

(7) Section 35A.14.360, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.360;

(8) Section 5, chapter 51, Laws of 1969 ex. sess. and RCW 35A.14.365;

(9) Section 35A.14.370, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.370; and

(10) Section 35A.14.600, chapter 119, Laws of 1967 ex. sess. and RCW 35A.14.600.

NEW SECTION. Sec. 11. Sections 1 through 9 and section 12 shall constitute a new chapter in Title 35 RCW.

NEW SECTION. Sec. 12. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate April 30, 1971.

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CHAPTER 96

[Engrossed Substitute Senate Bill No. 139]

COUNTIES--

SEWERAGE, WATER AND DRAINAGE SYSTEMS

AN ACT Relating to counties; amending section 1, chapter 72, Laws of 1967 and RCW 36.94.010; amending section 5, chapter 72, Laws of 1967 and RCW 36.94.050; amending section 6, chapter 72, Laws of 1967 and RCW 36.94.060; amending section 7, chapter 72, Laws of 1967 and RCW 36.94.070; amending section 10, chapter 72, Laws of 1967 and RCW 36.94.100; amending section 12, chapter 72, Laws of 1967 and RCW 36.94.120; amending section 17, chapter 72, Laws of 1967 and RCW 36.94.170; amending section 18, chapter 72, Laws of 1967 and RCW 36.94.180; amending section 22, chapter 72, Laws of 1967 and RCW 36.94.220; amending section 23, chapter 72, Laws of 1967 and RCW 36.94.230; amending section 24, chapter 72, Laws of 1967 and RCW 36.94.240; creating new sections; and declaring an emergency.

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

Section 1. Section 1, chapter 72, Laws of 1967 and RCW 36.94.010 are each amended to read as follows:

As used in this chapter:

(1) A "system of sewerage" means and includes:

- (a) Sanitary sewage disposal sewers;
- (b) Combined sanitary sewage disposal and storm or surface water sewers;
- (c) Storm or surface water sewers;
- (d) Outfalls for storm or sanitary sewage and works, plants, and facilities for sanitary sewage treatment and disposal;
- (e) Combined water and sewerage systems;
- (f) Any combination of or part of any or all of such facilities.

(2) A "system of water" means and includes:

- (a) A water distribution system, including dams, reservoirs, aqueducts, plants, pumping stations, transmission and lateral distribution lines and other facilities for distribution of water;
- (b) A combined water and sewerage system;
- (c) Any combination of or any part of any or all of such facilities.

(3) A "sewerage and/or water general plan" means a general plan for a system of sewerage and/or water for the county which shall be an element of the comprehensive plan established by the county pursuant to RCW 36.70.350(5) and/or chapter 35.63 RCW. ((A sewerage and/or water general plan shall include the general location of lines, laterals, trunks, interceptors, pumping stations, tanks, plants, works, outfalls and other facilities, including preliminary engineering to assure feasibility and shall further provide for the method of distributing the cost and expense of the system.))

(a) A sewerage general plan shall include the general location and description of treatment and disposal facilities, trunk and interceptor sewers, pumping stations, monitoring and control facilities, local service areas and a general description of the collection system to serve those areas, and other facilities as may be required to provide a functional and implementable plan, including preliminary engineering to assure feasibility.

(b) A water general plan shall include the general location and description of water resources to be utilized, wells, treatment facilities, transmission lines, storage reservoirs, pumping stations, monitoring and control facilities as may be required to provide a functional and implementable plan.

(c) Water and/or sewerage general plans shall include preliminary engineering in adequate detail to assure technical feasibility and shall further provide for the methods of distributing the cost and expense of the system and shall indicate the economic and financing feasibility of plan implementation. The plans may also specify local or lateral facilities. The sewerage and/or water general plan shall not mean the final engineering construction plans

for the system.

(4) "Municipal corporation" means and includes any city, town, metropolitan municipal corporation, any public utility district which operates and maintains a water system, any sewer, water, diking or drainage district, any diking, drainage and sewerage improvement district, any water distribution district, and any irrigation district.

(5) A "private utility" means and includes all utilities, both public and private, which provide sewerage and/or water service and which are not municipal corporations within the definition of this chapter. The ownership of a private utility may be in a corporation, nonprofit or for profit, in a cooperative association, in a mutual organization, or in individuals.

(6) "Board" means one or more boards of county commissioners.

Sec. 2. Section 5, chapter 72, Laws of 1967 and RCW 36.94.050 are each amended to read as follows:

Prior to the adoption of or amendment of the sewerage and/or water general plan, the board or boards of county commissioners shall submit the plan or amendment to a review committee. The review committee shall consist of:

(1) A representative of each first and second class city within or adjoining the area selected by the mayor thereof (if there are no first or second class cities within the plan area, then one representative chosen by the mayor of the city with the largest population within the plan area);

(2) One representative chosen at large by a majority vote of the executive officers of the other cities or towns within or adjoining the area;

(3) A representative chosen by the executive officer or the chairman of the board, as the case may be, of each of the other municipal corporations and private utilities serving one thousand or more sewer and/or water customers located within the area;

(4) One representative chosen at large by a majority vote of the executive officers and chairmen of the boards, as the case may be, of the other remaining municipal corporations within the area;

(5) The chairman or chairmen of the board or boards of county commissioners within the planned area; and

(6) In counties where there is a metropolitan municipal corporation operating a sewerage and/or water system in the area, the chairman of its council or such person as he designates.

