

CHAPTER 449

[Substitute House Bill No. 2]

SEWER DISTRICTS AND WATER DISTRICTS—REVISION OF AUTHORITY

AN ACT Relating to special purpose districts; amending RCW 56.08.075, 56.16.020, 56.20.010, 57.08.010, 57.08.060, 57.16.030, and 57.16.050; reenacting and amending RCW 56.08.010; adding new sections to chapter 56.12 RCW; adding a new section to chapter 56.20 RCW; adding a new section to chapter 56.24 RCW; adding a new section to chapter 56.32 RCW; adding new sections to chapter 57.12 RCW; adding a new section to chapter 57.16 RCW; adding a new section to chapter 57.24 RCW; and adding a new section to chapter 57.32 RCW.

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

Sec. 1. Section 10, chapter 210, Laws of 1941 as last amended by section 1, chapter 250, Laws of 1985 and by section 5, chapter 444, Laws of 1985 and RCW 56.08.010 are each reenacted and amended to read as follows:

A sewer district may acquire by purchase or by condemnation and purchase all lands, property rights, water, and water rights, both within and without the district, necessary for its purposes. A sewer district may lease real or personal property necessary for its purposes for a term of years for which such leased property may reasonably be needed where in the opinion of the board of sewer commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities (~~of the third class~~) and towns, insofar as consistent with the provisions of this title, except that all assessments or reassessment rolls required to be filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the district, and the duties devolving upon the city treasurer shall be imposed upon the county treasurer for the purposes hereof; it may construct, condemn and purchase, add to, maintain, and operate systems of sewers for the purpose of furnishing the district and inhabitants thereof with an adequate system of sewers for all uses and purposes, public and private, including but not limited to on-site sewage disposal facilities, approved septic tanks or approved septic tank systems, other facilities and systems for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from wastewater and for the protection, preservation, and rehabilitation of surface and underground waters, facilities for the drainage of storm or surface waters, public highways, streets, and roads with full authority to regulate the use and operation thereof and the service rates to be charged. Such sewage facilities may include facilities which result in combined sewage disposal, treatment, or drainage and electric generation, provided that the electricity generated thereby is a byproduct of the system of sewers. Such electricity may be used by the sewer district or sold to any

entity authorized by law to distribute electricity. Such electricity is a by-product when the electrical generation is subordinate to the primary purpose of sewage disposal, treatment, or drainage. For such purposes a district may conduct sewage throughout the district and throughout other political subdivisions within the district, and construct and lay sewer pipe along and upon public highways, roads, and streets, within and without the district, and condemn and purchase or acquire land and rights of way necessary for such sewer pipe. A district may erect sewage treatment plants, within or without the district, and may acquire by purchase or condemnation, properties or privileges necessary to be had to protect any lakes, rivers, or watercourses and also other areas of land from pollution, from its sewers or its sewage treatment plant. For the purposes of sewage facilities which include facilities which result in combined sewage disposal, treatment, or drainage and electric generation where the electric generation is a byproduct, nothing in this section may be construed to authorize a district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner. A district may charge property owners seeking to connect to the district system of sewers, as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that such property owners shall bear their equitable share of the cost of such system. A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding ((ten)) fifteen years. The county treasurer may charge and collect a fee of three dollars per parcel for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer. A district may compel all property owners within the sewer district located within an area served by the district system of sewers to connect their private drain and sewer systems with the district system under such penalty as the sewer commissioners shall prescribe by resolution. The district may for such purpose enter upon private property and connect the private drains or sewers with the district system and the cost thereof shall be charged against the property owner and shall be a lien upon property served.

Sec. 2. Section 2, chapter 105, Laws of 1982 and RCW 56.08.075 are each amended to read as follows:

(1) In addition to the powers given sewer districts by law, they also have power to acquire, construct, maintain, operate, and develop street lighting systems.

(2) To establish a street lighting system, the board of sewer commissioners shall adopt a resolution proposing a street lighting system and delineating the boundaries of the area to be served by the proposed street

lighting system. The board shall conduct a public hearing on the resolution to create a street lighting system. Notice of the hearing shall be published at least once each week for two consecutive weeks in one or more newspapers of general circulation in the area to be served by the proposed street lighting system. Following the hearing, the board may by resolution establish the street lighting system.

