

CASE#: 90-2-00327-0 CIVIL JUDGMENT# NO
 TITLE: STATE OF WA DEPT OF WILDLIFE VS THURSTON COUNTY COMMISSIONERS
 FILED: 02/09/1990
 CAUSE: MSC MISCELLANEOUS
 RESOLUTION: DSM DATE: 01/03/1991 DISMISSAL WITHOUT TRIAL
 COMPLETION: JODF DATE: 01/03/1991 JUDGMENT/ORDER/DECREE FILED
 CASE STATUS: CMPL DATE: 01/03/1991 COMPLETED/RE-COMPLETED

115

OFF-LINE DATE: 03/08/1995

CONSOLIDATED:
 NOTE1:
 NOTE2:

-----PARTIES-----

CONN	LAST NAME,	FIRST MI	TITLE	LITIGANTS	DATE
PET01	STATE OF WA DEPT OF WILDLIFE				
RSP01	THURSTON COUNTY COMMISSIONERS				

-----ATTORNEYS-----

CONN	LAST NAME,	FIRST MI	TITLE	LITIGANTS	DATE
ATP01	WARREN, COLLEEN G				
ATD01	GALVIN, CATHERINE B		DPA		
ATR01	BJORGEN, THOMAS R		DPA		

-----APPEARANCE DOCKET-----

SUB#	DATE	CD/CONN	DESCRIPTION	SECONDARY
	02/09/1990	\$FFV	FILING FEE VOUCHERED	
1	02/09/1990	NTAP	NOTICE OF APPEAL	
-	03/12/1990	\$FFVP	FILING FEE VOUCHER PAID	78.00
2	03/13/1990	NOTE	SUMMIT LAKE MANAGEMENT DIST ROLL OF RATES & CHARGES & RESOLUTION CONFIRMING SUMMIT LAKE MANAGEMENT DIST ROLL OF RATES & CHARGES	
3	03/16/1990	NTHG	NOTICE OF HEARING	03-26-1990M
		ACTION	SHOW CAUSE	
-	03/26/1990	MINUTE	STRICKEN (FULLER) CC MOULTON	
4	04/13/1990	NTAPR	NOTICE OF APPEARANCE	
		ATD01	GALVIN, CATHERINE B DPA	
5	04/18/1990	NTTRS	NOTICE OF TRIAL SETTING	05-07-1990T
		ACTION	TRIAL SETTING	
6	05/09/1990	ORSTD	ORDER SETTING TRIAL DATE	
		ACTION	TRIAL SETTING (REC _____ PAGES)	
			PRIMARY SEPTEMBER 10, 1990 - 1:30	
			TRIAL DEPT TO BE ASSIGNED	
7	05/23/1990	NTAPR	NOTICE OF APPEARANCE	
		ATR01	BJORGEN, THOMAS R DPA	
8	09/05/1990	BR	BRIEF OF RESP W/ ATCHMTS	
9	09/05/1990	AF	AFFIDAVIT OF TOM CLINGMAN W/ ATCMTS	
10	09/05/1990	MM	APPELLANTS TRIAL MEMORANDUM	
11	09/05/1990	AF	AFFIDAVIT OF WILIAM ITH	
12	09/06/1990	AFSRML	AFFIDAVIT OF SERVICE BY MAIL UPON COLLEEN WARREN	
13	09/10/1990	NOTE	LEGISLATIVE HISTORY OF SHB 63	

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CASE#: 90-2-00327-0 CIVIL JUDGMENT# NO
TITLE: STATE OF WA DEPT OF WILDLIFE VS THURSTON COUNTY COMMISSIONERS

-----APPEARANCE DOCKET-----

SUB#	DATE	CD/CONN	DESCRIPTION	SECONDARY
			W/ ATCHMTS 1-11	
	09/10/1990	PREHRG	CC WILLIAMS CR RAGSDALE	
		JDG01	JUDGE ROBERT J DORAN	
	09/10/1990	CTRN	COURT REPORTER NOTES (255-90)	
14	09/28/1990	MM	APPELLANTS POST HEARING MEMORANDUM	
			W/ ATCHMTS	
15	10/15/1990	RSP	RESPONDENTS RESPONSE TO APPELLANTS	
			POST HEARING MEMORANDUM W/ ATCHMTS	
16	11/07/1990	MM	APPELLANTS REPLY MEMORANDUM TO	
			RESPS POST HEARING MEMORANDUM	
17	11/14/1990	MM	MEMORANDUM OPINION	
		JDG01	JUDGE ROBERT J DORAN	
18	01/03/1991	OR	FINDINGS OF FACT, CONCL OF LAW &	
			ORD AFFIRM RESPS IMPOSITION OF	
			RATES & CHGS ON APPELS PROPERTY	
			IN LMD NO 5	
		JDG01	JUDGE ROBERT J DORAN	

-----END COPY CASE-----

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FILED
SUPERIOR COURT
THURSTON COUNTY, WASH.