If the board shall reject the plan pursuant to RCW 36.94.090, the review committee shall be deemed to be dissolved; otherwise the review committee shall continue in existence to review amendments to the plan. Vacancies on the committee shall be filled in the same manner as the original appointment to that position.

Sec. 3. Section 6, chapter 72, Laws of 1967 and RCW 36.94.060 are each amended to read as follows:

The members of each review committee shall elect from its members a chairman and a secretary. The committee shall determine its own rules and order of business and shall provide by resolution for the time and manner of its proceedings which shall be a public record. A majority of all the members shall constitute a quorum for the transaction of business.

Each member of the committee shall be compensated from the county current expense fund at the rate of twenty-five dollars per day, or a major portion thereof, for time actually devoted to the work of the committee in reviewing any proposed sewerage and/or water general plan or amendments to a plan. Each board of county commissioners shall provide such funds as shall be necessary to pay the compensation of the members and such other expenses as shall be reasonably necessary. Such payments shall be reimbursed to the counties advancing the funds from moneys acquired from the construction or operation of a sewerage and/or water system.

Sec. 4. Section 7, chapter 72, Laws of 1967 and RCW 36.94.070 are each amended to read as follows:

The committee shall review the sewerage and/or water general plan or amendments thereto and shall report to the board or boards of county commissioners within ninety days their approval or any suggested amendments, deletions, or additions. If the committee shall fail to report within the time, the plan or amendments thereto shall be deemed approved. If the committee submits a report, the board shall consider and review the committee's report and may adopt any recommendations suggested therein.

Sec. 5. Section 10, chapter 72, Laws of 1967 and RCW 36.94.100 are each amended to read as follows:

Prior to the commencement of actual work on any plan or amendment thereto approved by the board, it must be submitted ((to the appropriate departments of the state of Washington for their written approval: For a sewerage system plan, the plan must be approved by the department of health and the state pollution control commission; For a water system, the plan must be approved by the department of health, the state pollution control commission, and the department of conservation)) for written approval to the Washington department of social and health services and to the Washington department of ecology.

Sec. 6. Section 12, chapter 72, Laws of 1967 and RCW 36.94.120 are each amended to read as follows:

The board shall establish a department in county government for the purpose of establishing, operating and maintaining the system or systems of sewerage and/or water. In the department, the board

shall establish and provide for the operation and maintenance of a personnel merit system for the employment, classification, promotion, demotion, suspension, transfer, layoff and discharge of its appointive officers and employees, solely on the basis of merit and fitness, without regard to political influence or affiliation. Such merit system shall not apply to the chief administrative officer of the department and, if the sewer and/or water utility is a division of a department having other functions, the chief administrative officer of such utility.

Sec. 7. Section 17, chapter 72, Laws of 1967 and RCW 36.94.170 are each amended to read as follows:

The primary authority to construct, operate and maintain a system of sewerage and/or water within the boundaries of a municipal corporation which lies within the area of the county's sewerage and/or water general plan shall remain with such municipal corporation. A county, after it has adopted and received the necessary approvals of its sewer and/or water general plan under the provisions of chapter 36.94 RCW may construct, own, operate and maintain a system of sewerage and/or water within the boundaries of a city or town with the written consent of such city or town and within any other municipal corporation provided such municipal corporation (1) has the legislative authority to operate such a utility; and (2) (a) has given its written consent to the county to operate therein; or (b) after adoption of a comprehensive plan or an amendment thereto for the area involved, the municipal corporation has not within twelve months after receiving notice by the county of its intention to serve that area held a formation hearing for a utility local improvement district.

Prior to exercising any authority granted in this section, the county shall compensate such municipal corporation for its reasonable costs, expenses and obligations actually incurred or contracted which are directly related to and which benefit the area which the county proposes to serve. The county may contract with a municipal corporation to furnish such utility service within any municipal corporation.

Except in the case of annexations provided for in RCW 36.94.180, once a county qualifies under this section to serve within a municipal corporation, no municipal corporation may construct or operate a competing utility in the same territory to be served by the county if the county proceeds within a reasonable period of time with the construction of its proposed facilities including the sale of any bonds to finance the same.

As may be permitted by other statutes, a city or town may provide water or sewer service outside of its corporate limits, but such service may not conflict with the county plan or any county,

sewer or water facilities installed or being installed.

