

CHAPTER 188

[Engrossed Substitute Senate Bill No. 2737]
 LOCAL GOVERNMENT—BONDS—SERVICES AND
 UTILITIES, OPERATION AND SUPPORT—
 WATER DISTRICTS, VALIDATION

AN ACT Relating to local government; amending section 36.67.060, chapter 4, Laws of 1963 and RCW 36.67.060; amending section 14, chapter 72, Laws of 1967 and RCW 36.94.140; amending section 15, chapter 72, Laws of 1967 and RCW 36.94.150; amending section 21, chapter 72, Laws of 1967 and RCW 36.94.210; amending section 22, chapter 72, Laws of 1967 as amended by section 9, chapter 96, Laws of 1971 ex. sess. and RCW 36.94.220; amending section 2, chapter 151, Laws of 1923 as amended by section 2, chapter 74, Laws of 1965 ex. sess. and RCW 39.44.020; amending section 3, chapter 18, Laws of 1959 and RCW 57.12.020; adding new sections to chapter 36.94 RCW; and adding new sections to chapter 57.06 RCW.

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

Section 1. Section 36.67.060, chapter 4, Laws of 1963 and RCW 36.67.060 are each amended to read as follows:

Bonds issued under this chapter shall be serial in form and maturity and interest shall be paid and the principal of the bonds retired by an annual tax levy in accordance with the provisions of chapter 39.44 RCW and by any other moneys lawfully available and pledged therefor.

Sec. 2. Section 14, chapter 72, Laws of 1967 and RCW 36.94.140 are each amended to read as follows:

Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate and control it and to fix, alter, regulate and control the rates and charges for the service to those to whom such county service is available, and to levy charges for connection to such system. The rates for availability of service and connection charges so charged must be uniform for the same class of customers or service.

In classifying customers served ((or)), service furnished or made available by such system of sewerage and/or water, or the connection charges, the board may consider any or all of the following factors:

- (1) The difference in cost of service to the various customers within or without the area;
- (2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;
- (3) The different character of the service furnished various customers;
- (4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;
- (5) Capital contributions made to the system or systems, including, but not limited to, assessments; and
- (6) Any other matters which present a reasonable difference as a ground for distinction.

Such rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system.

Sec. 3. Section 15, chapter 72, Laws of 1967 and RCW 36.94.150 are each amended to read as follows:

All counties operating a system of sewerage and/or water shall have a lien for delinquent connection charges and charges for the availability of sewerage and/or water service, together with interest fixed by resolution at eight percent per annum from the date due until paid. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. The lien shall be for all charges, interest, and penalties and shall attach to the premises to which the services were ~~((furnished))~~ available. The lien shall be superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

The county department established in RCW 36.94.120 shall certify periodically the delinquencies to the treasurer of the county at which time the lien shall attach. ~~((Liens created by this section shall not have priority over liens or encumbrances perfected before the day of the certification to the treasurer of the particular delinquency for which the lien attaches pursuant to this section.))~~

Upon the expiration of sixty days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. In addition to the costs and disbursements provided by statute, the court may allow the county a reasonable attorney's fee. The lien shall be foreclosed in the same manner as the foreclosure of real property tax liens.

Sec. 4. Section 21, chapter 72, Laws of 1967 and RCW 36.94.210 are each amended to read as follows:

The board of county commissioners of any county in adopting and establishing a system of sewerage and/or water may set aside into a special fund and pledge to the payment of the principal and interest due on any county revenue bonds or general obligation bonds any sums or amounts which may accrue from the collection of rates and charges for the private and public use of the system or systems.

Sec. 5. Section 22, chapter 72, Laws of 1967 as amended by section 9, chapter 96, Laws of 1971 ex. sess. 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 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~~). In utility local improvement districts, assessments shall be deposited into the revenue bond fund or general obligation bond fund established for the payment of bonds issued to pay such costs which bond payments are secured in part by the pledge of assessments.

Sec. 6. Section 2, chapter 151, Laws of 1923 as amended by section 2, chapter 74, Laws of 1965 ex. sess. and RCW 39.44.020 are each amended to read as follows:

The officials now or hereafter charged by law with the duty of levying taxes for the payment of said bonds and interest shall, in the manner provided by law, make an annual levy sufficient together with other moneys lawfully available and pledged therefor to meet the payments of principal and interest on said bonds maturing as herein provided.

NEW SECTION. Sec. 7. Subject to the provisions of sections 7 through 11 of this 1975 amendatory act a municipal corporation may transfer to the county within which all of its territory lies, all or part of the property constituting its system of sewerage, system of water or combined water and sewerage system, together with any of its other real or personal property used or useful in connection with the operation, maintenance, repair, replacement, extension, or financing of that system, and the county may acquire such property on such terms as may be mutually agreed upon by the governing body of the municipal corporation and the legislative authority of the county, and approved by the superior court for such county.

