

CHAPTER 256

[Substitute House Bill No. 1564]

PROPOSED LOCAL IMPROVEMENT DISTRICTS—PROTESTS

AN ACT Relating to protests of proposed local improvement districts; and amending RCW 56.20.020, 56.20.030, and 57.16.060.

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

Sec. 1. Section 27, chapter 210, Laws of 1941 as last amended by section 10, chapter 300, Laws of 1977 ex. sess. and RCW 56.20.020 are each amended to read as follows:

Utility local improvement districts to carry out all or any portion of the comprehensive plan, or additions and betterments thereof, adopted for the sewer district may be initiated either by resolution of the board of sewer 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 the land within the limits of the utility local improvement district to be created.

In case the board of sewer commissioners (~~shall~~) desires 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, which date shall, unless there is an emergency, be no less than thirty days and no more than ninety days from the day the resolution of intention was adopted.

In case any such utility local improvement district (~~shall be~~) is 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 secretary of the board of sewer commissioners, the board shall determine whether the (~~same shall be~~) petition is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person (~~shall~~) may withdraw his name from (~~said~~) the petition after the filing thereof with the secretary of the board of sewer commissioners. If the board (~~shall~~) finds 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~~) the 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 the resolution was 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 sewer 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))~~ the 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. Whenever such notices are mailed, the sewer commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the sewer district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. ~~((Said))~~ The notices 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 date, time, and place of the hearing before the board of sewer commissioners. In the case of improvements initiated by resolution, ~~((said))~~ the notice shall also: (1) State that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of sewer commissioners ~~((before the time fixed for said))~~ no later than ten days after the public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the sewer commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the sewer district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land, or other property.

Sec. 2. Section 28, chapter 210, Laws of 1941 as last amended by section 6, chapter 58, Laws of 1974 ex. sess. and RCW 56.20.030 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 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)) in it 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 in this chapter for the original notice.

After ~~((said))~~ the 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: (a) by protests filed with the secretary of the board ((prior to said)) before the 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 or (b) by the commissioners not adopting a resolution ordering the improvement at a public hearing held not more than ninety days from the day the resolution of intention was adopted, unless the commissioners file with the county auditor a copy of the notice required by RCW 56.20.020, and in no event at a hearing held more than two years from the day the resolution of intention was adopted.

If the commissioners find that the district should be formed, they shall by resolution form the district and order the improvement((;)). After execution of the resolution forming the district, the secretary of the board of commissioners shall publish, in a legal publication that serves the area subject to the district, a notice setting forth that a resolution has been passed forming the district and that a lawsuit challenging the jurisdiction or authority of the sewer district to proceed with the improvement and creating the district must be filed, and notice to the sewer district served, within thirty days of the publication of the notice. The notice shall set forth the nature of the appeal. Property owners bringing the appeal shall follow the procedures as set forth under appeal under RCW 56.20.080. Whenever a resolution forming a district has been adopted, the formation is conclusive in all things upon all parties, and cannot be contested or questioned in any manner in any proceeding whatsoever by any person not commencing a lawsuit in the manner and within the time provided in this section, except for lawsuits made under RCW 56.20.080.

Following an appeal, if it is unsuccessful or if no appeal is made under RCW 56.20.080, the commissioners may proceed with the improvement and provide the general funds of the sewer district to be applied thereto, 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 sewer district such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the district to proceed with the work. The board of sewer commissioners shall proceed with the work and file with the county treasurer of each county in which the real property is to be assessed its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

Sec. 3. Section 11, chapter 18, Laws of 1959 as last amended by section 16, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.16.060 are each amended to read as follows:

Local improvement districts or utility local improvement districts to carry out the whole or any portion of the general comprehensive plan of improvements or plan providing for additions and betterments to the original general comprehensive plan previously adopted may be initiated either by resolution of the board of water commissioners or by petition signed by the owners according to the records of the office of the applicable county auditor of at least fifty-one percent of the area of the land within the limits of the local improvement district to be created.

