

ment roll and he shall thereupon modify and correct the assessment roll in accordance with the order.

Passed the Senate March 5, 1957.

Passed the House March 10, 1957.

Approved by the Governor March 20, 1957.

CHAPTER 144.

[S. B. 49.]

CITIES AND TOWNS—LOCAL IMPROVEMENTS— AUTHORITY, ASSESSMENTS.

AN ACT relating to local improvements in cities and towns; and amending sections 1, 15 and 58, chapter 98, Laws of 1911 and section 1, chapter 190, Laws of 1945 and RCW 35.43.040 and 35.43.110 and sections 9, 16, 17 and 18, chapter 98, Laws of 1911 and section 4, chapter 209, Laws of 1927 and section 1, chapter 97, Laws of 1929 and section 1, chapter 28, Laws of 1949 as last amended by sections 1 and 2, chapter 26, Laws of 1953 and section 1, chapter 177, Laws of 1953 and RCW 35.43.090 and RCW 35.43.120 through 35.43.180, and section 1, chapter 155, Laws of 1947 and section 2, chapter 97, Laws of 1929 and RCW 35.43.050, 35.43.080, 35.44.010 and RCW 35.44.030 through 35.44.050.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Sections 1, 15 and 58, chapter 98, Laws of 1911 and section 1, chapter 190, Laws of 1945 (heretofore divided, combined, and codified as RCW 35.43.040 and 35.43.110) are amended to read as set forth in sections 2 and 3 of this amendatory act.

Combination,
division and
amendment.

SEC. 2. (RCW 35.43.040) Whenever the public interest or convenience may require, the legislative authority of any city or town may order the whole or any part of any local improvement including but not restricted to those listed below to be constructed, reconstructed, repaired, or renewed and the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon; may order any and all work to be done necessary

RCW 35.43.040
amended.
Authority
generally.

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for completion thereof; and may levy and collect special assessments on property specially benefited thereby to pay the whole or any part of the expense thereof, viz:

(1) Alleys, avenues, boulevards, lanes, park drives, parkways, public places, public squares, public streets, their grading, regrading, planking, replanking, paving, repaving, macadamizing, remacadamizing, graveling, regravelling, piling, repiling, capping, recapping, or other improvement; if the management and control of park drives, parkways, and boulevards is vested in a board of park commissioners, the plans and specifications for their improvement must be approved by the board of park commissioners before their adoption;

(2) Auxiliary water systems;

(3) Auditoriums, field houses, gymnasiums, swimming pools, or other recreational or playground facilities or structures;

(4) Bridges, culverts, and trestles and approaches thereto;

(5) Bulkheads and retaining walls;

(6) Dikes and embankments;

(7) Drains, sewers and sewer appurtenances which as to trunk sewers shall include as nearly as possible all the territory which can be drained through the trunk sewer and subsewers connected thereto. In distributing assessments in the case of trunk sewers there shall be levied against the property lying between the termini of the improvement and back to the middle of the blocks along the marginal lines of the area improved such amounts as would represent the reasonable cost of a local sewer and its appurtenances suited to the requirements of the property, and the remainder of the cost and expense of the improvement shall be distributed over and assessed against all of the property within the boundaries of the district: *Provided*, That if it is

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necessary to construct any such sewer in an easement across private property as a part of a sewer system improvement the authority to assess for special benefits conferred by the improvement shall be the same as if such sewer were constructed in a public street;

Cities and towns. Local improvements. Authority generally.