NEW SECTION. Sec. 8. In consideration of a transfer of property by a municipal corporation to a county in the manner provided in sections 7 through 11 of this 1975 amendatory act, a county may assume and agree to pay or provide for the payment of all or part of the indebtedness of a municipal corporation including the payment and retirement of outstanding general obligation and revenue bonds issued by a municipal corporation. Until the indebtedness of a municipal corporation thus assumed by a county has been discharged, all property within the municipal corporation and the owners and occupants of that property, shall continue to be liable for taxes, special assessments, and other charges legally pledged to pay such indebtedness. The county may assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments, and charges and observing and performing the other contractual obligations of the municipal corporation. The legislative authority of the county may act in the same

manner as the governing body of the municipal corporation for the purpose of certifying the amount of any property tax to be levied and collected therein, and may cause service and other charges and assessments to be collected from such property or owners or occupants thereof, enforce such collection and perform all other acts necessary to insure performance of the contractual obligations of the municipal corporation in the same manner and by the same means as if the property of the municipal corporation had not been acquired by the county.

When a county assumes the obligation of paying indebtedness of a municipal corporation and if property taxes or assessments have been levied and service and other charges have accrued for such purpose but have not been collected by the municipal corporation prior to such assumption, the same when collected shall belong and be paid to the county and be used by such county so far as necessary for payment of the indebtedness of the municipal corporation existing and unpaid on the date such county assumed that indebtedness. Any funds received by the county which have been collected for the purpose of paying any bonded or other indebtedness of the municipal corporation shall be used for the purpose for which they were collected and for no other purpose until such indebtedness has been paid and retired or adequate provision has been made for such payment and retirement. No transfer of property as provided in this amendatory act shall derogate from the claims or rights of the creditors of the municipal corporation or impair the ability of the municipal corporation to respond to its debts and obligations.

NEW SECTION. Sec. 9. The governing body of a municipal corporation proposing to transfer all or part of its property to a county in the manner provided by sections 7 through 11 of this 1975 amendatory act and the legislative authority of a county proposing to accept such property, and to assume if it so agrees any indebtedness of the municipal corporation in consideration of such transfer, shall adopt resolutions or ordinances authorizing respectively the execution of a written agreement setting forth the terms and conditions upon which they have agreed and finding the transfer and acquisition of property pursuant to such agreement to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such written agreement may include provisions, by way of description and not by way of limitation, for the rights, powers, duties, and obligations of such municipal corporation and county with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, the allocation of costs, the financing and construction of new facilities, the application and use of assets, the disposition of liabilities and indebtedness, the performance of contractual obligations, and any other matters relating to the proposed transfer of property, which may be preceded by an interim period of operation by the county of the property and facilities subsequently to be transferred to that county. The agreement may provide for a period of time during which the municipal corporation may continue to exercise certain rights, privileges, powers, and functions authorized to it by law including the ability to promulgate rules and regulations, to levy and collect special assessments, rates, charges, service charges and connection fees, and to adopt and carry out the provisions of a comprehensive plan, and amendments thereto, for a system of improvements and to issue general obligation bonds or revenue bonds in the manner provided by law, or the agreement

may provide for the exercise for a period of time of all or some of such rights, privileges, powers, and functions by the county. The agreement may provide that either party thereto may authorize, issue and sell, in the manner provided by law, revenue bonds to provide funds for new water or sewer improvements or to refund or advance refund any water revenue, sewer revenue or combined water and sewer revenue bonds outstanding of either or both such parties. The agreement may provide that either party thereto may authorize and issue, in the manner provided by law, general obligation or revenue bonds of like amounts, terms, conditions and covenants as the outstanding bonds of either or both such parties and such new bonds may be substituted or exchanged for such outstanding bonds to the extent permitted by law.

NEW SECTION. Sec. 10. When a municipal corporation and a county have entered into a written agreement providing for the transfer to such county of all or part of the property of such municipal corporation, proceedings may be initiated in the superior court for that county by the filing of a petition to which there shall be attached copies of the agreement of the parties and of the resolutions of the governing body of the municipal corporation and the legislative authority of the county authorizing its execution. Such petition shall ask that the court approve and direct the proposed transfer of property, and any assumption of indebtedness agreed to in consideration thereof by the county, after finding such transfer and acquisition of property to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such petition shall be signed by the members of the legislative authority of the county or chief administrative officer of the municipal corporation and the chairman of the legislative authority of the county, respectively, upon authorization by the governing body of the municipal corporation and the legislative authority of the county.

Within thirty days after the filing of the petition of the parties with copies of their agreement and the resolutions authorizing its execution attached thereto, the court shall by order fix a date for a hearing on the petition not less than twenty nor more than ninety days after the entry of such order which also shall prescribe the form and manner of notice of such hearing to be given. After considering the petition and such evidence as may be presented at the hearing thereon, the court may determine by decree that the proposed transfer of property is in the public interest and conducive to the public health, safety, welfare, or convenience, approve the agreement of the parties and direct that such transfer be accomplished in accordance with that agreement at the time and in the manner prescribed by the court decree.