(3) A street lighting system shall not be established if, within ((ninet~~y~~)) thirty days following the decision of the board, a petition opposing the street lighting system is filed with the board and contains the signatures of at least forty percent of the voters registered in the area to be served by the proposed system.

(4) The sewer district has the same powers of collection for delinquent street lighting charges as the sewer district has for collection of delinquent sewer service charges.

(5) Any street lighting system established by a sewer district prior to March 31, 1982, is declared to be legal and valid.

NEW SECTION. Sec. 3. A new ^{section} is added to chapter 56.12 RCW to read as follows:

If a three-member board of commissioners of any sewer district determines by resolution and approves by unanimous vote of the board that it would be in the best interest of the district to increase the number of commissioners from three to five, or if the board is presented with a petition signed by ten percent of the qualified electors resident within the district calling for an increase in the number of commissioners of the district, the board shall submit a resolution to the legislative authority of the county requesting that an election be held. Upon receipt of the resolution, the legislative authority of the county shall call a special election to be held within the sewer district at which election a proposition in substantially the following language shall be submitted to the voters:

Shall the Board of Commissioners of
(Name and/or No. of sewer district) be increased from three to
five members?

Yes

No

If the proposition receives a majority approval at the election the board of commissioners of the sewer district shall be increased to five members. In any sewer district with more than ten thousand customers, if a three-member board of commissioners determines by resolution and approves by unanimous vote of the board that it would be in the best interest of the district to increase the number of commissioners from three to five, the number of commissioners shall be so increased, without an election, unless within ninety days of adoption of that resolution, a petition requesting an election and signed by at least ten percent of the electors is filed with the board. If such a petition is received, the board shall submit the resolution and the

petition to the legislative authority of the county, which shall call a special election in the manner described in this section.

The two positions created on boards of sewer commissioners by this section shall be filled initially as for a vacancy, except that the appointees shall draw lots, one appointee to serve until the next general sewer district election after the appointment, at which two commissioners shall be elected for six-year terms, and the other appointee to serve until the second general sewer district election after the appointment, at which two commissioners shall be elected for six-year terms.

NEW SECTION. Sec. 4. A new section is added to chapter 56.12 RCW to read as follows:

If a sewer commissioner is absent from three consecutive regularly scheduled meetings unless by permission of the board, the office may be declared vacant by the board of commissioners and the vacancy shall then be filled as provided for in this chapter. However, such an action shall not be taken unless the commissioner is notified by mail after two consecutive unexcused absences that the position will be declared vacant if the commissioner is absent without being excused from the next regularly scheduled meeting.

Sec. 5. Section 16, chapter 210, Laws of 1941 as last amended by section 3, chapter 300, Laws of 1977 ex. sess. and RCW 56.16.020 are each amended to read as follows:

The sewer commissioners may, by resolution, issue revenue bonds for the construction costs, interest during the period of construction and six months thereafter, working capital, or other costs of any part or all of the general comprehensive plan or for other purposes or functions of a sewer district authorized by statute without submitting a proposition therefor to the voters. The resolution shall include the amount of the bonds to be issued.

***Sec. 6. Section 26, chapter 210, Laws of 1941 as amended by section 8, chapter 272, Laws of 1971 ex. sess. and RCW 56.20.010 are each amended to read as follows:**

Any sewer district shall have the power to establish utility local improvement districts within its territory as hereinafter provided, 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 sewer district. The levying, collection and enforcement of all ((public)) special assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection and enforcement of ((local-improvement)) special assessments by cities ((of the first class)) and towns, insofar as the

same shall not be inconsistent with the provisions of this title. The duties devolving upon the city treasurer under said laws are imposed upon the county treasurer of each county in which the real property is located for the purposes of this title. The mode of assessment shall be in the manner to be determined by the sewer commissioners by resolution. It must be specified in any petition for the establishment of a utility local improvement district and in the approved general comprehensive ((scheme or)) plan or approved amendment thereto ((previously duly ratified at an election)), that, except as provided in this section, the special assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds. Special 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 comprehensive scheme or plan 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 special assessments in such utility local improvement district, when collected, shall be paid into the revenue bond fund, except that pending the issuance and sale of bonds, special assessments may be deposited in a fund for the payment of costs of improvements in the utility local improvement district.