A county proposing to exercise any authority granted in this section shall give written notice of such intention to the municipal corporation involved and to the boundary review board, if any, of such county. Within sixty days of the filing of such notice of intention, review by the boundary review board of the proposed action may be requested as provided by the provisions of RCW 36.93.100 through 36.93.180. In the event of such review, the board shall consider the factors set forth in this section in addition to the factors and objectives set forth in RCW 36.93.170 and 36.93.180.

Sec. 8. Section 18, chapter 72, Laws of 1967 and RCW 36.94.180 are each amended to read as follows:

In the event of the annexation to a city or town of an area in which a county is operating a sewerage and/or water system, the property, facilities, and equipment of such sewerage and/or water system lying within the annexed area may be transferred to the city or town if such transfer will not materially affect the operation of any of the remaining county system, subject to the assumption by the city or town of the county's obligations relating to such property, facilities, and equipment, under the procedures specified in RCW 35.13.220 through RCW 35.13.246 inclusive, and pursuant to the authority contained in RCW 35.13.250 as now existing or hereafter amended.

Sec. 9. Section 22 chapter 72, Laws of 1967 and RCW 36.94.220 are each amended to read as follows:

A county shall have the power to establish utility local improvement districts within the area of a sewerage and/or water general plan and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement on the basis of the special benefits to pay in whole or in part the damages or costs of any improvements ordered in such county. Utility local improvement districts may include territory within a city or town only with the written consent of the city or town, but if the local district is formed before such area is included within the city or town, no such consent shall be necessary. The levying, collection and enforcement of all public assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection and enforcement of local improvement assessments by cities of the first class, insofar as the same shall not be inconsistent with the provisions of this chapter. The duties devolving upon the city treasurer under such laws are imposed upon the county treasurer for the purposes of this chapter. The mode of assessment shall be in the manner to be determined by the board of county commissioners by resolution. It must be specified in any petition for the

establishment of a utility local improvement district and in the sewerage and/or water general plan or amendment thereto that the assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds. Assessments in any utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of any sewerage and/or water ((general plan)) improvement payable by issuance of revenue bonds. No warrants or bonds shall be issued in any such utility local improvement district, but the collection of interest and principal on all assessments in such utility improvement district, when collected, shall be paid into the applicable revenue bond fund.

Sec. 10. Section 23, chapter 72, Laws of 1967 and RCW 36.94.230 are each amended to read as follows:

Utility local improvement districts to carry out all or any portion of the general plan, or additions and betterments thereof, may be initiated either by resolution of the board of county commissioners or by petition signed by the owners according to the records of the office of the county auditor of at least fifty-one percent of the area of land within the limits of the utility local improvement district to be created.

In case the board shall desire to initiate the formation of a utility local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed utility local improvement district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

In case any such utility local improvement district shall be initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement and the fact that the signers thereof are the owners according to the records of the county auditor of at least fifty-one percent of the area of land within the limits of the utility local improvement district to be created. Upon the filing of such petition with the clerk of the board of county commissioners, the board shall determine whether the same shall be sufficient, and the board's determination thereof shall be conclusive upon all persons. No person shall withdraw his name from said petition after the filing thereof with the clerk of the board of county commissioners. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the

nature and territorial extent of said improvement, designating the number of the proposed local district, describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district.

Notice of the adoption of the resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of county commissioners. Notice of the adoption of the resolution of intention shall also be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessments, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date, time and place of the hearing before the board of county commissioners; and in the case of improvements initiated by resolution, said notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the clerk of the board of county commissioners before the time fixed for said public hearing.

Sec. 11. Section 24, chapter 72, Laws of 1967 and RCW 36.94.240 are each amended to read as follows:

Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to the property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in plans for the proposed improvement as shall be deemed necessary: PROVIDED, That the board may not change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

After said hearing the commissioners shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: PROVIDED, That the jurisdiction of the commissioners to proceed with any improvement initiated by resolution shall be divested by protests filed with the clerk of the board prior to said public hearing signed by the owners, according to the records of the county auditor, of at least forty percent of the area of land within the proposed local district. No action whatsoever may be maintained challenging the jurisdiction or authority of the county to proceed with the improvement and creating the utility local improvement district or in any way challenging the validity thereof or any proceedings relating thereto unless that action is served and filed no later than thirty days after the date of passage of the resolution ordering the improvement and creating the local district.

If the commissioners find that the district should be formed, they shall by resolution order the improvement, adopt detailed plans of the utility local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the county such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the county to proceed with the work. The board of county commissioners shall proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local utility improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

NEW SECTION. Sec. 12. This 1971 amendatory act shall apply to any existing and future sewerage and/or water plans or amendments thereto and implementations thereof and shall not be deemed to be prospective only.

NEW SECTION. Sec. 13. If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. This 1971 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions, and shall take effect immediately.

Passed the Senate May 8, 1971.

Passed the House May 3, 1971.

Approved by the Governor May 19, 1971.

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