(8) Escalators or moving sidewalks together with the expense of operation and maintenance;

(9) Parks and playgrounds;

(10) Sidewalks, curbing, and crosswalks;

(11) Street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation;

(12) Underground utilities transmission lines;

(13) Water mains, hydrants and appurtenances which as to trunk water mains shall include as nearly as possible all the territory in the zone or district to which water may be distributed from the trunk water mains through lateral service and distribution mains and services. In distributing assessments in the case of trunk water mains there shall be levied against the property lying between the termini of the improvement and back to the middle of the block along the marginal lines of the area improved, such amounts as would represent the reasonable cost of a local water main and appurtenances suited to the requirements of the property, and the remainder of the cost and expense of the improvement shall be distributed over and assessed against all of the property within the boundaries of the district: *Provided*, That if it is necessary to construct any such water main in an easement across private property as a part of a water main system improvement the authority to assess for special benefits conferred by the improvement shall be the same as if such water main were constructed in a public street.

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RCW 35.43.110
enacted
without
amendment.

SEC. 3. (RCW 35.43.110) Proceedings to establish local improvement districts must be initiated by petition in the following cases:

(1) Any local improvement payable in whole or in part by special assessments which includes a charge for the cost and expense of furnishing electrical energy to any system of street lighting or for the cost and expense of operation and maintenance of escalators or moving sidewalks shall be initiated only upon a petition signed by the owners of two-thirds of the lineal frontage upon the improvement to be made and two-thirds of the area within the limits of the proposed improvement district;

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(2) If the management of park drives, parkways, and boulevards of a city has been vested in a board of park commissioners or similar authority: *Provided*, That the proceedings may be initiated by a resolution, if the ordinance is passed at the request of the park board or similar authority therefor specifying the particular drives, parkways, or boulevards or portions thereof to be improved and the nature of the improvement.

Combination,
division and
amendment.

SEC. 4. Sections 9, 16, 17 and 18, chapter 98, Laws of 1911 and section 4, chapter 209, Laws of 1927 and section 1, chapter 97, Laws of 1929 and section 1, chapter 28, Laws of 1949 as last amended by sections 1 and 2, chapter 26, Laws of 1953 and section 1, chapter 177, Laws of 1953 (heretofore divided, combined, and codified as RCW 35.43.090 and 35.43.120 through 35.43.180) are amended to read as set forth in sections 5 through 12 of this amendatory act.

RCW 35.43.090
enacted
without
amendment.

SEC. 5. (RCW 35.43.090) Any ordinance ordering the construction of trunk sewers, of trunk water mains, of dikes or other structures to protect the city or any part thereof from overflow, or to open, deepen, straighten, or enlarge watercourse, waterways, and other channels, and of auxiliary water systems or extensions thereof or additions thereto

for the protection of the city or any part thereof from fire, shall describe the place of commencement and ending of the improvement, the route along which the improvement is to be constructed, specify the structures or works necessary thereto or forming a part thereof, and adopt maps, plans and specifications for the improvement.

SEC. 6. (RCW 35.43.120) Any local improvement, the assessment district for which does not extend beyond the termini of the improvement may be initiated upon a petition signed by the owners of property aggregating a majority (1) of the lineal frontage upon the improvement and (2) of the area within the proposed district. The petition must set forth the nature and territorial extent of the proposed improvement, the mode of payment, and what proportion of the lineal frontage upon the improvement and of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor.

RCW 35.43.120
enacted
without
amendment.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the clerk or with such other officer as the city or town by charter or ordinance may require.

SEC. 7. (RCW 35.43.130) Upon the filing of a petition or upon the adoption of a resolution, as the case may be, initiating a proceeding for the formation of a local improvement district, the proper board, officer, or authority designated by charter or ordinance to make the preliminary estimates and assessment roll shall cause an estimate to be made of the cost and expense of the proposed improve-

RCW 35.43.130
amended.
Preliminary
estimates and
assessment
roll.

Cities and towns. Local improvements—Authority, initiation. Preliminary estimates and assessment roll.

ment and certify it to the legislative authority of the city or town together with all papers and information in its possession touching the proposed improvement, a description of the boundaries of the district, a statement of what portion of the cost and expense of the improvement should be borne by the property within the proposed district, a statement in detail of the local improvement assessments outstanding and unpaid against the property in the proposed district, and a statement of the aggregate actual valuation of the real estate including twenty-five percent of the actual valuation of the improvements in the proposed district according to the valuation last placed upon it for the purposes of general taxation.