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BETTY J. GOULD, CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,
DEPARTMENT OF WILDLIFE,

Appellant,

v.

THURSTON COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent.

No. 90 2 00327 0

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER AFFIRMING
RESPONDENT'S IMPOSITION
OF RATES AND CHARGES
ON APPELLANT'S PROPERTY
IN LMD NO. 5

I. HEARING

1.1 Date: September 10, 1990.

1.2 Appearances: Appellant, State of Washington,
Department of Wildlife, appeared by and through Washington
State Attorney General's Office, represented by Colleen G.
Warren, Assistant Attorney General. Respondent, Thurston
County Board of County Commissioners, appeared by and through
Patrick D. Sutherland, Thurston County Prosecuting Attorney,
represented by Catherine B. Galvin, Deputy Prosecuting
Attorney.

1.3 Purpose: This matter came before the Court for the
purpose of hearing on the appeal by the Appellant, pursuant to
RCW 36.61.150, challenging the action taken by the Respondent
in adopting Resolution No. 9385, after a public hearing,
confirming and approving the roll for "rates and charges" to be

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER AFFIRMING
RATES AND CHARGES - 1

MICROFILMED

PATRICK D. SUTHERLAND
THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

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1 imposed on property owners to fund the cost of conducting a
2 water quality survey for Lake Management District (LMD) No. 5
3 for Summit Lake.

4 1.4 Evidence: The Court considered the arguments
5 presented by counsel at the September 10, 1990 hearing, the
6 Appellant's Post Hearing Memorandum, the Respondent's Post
7 Hearing Memorandum, and the Appellant's Reply Memorandum to
8 Respondent's Post Hearing Memorandum.

9 II. FINDINGS OF FACT

10 Based upon the foregoing, the Court enters the following
11 Findings of Fact:

12 2.1 The property which is the subject of this action is
13 situated in Thurston County, Washington.

14 2.2 Appellant owns a lot on Summit Lake which provides
15 public access for recreational use of the lake.

16 2.3 The Respondent notified the Appellant according to
17 RCW 36.61.040 and RCW 79.44.040 of the proposed formation of
18 LMD No. 5 for Summit Lake.

19 2.4 After a public hearing, the Respondent created LMD
20 No. 5 for the purpose of protecting Summit Lake water quality.

21 2.5 The Respondent proposed the imposition of rates and
22 charges on affected property located within the boundary of LMD
23 No. 5 and set a date for hearing objections to the proposed
24 roll of rates and charges.

25 2.6 At the public hearing, the Appellant objected to the
26 rates and charges imposed upon its property in the amount of
27 \$3,500 per year for three years.

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1 2.7 After consideration of the objections on the proposed
2 rates and charges, the Respondent adopted Resolution No. 9385
3 which confirmed the roll of rates and charges.

4 2.8 The Respondent then caused proper notice of the rates
5 and charges affecting Appellant's property to be forwarded to
6 the Director of Financial Management and the Director of the
7 Department of Wildlife in accordance with RCW 79.44.050.

8 2.9 At the September 10, 1990 hearing, counsel agreed
9 that (1) the County does not contend that the rates and charges
10 imposed upon the Appellant's property located within the
11 boundaries of LMD No. 5 were based on any special benefit, and
12 (2) the position of the Department is that without a showing of
13 special benefit, and basing any rate or charge thereon, no
14 charge can be made because of the limitations found in Chapter
15 79.44 RCW.

16 III. CONCLUSIONS OF LAW

17 Based upon the foregoing Findings of Fact, the Court
18 enters the following Conclusions of Law:

19 3.1 The Court has jurisdiction of the persons, property,
20 and subject matter of this action.

