

(12) Section 28, chapter 446, Laws of 1985 and RCW 39.86.903; and
(13) Section 30, chapter 446, Laws of 1985 and RCW 39.86.904.

NEW SECTION. Sec. 14. SEVERABILITY. 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.

NEW SECTION. Sec. 15. CAPTIONS. As used in this act, captions constitute no part of the law.

NEW SECTION. Sec. 16. LEGISLATIVE DIRECTIVE. Sections 1 through 10 of this act are each added to chapter 39.86 RCW.

NEW SECTION. Sec. 17. EMERGENCY CLAUSE. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House April 23, 1987.

Passed the Senate April 13, 1987.

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CHAPTER 298

[Engrossed House Bill No. 39]

SPECIAL DISTRICTS—TRANSFER OF TERRITORY—FILLING OF VACANCIES—
SPECIAL ASSESSMENT BONDS OR NOTES—LEGISLATIVE BUDGET
COMMITTEE TO REVIEW SPECIAL DISTRICTS

AN ACT Relating to special districts; amending RCW 85.38.070, 85.38.080, 85.38.190, and 85.38.240; adding a new section to chapter 85.38 RCW; adding a new chapter to Title 44 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 85.38 RCW to read as follows:

Territory that is located in one special district may be transferred from that special district to another special district as provided in this section, if a portion of this territory is coterminous with a portion of the boundaries of the special district to which it is transferred. Such a transfer shall be accomplished using the procedures in RCW 85.38.200 for annexing territory, except that the governing body of both special districts must approve the transfer and make findings that the transfer is in the public interest and that the special district to which the territory is transferred is better able to provide the activities and facilities serving the territory than the special district from which the territory is transferred.

Property in the territory so transferred shall remain liable for any special assessments of the special district from which it was transferred, if the

special assessments are associated with bonds or notes used to finance facilities serving the property, to the same extent as if the transfer had not occurred.

A transfer of territory also may include the transfer of property, facilities, and improvements owned by one special district to the other special district, with or without consideration being paid.

Sec. 2. Section 8, chapter 396, Laws of 1985 as amended by section 42, chapter 278, Laws of 1986 and RCW 85.38.070 are each amended to read as follows:

(1) Except as provided in RCW 85.38.090, each special district shall be governed by a three-member governing body. The term of office for each member of a special district governing body shall be six years and until his or her successor is elected and qualified. One member of the governing body shall be elected at the time of special district general elections and, each odd-numbered year for a term of six years beginning as provided in RCW 29.04.170 for assumption of office by elected officials of cities.

(2) The terms of office of members of the governing bodies of special districts, who are holding office on July 28, 1985, shall be altered to provide staggered six-year terms as provided in this subsection. The member who on July 28, 1985, has the longest term remaining shall have his or her term altered so that the position will be filled at the December, 1991, special district general election; the member with the second longest term remaining shall have his or her term altered so that the position will be filled at the December, 1989, special district general election; and the member with the third longest term of office shall have his or her term altered so that the position will be filled at the December, 1987, special district general election.

(3) The initial members of the governing body of a newly created special district shall be appointed by the legislative authority of the county within which the special district, or the largest portion of the special district, is located. These initial governing body members shall serve until their successors are elected and qualified at the next special district general election held at least ninety days after the special district is established. At that election the first elected members of the governing body shall be elected. No primary elections may be held. Any voter of a special district may become a candidate for such a position by filing written notice of this intention with the governing body of the special district at least thirty, but not more than sixty, days before a special district general election. The names of all candidates for such positions shall be listed alphabetically. At this first election, the candidate receiving the greatest number of votes shall have a six-year term, the candidate receiving the second greatest number of votes shall have a four-year term, and the candidate receiving the third greatest number of votes shall have a two-year term of office. The initially elected members of a governing body shall take office immediately when qualified as defined in

RCW 29.01.135. Thereafter the candidate receiving the greatest number of votes shall be elected for a six-year term of office. Members of a governing body shall hold their office until their successors are elected and qualified, and assume office as provided in RCW 29.04.170.

(4) Whenever a vacancy occurs in the governing body of a special district, the legislative authority of the county within which the special district, or the largest portion of the special district, is located, shall appoint a district voter to serve ~~((the remaining term of office))~~ until a person is elected, at the next special district election occurring sixty or more days after the vacancy has occurred, to serve the remainder of the unexpired term. The person so elected shall take office immediately when qualified as defined in RCW 29.01.135.