NEW SECTION. Sec. 11. In the event the agreement of the parties provides for the transfer to the county of all the property of the municipal corporation or all such property except bond redemption funds in the possession of the county treasurer from which outstanding bonds of the municipal corporation are payable, and the agreement also provides for the assumption and payment by the county of all the indebtedness of the municipal corporation including the payment and retirement of all its outstanding bonds, and if the petition of the parties so requests, the court in the decree approving and directing the transfer of property, or in a subsequent decree, may dissolve the municipal corporation effective as of the

time of transfer of property or at such time thereafter as the court may determine and establish.

NEW SECTION. Sec. 12. The provisions of sections 7 through 11 of this 1975 amendatory act shall be deemed to provide an alternative method for the doing of the things therein authorized and shall not be construed as imposing any additional conditions upon the exercise of any other powers vested in municipal corporations or counties.

NEW SECTION. Sec. 13. If any provision of this 1975 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 shall not be affected.

Sec. 14. Section 3, chapter 18, Laws of 1959 and RCW 57.12.020 are each amended to read as follows:

Nominations for the first board of commissioners to be elected at the election for the formation of the water district shall be by petition of at least twenty-five percent of the qualified electors of the district, or twenty-five of the qualified electors of the district, whichever is lesser, filed in the auditor's office of the county in which the district is located, at least thirty days prior to the election. Thereafter, candidates for the office of water commissioners shall file declarations of candidacy and their election shall be conducted as provided by the general election laws. A vacancy on the board shall be filled by appointment by the remaining commissioners until the next regular election for commissioners: **PROVIDED**, That if there is a vacancy of the entire board a new board may be appointed by the board of county commissioners.

Any person residing in the district who is a qualified voter under the laws of the state may vote at any district election.

NEW SECTION. Sec. 15. There is added to chapter 57.06 RCW a new section to read as follows:

Each and all of the respective areas of land heretofore attempted to be organized into water districts under the provisions of chapter 114, Laws of 1929, and amendments thereto, are hereby validated and declared to be duly existing water districts, having the respective boundaries set forth in their organization proceedings as shown by the files in the office of the board of county commissioners of the county in question and of such water districts.

NEW SECTION. Sec. 16. There is added to chapter 57.06 RCW a new section to read as follows:

All debts, contracts, and obligations heretofore made or incurred by or in favor of any such water district, and all bonds or other obligations executed by such districts in connection with or in pursuance of such attempted organization, and any and all assessments or levies, and all other things and proceedings done or taken by such districts or by their respective officers, including by persons acting as commissioners nominated by petition of at least twenty-five percent of the qualified electors of the district, and elected and qualified as otherwise provided by law, acting under or in pursuance of such attempted organization, are hereby declared legal and valid and of full force and effect.

NEW SECTION. Sec. 17. There is added to chapter 57.06 RCW a new section to read as follows:

The holding and exercise of the office of commissioner by persons now serving as members of the first board of commissioners under or in pursuance of such attempted organization, nominated by petition of at least twenty-five percent of the qualified electors of the district, and elected and qualified as otherwise provided by law, is hereby declared legal and valid and of full force and effect.

NEW SECTION. Sec. 18. Sections 15 through 17 of this 1975 amendatory act shall apply only to such districts attempted to be organized under chapter 114, Laws of 1929, and amendments thereto, which have maintained their organization as such since the date of such attempted organization, establishment, or creation, or which have been merged into another municipal corporation.

NEW SECTION. Sec. 19. Sections 7 through 13 of this 1975 amendatory act shall be added to chapter 36.94 RCW.

Passed the Senate May 28, 1975.

Passed the House May 24, 1975.

Approved by the Governor June 4, 1975.

Filed in Office of Secretary of State June 4, 1975.

CHAPTER 189

[Engrossed Substitute Senate Bill No. 2833]
RAILROAD GRADE CROSSING PROTECTIVE
DEVICES—FINANCING

AN ACT Relating to railroad grade crossing protective devices; amending section 2, chapter 134, Laws of 1969 as amended by section 1, chapter 77, Laws of 1973 1st ex. sess. and RCW 81.53.271; amending section 3, chapter 134, Laws of 1969 as amended by section 4, chapter 115, Laws of 1973 and RCW 81.53.281; adding a new section to chapter 134, Laws of 1969 and to chapter 81.56 RCW; prescribing an effective date; and declaring an emergency.

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

Section 1. Section 2, chapter 134, Laws of 1969 as amended by section 1, chapter 77, Laws of 1973 1st ex. sess. and RCW 81.53.271 are each amended to read as follows:

The petition shall set forth by description the location of the crossing or crossings, the type of signal or other warning device to be installed, the necessity from the standpoint of public safety for such installation, the approximate cost of installation, and the approximate annual cost of maintenance. If the commission directs the installation of a grade crossing protective device, the cost of which is eligible for federal aid matching funds of at least sixty percent of the installation costs and such federal funds are used, both installation and maintenance costs of the device shall be apportioned in accordance with the provisions of section 3 of this 1975 amendatory act. Otherwise if installation is directed by the commission, it shall apportion the cost of installation and maintenance as provided in this section:

Installation: (1) Sixty percent to the grade crossing protective fund, created by RCW 81.53.281;

(2) Thirty percent to the city, town, county or state; and