may not be
29 imposed on lands taxed as forestland under chapter 84.33 RCW or as
30 timberland under chapter 84.34 RCW.

31 (4) (a) The service charges and rates collected shall be deposited
32 in a special fund or funds in the county treasury to be used only for
33 the purpose of paying all or any part of the cost and expense of
34 maintaining and operating stormwater control facilities, all or any
35 part of the cost and expense of planning, designing, establishing,
36 acquiring, developing, constructing and improving any of such
37 facilities, or to pay or secure the payment of all or any portion of
38 any issue of general obligation or revenue bonds issued for such
39 purpose.

1 (b) Beginning in fiscal year 2024, service charges and rates
2 collected by a county under this chapter for stormwater facilities
3 operated and maintained by a duly authorized diking or drainage
4 district formed and operating under Title 85 RCW may be deposited
5 into the revenue account of that diking or drainage district.

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