If an election for the position which became vacant would otherwise have been held at this special district election, only one election shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29.01.135 and shall serve both the remainder of the unexpired term and the succeeding term. A vacancy occurs upon the death, resignation, or incapacity of a governing body member or whenever the governing body member ceases being a qualified voter of the special district.

(5) An elected or appointed member of a special district governing body must be a qualified voter of the special district: PROVIDED, That the state, its agencies and political subdivisions, or their designees under RCW 85.38.010(3) shall not be eligible for election or appointment.

Sec. 3. Section 9, chapter 396, Laws of 1985 and RCW 85.38.080 are each amended to read as follows:

Each member of a governing body of a special district, whether elected or appointed, shall enter into a bond, payable to the special district. The bond shall be in the sum of not less than one thousand dollars nor more than five thousand dollars, as determined by the county legislative authority of the county within which the special district, or the largest portion of the special district, is located. The bond shall be conditioned on the faithful performance of his or her duties as a member of the governing body of the special district and shall be filed with the county ~~((treasurer))~~ clerk of the county within which the special district, or the largest portion of the special district, is located.

Sec. 4. Section 50, chapter 278, Laws of 1986 and RCW 85.38.190 are each amended to read as follows:

~~((Special districts shall have authority to enter into contracts for the construction of any improvement authorized by law, or for labor, materials, or equipment entering therein, without public bidding, with the written approval and consent of the governing body in instances of genuine emergency to be declared by the governing body or in any instance where the contract price does not exceed ten thousand dollars.))~~

Any proposed improvement or part thereof, not exceeding five thousand dollars in cost, may be constructed by district employees: PROVIDED, That this shall not restrict a special district from using volunteer labor and equipment on improvements, and providing reimbursement for actual expenses.

Sec. 5. Section 19, chapter 278, Laws of 1986 and RCW 85.38.240 are each amended to read as follows:

(1) Special assessment bonds and notes issued by special districts shall be issued and sold in accordance with chapter 39.46 RCW, except as otherwise provided in this chapter. The maximum term of any special assessment bond issued by a special district shall be twenty years. The maximum term of any special assessment note issued by a special district shall be five years.

(2) The governing body of a special district issuing special assessment bonds or notes shall create a special fund or funds, or use an existing special fund or funds, from which, along with any special assessment bond guaranty fund the special district has created, the principal of and interest on the bonds or notes exclusively are payable.

(3) The governing body of a special district may provide such covenants as it may deem necessary to secure the payment of the principal of and interest on special assessment bonds or notes, and premiums on special assessment bonds or notes, if any. Such covenants may include, but are not limited to, depositing certain special assessments into a special fund or funds, and establishing, maintaining, and collecting special assessments which are to be placed into the special fund or funds. The special assessments covenanted to be placed into such a special fund or funds after June 11, 1986, only may include all or part of the new system of special assessments imposed for such purposes, pursuant to RCW 85.38.150 and 85.38.160. ~~((However, the special assessments covenanted to be placed into the special fund or funds from which the funding or refunding special assessment bonds or notes to be funded or refunded were payable:))~~ Special assessment bonds or notes issued after the effective date of this 1987 section may not be payable from special assessments imposed under authorities other than those provided in chapter 85.38 RCW.

(4) A special assessment bond or note issued by a special district shall not constitute an indebtedness of the state, either general or special, nor of the county, either general or special, within which all or any part of the special district is located. A special assessment bond or note shall not constitute a general indebtedness of the special district issuing the bond or note, but is a special obligation of the special district and the interest on and principal of the bond or note shall be payable only from special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created.

The owner of a special assessment bond or note, or the owner of an interest coupon, shall not have any claim for the payment thereof against the special district arising from the special assessment bond or note, or interest coupon, except for payment from the special fund or funds, the special assessments covenanted to be placed into the special fund or funds, and any special assessment bond guaranty fund the special district has created. The owner of a special assessment bond or note, or the owner of an interest coupon, issued by a special district shall not have any claim against the state, or any county within which all or part of the special district is located, arising from the special assessment bond, note, or interest coupon. The special district issuing the special assessment bond or note shall not be liable to the owner of any special assessment bond or note, or owner of any interest coupon, for any loss occurring in the lawful operation of its special assessment bond guaranty fund.