*Sec. 6 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 7. A new section is added to chapter 56.20 RCW to read as follows:

Judgments foreclosing special assessments pursuant to RCW 35.50.260 may also allow to sewer districts, in addition to delinquent installments, interest, penalties, and costs, such attorneys' fees as the court may find reasonable.

NEW SECTION. Sec. 8. A new section is added to chapter 56.24 RCW to read as follows:

When there is unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to two sewer districts or contiguous to a sewer district and a water district, the board of commissioners of one of the districts may resolve to annex such territory to that district, provided a majority of the board of commissioners of the other sewer or water district concurs. The district resolving to annex such territory may proceed to effect the annexation by complying with RCW 56.24.180 through 56.24.200.

NEW SECTION. Sec. 9. A new section is added to chapter 56.32 RCW to read as follows:

A part of one sewer or water district may be transferred into an adjacent sewer district if the area can be better served thereby. Such transfer can be accomplished by a petition, directed to both districts, signed by the owners according to the records of the county auditor of not less than sixty

percent of the area of land to be transferred. If a majority of the commissioners of each district approves the petition, copies of the approving resolutions shall be filed with the county legislative authority which shall act upon the petition as a proposed action in accordance with RCW 56.02.060.

Sec. 10. Section 8, chapter 114, Laws of 1929 as last amended by section 4, chapter 444, Laws of 1985 and RCW 57.08.010 are each amended to read as follows:

A water district may acquire by purchase or condemnation, or both, all property and property rights and all water and water rights, both within and without the district, necessary for its purposes. A water district may lease real or personal property necessary for its purposes for a term of years for which such leased property may reasonably be needed where in the opinion of the board of water commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities of the third class, insofar as consistent with the provisions of this title, except that all assessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the water district, and the duties devolving upon the city treasurer are hereby imposed upon the county treasurer. A water district may construct, condemn and purchase, purchase, add to, maintain and supply waterworks to furnish the district and inhabitants thereof, and any city or town therein and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, distribution and price thereof. A water district contiguous to Canada may contract with a Canadian corporation for the purchase of water and for the construction, purchase, maintenance and supply of waterworks to furnish the district and inhabitants thereof and residents of Canada with an ample supply of water under terms approved by the board of commissioners. Such waterworks may include facilities which result in combined water supply and electric generation, provided that the electricity generated thereby is a byproduct of the water supply system. Such electricity may be used by the water district or sold to any entity authorized by law to distribute electricity. Such electricity is a byproduct when the electrical generation is subordinate to the primary purpose of water supply. For such purposes, a water district may take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake, river or watercourse, or any underflowing water and, by means of aqueducts or pipe line conduct the same throughout such water district and any city or town therein and carry it along and upon public highways, roads and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipe lines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such water

district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution. For the purposes of waterworks which include facilities for the generation of electricity as a by-product, nothing in this section may be construed to authorize a water district to condemn electric generating, transmission, or distribution rights or facilities of entities authorized by law to distribute electricity, or to acquire such rights or facilities without the consent of the owner.

A water district may purchase and take water from any municipal corporation.

A water district may fix rates and charges for water supplied and may charge property owners seeking to connect to the district's water supply system, as a condition to granting the right to so connect, in addition to the cost of such connection, such reasonable connection charge as the board of commissioners shall determine to be proper in order that such property owners shall bear their equitable share of the cost of such system.

A district may permit payment of the cost of connection and the reasonable connection charge to be paid with interest in installments over a period not exceeding fifteen years. The county treasurer may charge and collect a fee of three dollars for each year for the treasurer's services. Such fees shall be a charge to be included as part of each annual installment, and shall be credited to the county current expense fund by the county treasurer.

Sec. 11. Section 1, chapter 68, Laws of 1941 as amended by section 1, chapter 105, Laws of 1982 and RCW 57.08.060 are each amended to read as follows:

(1) In addition to the powers given water districts by law, they shall also have power to acquire, construct, maintain, operate, and develop street lighting systems.