21 3.2 In 1987, the legislature granted counties the
22 authority under RCW 36.61.270 to impose "rates and charges" to
23 fund a program of lake improvement and maintenance as an
24 alternative to "special assessments" funding mechanism
25 available under RCW 36.61.020.

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1 3.3 The Respondent elected to impose rates and charges
2 under RCW 36.61.270 rather than utilizing the special
3 assessment method under RCW 36.61.020, et seq.

4 3.4 Pursuant to RCW 36.61.020(6), rates and charges may
5 be imposed on property for the purpose of studying lake water
6 quality problems and solutions.

7 3.5 The County in imposing rates and charges on state
8 property must comply with the procedural steps set forth in RCW
9 79.44.040 and RCW 79.44.050.

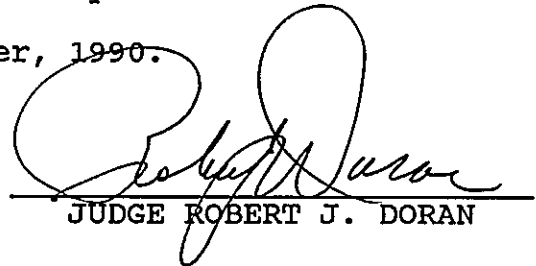
10 3.6 The imposition of rates and charges on state owned
11 land under RCW 36.61.270 does not require that the assessments
12 be based on a finding of special benefits.

13 IV. ORDER

14 Based upon the foregoing, it is hereby

15 ORDERED, ADJUDGED AND DECREED, that the rates and charges
16 imposed upon the Appellant's property under LMD No. 5 in the
17 amount of \$3,500.00 per year for three years is affirmed.

18 DATED this 21st day of December, 1990.

19
20 
21 JUDGE ROBERT J. DORAN

22 PRESENTED BY:

23 PATRICK D. SUTHERLAND
24 PROSECUTING ATTORNEY

25 BY: Catherine B. Galvin
26 Catherine B. Galvin
27 Deputy Prosecuting Attorney
28 WSBA #15476

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER AFFIRMING
RATES AND CHARGES - 4

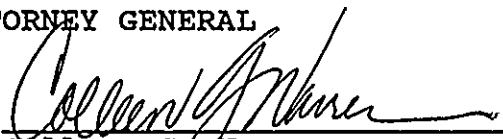
MICROFILMED

PATRICK D. SUTHERLAND
THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

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1 COPY RECEIVED, NOTICE OF PRESENTATION
2 WAIVED, AND APPROVED FOR ENTRY:

3 KEN EIKENBERRY
4 ATTORNEY GENERAL

5 By: 
6 Colleen G. Warren
7 Assistant Attorney General
8 *USBA #18506*
9 (WORK\PLD\WILDLIFE.ORD(110))

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FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER AFFIRMING
RATES AND CHARGES - 5

MICROFILMED

PATRICK D SUTHERLAND
THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

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FILED
SUPERIOR COURT OF THE STATE OF WASHINGTON
THURSTON COUNTY, WASH.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

30 NOV 14 P4:48

STATE OF WASHINGTON,
DEPARTMENT OF WILDLIFE,

Appellant,

vs.

THURSTON COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent.

THELMA THOMAS, CLERK

BY

No. 90-2-00327-0

MEMORANDUM OPINION

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This is an appeal by the Department of Wildlife, pursuant to RCW 36.61.150, challenging the action taken by the Thurston County Board of County Commissioners in adopting Resolution No. 9385, after a public hearing, confirming and approving the Roll for "rates and charges" to be imposed on property owners to fund the cost of conducting a water quality survey for Lake Management District No. 5 (Summit Lake).

Appellant owns a lot on Summit Lake which provides public access for recreational use of the Lake. At the public hearing representatives of the Department objected to the "rates and charges" imposed upon its lot. The amount fixed would be \$3,500 per year for three years.

When the matter came on for hearing before this court on September 10, 1990, the first inquiry of the court concerned the transcript to be reviewed and then, what is the appropriate scope of review.

After some discussion with counsel concerning the requirements

of RCW 36.61.150, counsel agreed that (1) the county does not contend that the rates and charges imposed upon the Department's lot were based on any special benefit; and (2) the position of the Department is that without showing special benefit, and basing any rate or change thereon, no charge can be made because of the limitations found in Chapter 79.44 RCW.