The substance of the limitations included in this subsection shall be plainly printed, written, engraved, or reproduced on: (a) Each special assessment bond or note that is a physical instrument; (b) the official notice of sale; and (c) each official statement associated with the bonds or notes.

NEW SECTION. Sec. 6. The legislature finds that numerous special purpose districts for a wide range of purposes have been established throughout the state. The legislature finds that review of the authority to establish these districts is an important factor in maintaining control of the increasing number of governmental entities in this state.

NEW SECTION. Sec. 7. (1) The legislative budget committee in cooperation with the committee on governmental operations in the senate and the committee on local government in the house of representatives shall review the authority to establish the special purpose districts under subsection (2) of this section and make recommendations for the continuation, termination, or modification of the special purpose districts. In conducting the review, the following factors shall be considered:

(a) The extent to which the special purpose districts have complied with legislative intent;

(b) The extent to which the special purpose districts are operating in an efficient and economical manner which results in optimum performance;

(c) The extent to which the special purpose districts are operating in the public interest by effectively providing a needed service that should be continued rather than modified, consolidated, or eliminated;

(d) The extent to which the special purpose districts duplicate the activities of other special purpose districts or of the private sector, where appropriate; and

(e) The extent to which the termination or modification of the special purpose districts would adversely affect the public health, safety, or welfare.

(2) By January 1, 1988, a schedule shall be established to review the following districts with the review completed by January 15, 1993: Aquifer

protection areas under chapter 36.36 RCW; airport districts under RCW 14.08.290 through 14.08.330; cemetery districts under chapter 68.16 RCW; conservation districts under chapter 89.08 RCW; county rail districts under chapter 36.60 RCW; cultural arts, stadium, and convention districts under chapter 67.38 RCW; diking districts under chapter 85.05 RCW; diking and drainage improvement districts under chapter 85.15 RCW; diking, drainage, drainage improvement districts, and sewerage improvement districts under chapter 85.15 RCW; diking, drainage, and irrigation improvement districts under RCW 85.22.010; diking improvement districts under chapter 85.15 RCW; drainage districts under chapter 85.06 RCW; emergency medical services districts under RCW 36.32.480; ferry districts under RCW 36.54.080 through 36.54.100; fire protection districts under Title 52 RCW; flood control districts under chapter 86.09 RCW; flood control zone districts under chapter 86.15 RCW; health districts under chapter 70.46 RCW; housing authorities under chapter 35.82 RCW; intercounty diking and drainage districts under chapter 85.24 RCW; irrigation districts under Title 87 RCW; irrigation and rehabilitation districts under chapter 87.84 RCW; legal authorities under RCW 87.03.825 through 87.03.840; library districts under chapter 27.12 RCW; metropolitan municipal corporations districts under chapter 35.58 RCW; mosquito control districts under chapter 17.28 RCW; operating agencies under chapter 43.52 RCW; county park and recreation service areas under RCW 36.68.400; metropolitan park districts under chapter 35.61 RCW; park and recreation districts under chapter 36.69 RCW; pest districts under chapter 17.12 RCW; port districts under Title 53 RCW; public hospital districts under chapter 70.44 RCW; public utility districts under Title 54 RCW; public waterway districts under chapter 91.08 RCW; reclamation districts under chapter 89.30 RCW; river and harbor improvement districts under chapter 88.32 RCW; road districts under RCW 36.75.060; service districts under chapter 36.83 RCW; sewer districts under Title 56 RCW; sewerage improvement districts under chapter 85.15 RCW; solid waste collection districts under chapter 36.58A RCW; transit districts under chapters 36.57 and 36.57A RCW; television reception improvement districts under chapter 36.95 RCW; water districts under Title 57 RCW; regular weed districts under chapter 17.04 RCW; and intercounty weed districts under chapter 17.06 RCW.

(3) The recommendations shall be reported to the legislature, the special purpose districts concerned, and the state library.

NEW SECTION. Sec. 8. This chapter shall expire June 30, 1993.

NEW SECTION. Sec. 9. Sections 6 through 8 of this act shall constitute a new chapter in Title 44 RCW.

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