In case the board of water commissioners (~~shall~~) desires to initiate the formation of a local improvement district or 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 local improvement district or utility local improvement district, and 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 local improvement district or utility local improvement district (~~shall be~~) is initiated by petition, such petition shall set forth the nature and territorial extent of the proposed improvement requested to be ordered and the fact that the signers thereof are the owners according to the records of the applicable county auditor of at least fifty-one percent of the area of land within the limits of the local improvement district or utility local improvement district to be created. Upon the filing of such petition the board shall determine whether the (~~same shall be~~) petition is sufficient, and the board's determination thereof shall be conclusive upon all persons. No person (~~shall~~) may withdraw his name from the petition after (~~the same~~) it has been filed with the board of water commissioners. If the board (~~shall~~) finds 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~~) the improvement,

designating the number of the proposed local district and 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 the resolution was 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 water 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))~~ the 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 of the county in which the real property is located at the address shown thereon. Whenever such notices are mailed, the water commissioners shall maintain a list of such reputed property owners, which list shall be kept on file at a location within the water district and shall be made available for public perusal. The notices shall refer to the resolution of intention and designate the proposed improvement district by number. ~~((said))~~ The notices 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 date, time, and place of the hearing before the board of water commissioners. In the case of improvements initiated by resolution, ~~((said))~~ the notice shall also: (1) State that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of water commissioners ~~((before the time fixed for said))~~ no later than ten days after the public hearing; (2) state that if owners of at least forty percent of the area of land within the proposed district file written protests with the secretary of the board, the power of the water commissioners to proceed with the creation of the proposed district shall be divested; (3) provide the name and address of the secretary of the board; and (4) state the hours and location within the water district where the names of the property owners within the proposed district are kept available for public perusal. In the case of the notice given each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract, parcel of land, or other property.

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 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

the 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)~~) in it 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 in this chapter for the original notice.

After (~~(said)~~) the 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 secretary of the board (~~(prior to said)~~) before the public hearing signed by the owners, according to the records of the applicable county auditor, of at least forty percent of the area of land within the proposed local district.

If the commissioners find that the district should be formed, they shall by resolution form the district and order the improvement(~~(;)~~). After execution of the resolution forming the district, the secretary of the board of commissioners shall publish, in a legal publication that serves the area subject to the district, a notice setting forth that a resolution has been passed forming the district and that a lawsuit challenging the jurisdiction or authority of the water district to proceed with the improvement and creating the district must be filed, and notice to the water district served, within thirty days of the publication of the notice. The notice shall set forth the nature of the appeal. Property owners bringing the appeal shall follow the procedures as set forth under appeal under RCW 57.16.090. Whenever a resolution forming a district has been adopted, the formation is conclusive in all things upon all parties, and cannot be contested or questioned in any manner in any proceeding whatsoever by any person not commencing a lawsuit in the manner and within the time provided in this section, except for lawsuits made under RCW 57.16.090.

Following an appeal, if it is unsuccessful or if no appeal is made under RCW 57.16.090, the commissioners may proceed with the improvement and provide the general funds of the water district to be applied thereto, adopt detailed plans of the local improvement district or 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 water district such eminent domain proceedings as may be necessary to entitle the district to proceed with the work. The board shall thereupon proceed with the work and file with the county treasurer of the county in which the real property is located its roll levying special assessments in the amount to be paid by special assessment against the property situated within the

improvement district in proportion to the special benefits to be derived by the property therein from the improvement.

Passed the House February 11, 1986.

Passed the Senate March 4, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 257

[Substitute House Bill No. 1399]

SENTENCING OF ADULT FELONS

AN ACT Relating to the sentencing of adult felons; amending RCW 9A.56.010, 9A.04.110, 10.99.020, 43.10.232, 9.94A.030, 9.94A.040, 9.94A.070, 9.94A.120, 9.94A.190, 9.94A.310, 9.94A.320, 9.94A.330, 9.94A.360, 9.94A.370, 9.94A.390, 9.94A.400, 9.94A.410, 9.94A.440, 9A.44.070, 9A.56.080, 13.50.050, and 9.94A.110; amending section 2, chapter 234, Laws of 1984 (uncodified); reenacting and amending RCW 9A.04.080; adding new sections to chapter 9A.36 RCW; creating new sections; repealing RCW 9A.36.010, 9A.36.020, 9A.36.030, 9A.36.040, 28A.87.140, 9.94A.300, and 9.94A.122; prescribing penalties; and providing effective dates.

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

NEW SECTION. Sec. 1. The sentencing guidelines commission shall study robbery of controlled substances and consider whether this type of robbery should be defined as a separate felony or whether additional sentencing enhancements are needed. The commission shall study the sentences for this type of robbery that have been imposed under the sentencing reform act. The commission shall deliver its recommendations to the legislature by January 1, 1987.

Sec. 2. Section 9A.56.010, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 382, Laws of 1985 and RCW 9A.56.010 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Credit card" means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check