If the proceedings were initiated by petition the designated board, officer or authority shall also determine the sufficiency of the petition and whether the facts set forth therein are true. If the petition is found to be sufficient and in all proceedings initiated by resolution of the legislative authority of the city or town, the estimates must be accompanied by a diagram showing thereon the lots, tracts, and parcels of land and other property which will be specially benefited by the proposed improvement and the estimated amount of the cost and expense thereof to be borne by each lot, tract, or parcel of land or other property: *Provided*, That no such diagram shall be required where such estimates are on file in the office of the city engineer, or other designated city office, together with a detailed copy of the preliminary assessment roll and the plans and assessment maps of the proposed improvement.

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For the purpose of estimating and levying local improvement assessments, the value of property of the United States, of the state, or of any county, city, town, school district, or other public corporation whose property is not assessed for general taxes

shall be computed according to the standards afforded by similarly situated property which is assessed for general taxes.

SEC. 8. (RCW 35.43.140) Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city council or other legislative authority of the city, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein.

RCW 35.43.140
enacted
without
amendment.

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, subsewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourse, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used.

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire, the resolution must set forth the routes along which the auxiliary water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof.

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, or if there is no official newspaper, in any legal newspaper of general circulation therein; the first publication to be at least fifteen days before the day fixed for the hearing.

The hearing herein required may be held before the city council, or other legislative authority, or before a committee thereof. If the hearing is before a committee, the committee shall following the hearing report its recommendation on the resolution to the city council or other legislative authority for final action.

RCW 35.43.150
enacted
without
amendment.

SEC. 9. (RCW 35.43.150) Notice of the hearing upon a resolution declaring the intention of the legislative authority of a city or town to order an improvement shall be given by mail at least fifteen days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the county treasurer, directed to the address thereon shown.

The notice shall set forth the nature of the proposed improvement, the estimated cost, and the estimated benefits to the particular lot, tract, or parcel.

RCW 35.43.160
amended.
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towns. Local
improvements
—Authority,
initiation. Re-
straints on
authority—
When initiated
by petition.

SEC. 10. (RCW 35.43.160) No city or town shall proceed with a local improvement initiated by petition, if it appears from the preliminary estimates and assessment roll that the amount of the estimated cost and expense thereon, which is to be assessed against the property in the proposed district, when added to all other outstanding local improvement assessments against the property in the proposed district (excluding penalties and interest and excluding assessments for diking, drainage, sanitary fill or for filling any street to the established grade over any tideflats or tidelands or for storm or for sanitary sewers or water mains) exceeds the aggregate actual valuation of the real estate (including twenty-five percent of the actual valuation of the improvements thereon), within the district according to the valuation last placed upon it for the pur-

poses of general taxation, unless the property owners or someone in their behalf, deposits with the city or town, a sum of money equal to the amount by which the estimated cost of the improvement exceeds the limit herein fixed: *Provided*, That the limitation of assessment herein fixed shall not apply to the improvement of a particular disconnected unit included in a local improvement district as permitted by RCW 35.43.050, but shall pertain only to the local improvement district as a whole.

SEC. 11. (RCW 35.43.170) No city or town shall proceed with a local improvement initiated by resolution of the city's legislative authority if it appears from the preliminary estimates and assessment roll that the city or town would have been prohibited from proceeding had the proceeding been initiated by petition, except when the legislative authority of the city or town, deeming it necessary for public health, by unanimous vote, orders the construction of sanitary sewers and necessary accessories for the disposal of sewage, or the construction of any sanitary fill, or the filling of any street to the established grade over tideflats or tidelands, in which event it may assess all or any part of the cost to property benefited irrespective of the limitations of RCW 35.43.160.