The Lake Management District Act was first passed in 1985. See Chapter 398, Laws of 1985. In the original Act, funding was to be provided on the basis of special assessments. In 1987, the legislature granted counties the authority to impose "rates and charges" to fund a program of lake improvement and maintenance, as an alternative to "special assessments." See Chapter 432, Laws of 1987.

The purpose of the act is set forth in RCW 36.61.010 which reads as follows:

The legislature finds that the environmental, recreational, and aesthetic values of many of the state's lakes are threatened by eutrophication and other deterioration and that existing governmental authorities are unable to adequately improve and maintain the quality of the state's lakes.

It is the purpose of this chapter to establish a governmental mechanism by which property owners can embark on a program of lake improvement and maintenance for their and the general public's benefit, health, and welfare. Public property, including state property, shall be considered the same as private property in this chapter, except liens for special assessments and liens for rates and charges shall not extend to public property. Lake bottom property shall not be considered to be benefited, shall not be subject to special assessments or rates and charges, and shall not receive voting rights under this chapter.
(Emphasis indicates 1987 amendment)

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Among the purposes for which "special assessments" or "rates and charges" may be imposed on property are to study lake water quality problems and solutions. RCW 36.61.020(6).¹ Here, the County Commissioners elected to impose "rates and charges" rather than utilizing the special assessment method, which would have required that the assessments be based on special benefits conferred. RCW 36.61.160. See also AGO 1989 No. 18. RCW 36.61.270 reads as follows:

Whenever rates and charges are to be imposed in a lake management district, the county legislative authority shall prepare a roll of rates and charges that includes those matters required to be included in a special assessment roll and shall hold a public hearing on the proposed roll of rates and charges as provided under RCW 36.61.120 through 36.61.150 for a special assessment roll. The county legislative authority shall have full jurisdiction and authority to fix, alter, regulate, and control the rates and charges imposed by a lake management district and may classify the rates or charges by any reasonable factor or factors, including benefit, use, front footage, acreage, the extent of improvements on the property, the type of improvements on the property, uses to which the property is put, service to be provided, and any other reasonable factor or factors. The flexibility to establish rates and charges includes the authority to reduce rates and charges on property

¹RCW 36.61.020 provides in part as follows:
Special assessments or rates and charges may be imposed on the property included within a lake management district to finance lake improvement and maintenance activities, including: (1) The control or removal of aquatic plants and vegetation; (2) water quality; (3) the control of water levels; (4) storm water diversion and treatment; (5) agricultural waste control; (6) studying lake water quality problems and solutions; (7) cleaning and maintaining ditches and streams entering or leaving the lake; and (8) the related administrative, engineering, legal, and operational costs, including the costs of creating the lake management district.

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owned by low-income persons.

Except as provided in this section, the collection of rates and charges, lien status of unpaid rates and charges, and method of foreclosing on such liens shall be subject to the provisions of chapter 36.94 RCW. Public property, including state property, shall be subject to the rates and charges of the same extent that private property is subject to them, except that liens may not be foreclosed on the public property, and the procedure for imposing such rates and charges on state property shall conform with the procedure provided for in chapter 79.44 RCW concerning the imposition of special assessments upon state property. The total amount of rates and charges cannot exceed the cost of lake improvement or maintenance activities proposed to be financed by such rates and charges, as specified in the resolution of intention. Revenue bonds, exclusively payable from the rates and charges may be issued by the county under chapter 36.46 RCW. (Emphasis supplied)

The procedure for imposing rates and charges on state property such as that owned by appellant, must comply with the procedure provided in Chapter 79.44 RCW "concerning the imposition of special assessments upon state property."

When the Court is faced, as here, with a question regarding the scope and meaning of statutory language, there are a number of well established rules of statutory construction which must be considered and applied: (1) The primary goal of the Court is to ascertain and give effect to the intention of the Legislature. See State Department of Transportation v. State Employees Insurance Board, 97 Wn.2d 454, 645 P.2d 1076 (1982), Nisqually Delta Association v. DuPont, supra. (2) In arriving at the intent of the legislative body, the first resort of the courts is to the context and subject matter of the legislation, because the intention of the lawmakers is to be determined, if possible, from