(2) To establish a street lighting system, the board of water commissioners shall adopt a resolution proposing a street lighting system and delineating the boundaries of the area to be served by the proposed street lighting system. The board shall conduct a public hearing on the resolution to create a street lighting system. Notice of the hearing shall be published at least once each week for two consecutive weeks in one or more newspapers of general circulation in the area to be served by the proposed street lighting system. Following the hearing, the board may by resolution establish the street lighting system.

(3) A street lighting system shall not be established if, within ((~~nine~~ty)) thirty days following the decision of the board, a petition opposing the street lighting system is filed with the board and contains the signatures of at least forty percent of the voters registered in the area to be served by the proposed system.

(4) The water district has the same powers of collection for delinquent street lighting charges as the water district has for collection of delinquent water service charges.

(5) Any street lighting system established by a water district prior to March 31, 1982, is declared to be legal and valid.

NEW SECTION. Sec. 12. A new section is added to chapter 57.12 RCW to read as follows:

In the event a three-member board of commissioners of any water district determines by resolution and approves by unanimous vote of the board that it would be in the best interest of the district to increase the number of commissioners from three to five, or in the event the board is presented with a petition signed by ten percent of the qualified electors resident within the district calling for an increase in the number of commissioners of the district, the board shall submit a resolution to the legislative body of the county requesting that an election be held. Upon receipt of the resolution, the legislative authority of the county shall call a special election to be held within the water district at which election a proposition in substantially the following language shall be submitted to the voters:

Shall the Board of Commissioners of
(Name and/or No. of water district) be increased from three to
five members?

Yes _____

No _____

If the proposition receives a majority approval at the election the board of commissioners of the water district shall be increased to five members. In any water district with more than ten thousand customers, if a three-member board of commissioners determines by resolution and approves by unanimous vote of the board that it would be in the best interest of the district to increase the number of commissioners from three to five, the number of commissioners shall be so increased, without an election, unless within ninety days of adoption of that resolution a petition requesting an election and signed by at least ten percent of the electors is filed with the board. If such a petition is received, the board shall submit the resolution and the petition to the legislative authority of the county, which shall call a special election in the manner described in this section.

The two positions created on boards of water commissioners by this section shall be filled initially as for a vacancy, except that the appointees shall draw lots, one appointee to serve until the next general water district election after the appointment, at which two commissioners shall be elected for six-year terms, and the other appointee to serve until the second general water district election after the appointment, at which two commissioners shall be elected for six-year terms.

NEW SECTION. Sec. 13. A new section is added to chapter 57.12 RCW to read as follows:

If a water commissioner is absent from three consecutive regularly scheduled meetings unless by permission of the board, the office may be declared vacant by the board of commissioners and the vacancy shall then be filled as provided for in this chapter. However, such an action shall not be taken unless the commissioner is notified by mail after two consecutive unexcused absences that the position will be declared vacant if the commissioner is absent without being excused from the next regularly scheduled meeting.

Sec. 14. Section 8, chapter 18, Laws of 1959 as last amended by section 160, chapter 167, Laws of 1983 and RCW 57.16.030 are each amended to read as follows:

(1) The commissioners may, without submitting a proposition to the voters, authorize by resolution the district to issue revenue bonds for the construction costs, interest during the period of construction and six months thereafter, working capital or other costs of any part or all of the general comprehensive plan or for other purposes or functions of a water district authorized by statute. The amount of the bonds to be issued shall be included in the resolution submitted.

Any resolution authorizing the issuance of revenue bonds may include provision for refunding any local improvement district bonds of a district, out of the proceeds of sale of revenue bonds, and a district may pay off any outstanding local improvement bonds with such funds either by purchase in the open market below their par value and accrued interest or by call at par value and accrued interest at the next succeeding interest payment date. The bonds may be in any form, including bearer bonds or registered bonds as provided by RCW 39.46.030.