RCW 35.43.170
enacted
without
amendment.

SEC. 12. (RCW 35.43.180) The jurisdiction of the legislative authority of a city or town to proceed with any local improvement initiated by resolution shall be divested by a protest filed with the city or town council within thirty days from the date of passage of the ordinance ordering the improvement, signed by the owners of the property within the proposed local improvement district subject to sixty percent or more of the total cost of the improvement including federally-owned or other nonassessable property as shown and determined by the preliminary estimates and assessment roll of the proposed

RCW 35.43.180
enacted
without
amendment.
Restraint by
protest.

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improvement district: *Provided*, That such restraint by protest shall not apply to any local improvement by sanitary sewers where the health officer of any city or town shall file with the legislative authority thereof a report showing the necessity for such improvement and such legislative body finds and recites in the ordinance or resolution authorizing the improvement that such improvement is necessary for the protection of the public health and safety and such ordinance or resolution is passed by unanimous vote of all members present.

Combination,
division and
amendment.

SEC. 13. Section 1, chapter 155, Laws of 1947 and section 2, chapter 97, Laws of 1929 (heretofore divided, combined, and codified as RCW 35.43.050, 35.43.080, 35.44.010 and RCW 35.44.030 through 35.44.050) are amended to read as set forth in sections 14 through 19 of this amendatory act.

RCW 35.43.050
enacted
without
amendment.

SEC. 14. (RCW 35.43.050) A local improvement district may include adjoining, vicinal or neighboring streets, avenues and alleys even though the improvement thus made is not connected or continuous: *Provided*, That the cost and expense of each continuous unit of the improvement shall be ascertained separately, as near as may be, and the assessment rates shall be computed on the basis of the cost and expense of each unit. In the event of the initiation of a local improvement district authorized by this section, the legislative body may, in its discretion, eliminate from said district any unit of the improvement which is not connected or continuous and may proceed with the balance of the improvement within said local improvement district, as fully and completely as though said eliminated unit had not been included within the improvement district, without the giving of any notices to the property owners remaining within the district, other than such notices as are required by the provisions of

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this chapter to be given subsequent to such elimination.

SEC. 15. (RCW 35.43.080) Every ordinance ordering a local improvement to be paid in whole or in part by assessments against the property specially benefited shall establish a local improvement district to be known as "local improvement district No.," which shall embrace as nearly as practicable all the property specially benefited by the improvement.

RCW 35.43.080
enacted
without
amendment.

Unless otherwise provided in the ordinance ordering the improvement, the improvement district shall include all the property between the termini of the improvement abutting upon, adjacent, vicinal, or proximate to the street, avenue, lane, alley, boulevard, park drive, parkway, public place or square proposed to be improved to a distance of ninety feet back from the marginal lines thereof or to the center line of the blocks facing or abutting thereon, whichever is greater (in the case of unplatted property, the distance back shall be the same as in the platted property immediately adjacent thereto): *Provided*, That if the local improvement is such that the special benefits resulting therefrom extend beyond the boundaries as above set forth, the council may create an enlarged district to include as nearly as practicable all the property to be specially benefited by the improvement; the petition or resolution for an enlarged district and all proceedings pursuant thereto shall conform as nearly as practicable to the provisions relating to local improvement districts generally except that the petition or resolution must describe it as an enlarged district and state what proportion of the amount to be charged to the property specially benefited shall be charged to the property lying between the termini of the proposed improvement and extending back from the marginal lines thereof to the middle of the block (or ninety

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feet back) on each side thereof, and what proportion thereof to the remainder of the enlarged district: *Provided further*, That whenever the nature of the improvement is such that the special benefits conferred on the property are not fairly reflected by the use of the aforesaid termini and zone method, the ordinance ordering the improvement may provide that the assessment shall be made against the property of the district in accordance with the special benefits it will derive from the improvement without regard to the zone and termini method.

RCW 35.44.010
enacted
without
amendment.