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what the Legislature has said. Hatzenbuhler v. Harrison, 49 Wn.2d 691;, 306 P.2d 745 (1957). (3) Words used in a statute are to be given their usual and ordinary meaning and, in the absence of a statutory definition, the Court may look to dictionaries for such meaning. See John H. Sellens Constr. Co. v. Dept. of Revenue, 87 Wn.2d 878, 558 P.2d 1342 (1976); Garrison v. Washington State Nursing Board, 87 Wn.2d 195, 550 P.2d 7 (1976); Crown Zellerbach Corp. v. State, 53 Wn.2d 813, 328 P.2d 884 (1958); (4) Where an act is not plain, clear, and unambiguous, resort to its legislative history is necessary as an aid in determining the scope and purpose of the enactment. See State Employees vs. State, 98 Wn.2d 677 (1983); Green River College vs. HEP Board, 95 Wn.2d 108, 622 P.2d 826 (1980) affirmed on rehearing, 95 Wn.2d 962, 633 P.2d 12324 (1981) Wilson v. Key Tronic Corporation, 50 Wn.App. 802, 807, 701 P.2d 518 (1985); State v. Brown, 50 Wn.App. 873, 751, P.2d 331 (1988). See also 7 UPSLR 571, Legislative History In Washington.

A case which this Court has cited on many occasions is State ex. rel. Ralston vs. Department of Licensing, 60 Wn.2d, 535, 540, 374 P.2d 571 (1962). The late Justice Robert Finley described the task of the Court in searching for "legislative intent" as follows:

"Thus, we have here a situation necessitating a judicial evaluation of statutory language, and implementation thereof, in terms of purposeful legislative activity -- a task which any reasonably prudent jurist would readily agree is usually most difficult. The easy way would be to rely on an appropriate maxim of statutory construction, attach it to a handy, predetermined conclusion, and pronounce judgment. It is at best a tenuous, difficult undertaking to attempt to articulate the real basis for a decision; i.e., what the conglomerate mass activity of legislators did or did not accomplish and effectuate, in terms of legal sanctions,

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by enacting or formalizing given language into statutory law."

Counsel for appellant argues that any "rates and charges" imposed upon state land under RCW 36.61.270, supra, must be based on the special benefits conferred -- the same as special assessments under Chapter 79.44 RCW. This court does not agree. If such construction were to be adopted, a county could not effectively use "rates and charges" to fund lake maintenance or improvements where any state land is involved because: (1) state land is to be treated the same as private land; and (2) if "rates and charges" may only be imposed on state land if special benefit is shown, then (3) such special benefit would have to be the basis for imposition of the rates and charges on private property -- the same standard for special assessments. Clearly, such construction would be inconsistent with the 1987 legislative amendment granting the authority to impose "rates and charges," and would effectively render the legislative change meaningless. Furthermore, where, as here, funding is necessary for "studying lake water problems and solutions," as expressly authorized by RCW 36.61.020(6), supra, it would be difficult, if not impossible, to demonstrate any "special benefit" to the state land, or, for that matter, any private land, if such "special benefits" had to be established as a condition precedent to the imposition of any "rates and charges."

When the 1987 amendment was enacted, the legislature is presumed to be aware of the distinction between "rates and charges" and "special benefits" as discussed by the Supreme Court in Morse

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v. Wise, 37 Wn.2d 806, 226 P.2d 214 (1951). In Morse the City of Chelan elected to use "rates and charges" as a means of providing for a sewage disposal system. The objection of some property owners was that charge could not be made because no special benefits were conferred. The court disagreed and stated:

We gather from the argument of appellants that they consider the sewer service charge to pay for the new sewers to be an assessment, and that as such it is illegal because they are not specially benefited. They contend that, having been assessed to pay the cost of the sewer system serving their properties, the only additional expense they can be called upon to pay is for repairs and maintenance of the mains and laterals, and a proper share to maintain trunk lines and a disposal plant serving them in common with others. They assert the legal justification for the making of such charges would be the special benefits conferred.

[1] There would be merit to the first contention of appellants if the city had proceeded to make the improvements and construct a sewer system to serve the additional areas pursuant to local improvement statutes. The whole concept underlying Rem. Supp. 1941, § 9354-4 et seq, is different from that of the local improvement district plan. Under these statutes, the city acts pursuant to the police power granted to it to provide sewer service to protect the health of its inhabitants and to defray the expense by making service charges. The special benefit idea does not enter into the picture at all. We have examined the cases cited by appellants: In re Grandview, 118 Wash. 464, 203 Pac. 988; In re Taylor Avenue Assessment, 149 Wash. 214, 270 Pac. 827; In re Aurora Avenue, 180 Wash. 523, 41 P.(2d) 143, 96 A. L. R. 1374, and In re California Avenue, 30 Wn. (2d) 144, 190 P. (2d) 738, as well as those from other states. They are of no aid in the solution of the problem now before us, as they involve assessments according to special benefits where improvements were being made pursuant to statutes providing therefor. (Emphasis supplied)

Morse, at page 810, 811.