When a resolution authorizing revenue bonds has been adopted the commissioners may forthwith carry out the general comprehensive plan to the extent specified.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

****Sec. 15. Section 9, chapter 114, Laws of 1929 as last amended by section 161, chapter 167, Laws of 1983 and RCW 57.16.050 are each amended to read as follows:***

(1) A district may establish local improvement districts within its territory; levy special assessments under the mode of annual installments extending over a period not exceeding twenty years, on all property specially benefited by a local improvement, on the basis of special benefits to pay in whole or in part the damage or costs of any improvements ordered in the district; and issue local improvement bonds in the local improvement district to be repaid by the collection of (~~local-improvement~~) special assessments. Such bonds may be of any form, including bearer bonds or registered bonds as provided in RCW 39.46.030. The levying, collection and enforcement of such special assessments and issuance of bonds shall be as provided for the

levying, collection, and enforcement of ((local improvement)) special assessments and the issuance of local improvement district bonds by cities and towns insofar as consistent herewith. The duties devolving upon the city or town treasurer are hereby imposed upon the county treasurer of the county in which the real property is located for the purposes hereof. The mode of assessment shall be determined by the water commissioners by resolution. When in the petition or resolution for the establishment of a local improvement district, and in the comprehensive plan or amendment thereto or plan providing for additions and betterments to the original plan, previously adopted, it is provided that, except as set forth in this section, the special assessments shall be for the sole purpose of payment into the revenue bond fund for the payment of revenue bonds, then the local improvement district shall be designated as a "utility local improvement district." No warrants or bonds shall be issued in a utility local improvement district, but the collection of interest and principal on all special assessments in the utility local improvement district shall be paid into the revenue bond fund, except that pending the issuance and sale of bonds, special assessments may be deposited in a fund for the payment of costs of improvements in the utility local improvement district.

(2) Such bonds may also be issued and sold in accordance with chapter 39.46 RCW.

*Sec. 15 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 16. A new section is added to chapter 57.16 RCW to read as follows:

Judgments foreclosing local improvement assessments pursuant to RCW 35.50.260 may also allow to water districts, in addition to delinquent installments, interest, penalties, and costs, such attorneys' fees as the court may adjudge reasonable.

NEW SECTION. Sec. 17. A new section is added to chapter 57.24 RCW to read as follows:

When there is unincorporated territory containing less than one hundred acres and having at least eighty percent of the boundaries of such area contiguous to two water districts or contiguous to a water district and a sewer district, the board of commissioners of one of the districts may resolve to annex such territory to that district, provided a majority of the board of commissioners of the other water or sewer district concurs. In such event, the district resolving to annex such territory may proceed to effect the annexation by complying with RCW 57.24.170 through 57.24.190.

NEW SECTION. Sec. 18. A new section is added to chapter 57.32 RCW to read as follows:

A part of one water or sewer district may be transferred into an adjacent water district if the area can be better served thereby. Such transfer can be accomplished by a petition, directed to both districts, signed by the

owners according to the records of the county auditor of not less than sixty percent of the area of land to be transferred. If a majority of the commissioners of each district approves the petition, copies of the approving resolutions shall be filed with the county legislative authority which shall act upon the petition as a proposed action in accordance with RCW 57.02.040.

Passed the House April 15, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 6 and 15, Substitute House Bill No. 2, entitled:

"AN ACT Relating to special purpose districts."

Sections 6 and 15, if signed, would result in an identical double amendment of sections 1 and 2 of House Bill No. 643, which I have already signed into law. For this reason, I have vetoed sections 6 and 15.

With the exceptions of sections 6 and 15, Substitute House Bill No. 2 is approved."

CHAPTER 450

[Substitute House Bill No. 1065]

AUTOMATIC FINGERPRINT IDENTIFICATION SYSTEM

AN ACT Relating to establishing an automatic fingerprint identification system; amending RCW 43.43.735, 43.43.740, 10.98.050, 26.44.050, and 13.50.050; adding new sections to chapter 43.43 RCW; creating a new section; repealing RCW 13.04.130 and 43.43.755; and making an appropriation.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

(1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless:

(a) Both the hardware and software of the local system are compatible with the state system under RCW 43.43.560; and

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol automatic fingerprint identification system and transmit data to the Washington state patrol automatic fingerprint identification system.

(2) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically by computer. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(3) Counties or local agencies that purchased or signed a contract to purchase an automatic fingerprint identification system prior to January 1,