SEC. 16. (RCW 35.44.010) All property included within the limits of a local improvement district shall be considered to be the property specially benefited by the local improvement and shall be the property to be assessed to pay the cost and expense thereof or such part thereof as may be chargeable against the property specially benefited. The cost and expense shall be assessed upon all of the property in accordance with the special benefits conferred thereon in proportion to area and distance back from the marginal line of the public way or area improved.

RCW 35.44.030
enacted
without
amendment.

SEC. 17. (RCW 35.44.030) For the purpose of ascertaining the amount to be assessed against each separate lot, tract, parcel of land or other property therein, the local improvement district shall be divided into subdivisions or zones paralleling the margin of the street, avenue, lane, alley, boulevard, park drive, parkway, public place or public square to be improved, numbered respectively first, second, third, fourth, and fifth.

The first subdivision shall include all lands within the district lying between the street margins and lines drawn parallel therewith and thirty feet therefrom.

The second subdivision shall include all lands within the district lying between lines drawn paral-

lel with and thirty and sixty feet respectively from the street margins.

The third subdivision shall include all lands within the district lying between lines drawn parallel with and sixty and ninety feet respectively from the street margins.

The fourth subdivision shall include all lands, if any, within the district lying between lines drawn parallel with and ninety and one hundred twenty feet respectively from the street margins.

The fifth subdivision shall include all lands, if any, within the district lying between a line drawn parallel with and one hundred twenty feet from the street margin and the outer limit of the improvement district.

SEC. 18. (RCW 35.44.040) The rate of assessment per square foot in each subdivision of an improvement district shall be fixed on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth and fifth, respectively, are related to each other as are the numbers, forty-five, twenty-five, twenty, ten, and five, respectively, and shall be ascertained in the following manner:

RCW 35.44.040 amended. Cities and towns. Local improvements—Assessments. Assessment rate per square foot.

(1) The products of the number of square feet in subdivisions first, second, third, fourth, and fifth, respectively, and the numbers forty-five, twenty-five, twenty, ten, and five, respectively, shall be ascertained;

(2) The aggregate sum thereof shall be divided into the total cost and expense of the improvement;

(3) The resultant quotient multiplied by forty-five, twenty-five, twenty, ten, and five, respectively, shall be the respective rate of assessment per square foot for subdivisions first, second, third, fourth and fifth: *Provided*, That in lieu of the above formula the rate of assessment per square foot in each subdivision of an improvement district may be fixed

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on the basis that the special benefits conferred on a square foot of land in subdivisions first, second, third, fourth and fifth, respectively, are related to each other as are the numbers 0.015000, 0.008333, 0.006666, 0.003333, and 0.001666, respectively; and the method of determining the assessment on each lot, tract, or parcel of land in the improvement district may be ascertained in the following manner:

(1) The products of the number of square feet in subdivisions first, second, third, fourth and fifth, respectively, for each lot, tract or parcel of land in the improvement district and the numbers 0.015000, 0.008333, 0.006666, 0.003333 and 0.001666, respectively, shall be ascertained. The sum of all such products for each such lot, tract or parcel of land shall be the number of "assessable units of frontage" therein;

(2) The rate for each assessable unit of frontage shall be determined by dividing that portion of the total cost of the improvement representing special benefits by the aggregate sum of all assessable units of frontage;

(3) The assessment for each lot, tract or parcel of land in the improvement district shall be the product of the assessable units of frontage therefor, multiplied by the rate per assessable unit of frontage.

RCW 35.44.050 enacted without amendment.

SEC. 19. (RCW 35.44.050) The total assessment thus ascertained against each separate lot, tract, parcel of land, or other property in the district shall be entered upon the assessment roll as the amount to be levied and assessed against each separate lot, tract, parcel of land, or other property.

Passed the Senate February 27, 1957.

Passed the House March 10, 1957.

Approved by the Governor March 20, 1957.