See also, Teter v. Clark Cy., 104 Wn.2d 227, 704 P.2d 1171 (1986);

Hillis Hents, Inc. v. Public Util. Dist. 1, 105 Wn.2d 288, 714 P.2d

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1163 (1986); AGO 1989 No. 18.

Furthermore, if the scope and meaning of RCW 36.61.270 is considered ambiguous when it makes reference to compliance with the procedural requirements of Chapter 79.44.RCW, then resort to the legislative history of RCW 36.61.270, as discussed in respondent's post hearing memorandum, clearly supports the position taken by the County.

In the opinion of this court appellant is liable for the "rates and charges" imposed upon its lot by the County Commissioners provided there has been compliance with the procedural steps set forth in Chapter 79.44, i.e., the provisions of RCW 79.44.040 and RCW 79.44.050.²

For the reasons stated herein the appeal is dismissed and judgment will be entered in favor of the County.

²These statutes were amended in 1989, so as to reflect, in part, the changes made to the Lakes Management District Act in 1987. See Chapter 243, Laws of 1989. RCW 79.44.040 reads in part:

Notice of the intention to make such improvement, or impose any assessment, together with the estimate of the amount to be charged to each lot, tract or parcel of land, or other property owned by the state to be assessed ((for said improvement)), shall be forwarded by registered or certified mail to the director of financial management and to the chief administrative officer of the agency of state government occupying, using, or having jurisdiction over such lands at least thirty days prior to the date . . .

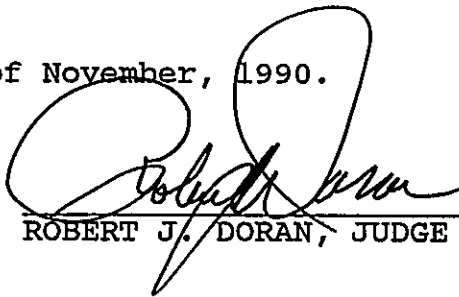
By another amendment, the term "assessment" was defined to include "rates and charges." See sec. 16, Chapter 243, Laws of 1989.

Thus the notice of intent to impose any assessment (here "rates and charges") must be given to the director of financial management and to the director of the Department of Wildlife.

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An appropriate order may be presented by counsel for the County.

Dated this 14th day of November, 1990.



Handwritten signature of Robert J. Doran in cursive script, written over a horizontal line.

ROBERT J. DORAN, JUDGE

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FILED
SUPERIOR COURT
THURSTON COUNTY

90 NOV 7 P4:48

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

BY _____ DEFYIT

STATE OF WASHINGTON,
DEPARTMENT OF WILDLIFE,

NO. 90-2-00327-0

Appellant,

APPELLANTS' REPLY
MEMORANDUM TO RESPONDENT'S
POST HEARING MEMORANDUM

v.

THURSTON COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent.

I. INTRODUCTION

Thurston County and the Washington State Department of Wildlife agree that assessing districts may finance local improvements through levying of rates and charges on private property landowners without establishing a resulting special benefit. The parties disagree as to whether the language contained in RCW 36.61.270 requires a resulting special benefit to public lands when a "rate and charge" is levied for the purpose of funding local improvements. The court specifically asked the parties to address in post hearing memorandums the following question: What are the procedures in RCW 79.44 that must be complied with by assessing districts in levying rates and charges against publicly owned lands? The department has previously addressed this question in its Post Hearing Memorandum filed on September 28, 1990. The following is a

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1 reply to Respondents Post Hearing Memorandum filed on
2 October 15, 1990.

3 II. ARGUMENT

4 The county argues that the reference to procedures found in
5 RCW 36.61.270 relates only to those notice requirements as found
6 in RCW 79.44.040 and .050. However, the legislature did not
7 expressly state that the procedural requirements would be
8 limited to these referenced sections of Chapter 79.44 RCW.
9 Furthermore, the legislature amended Chapter 79.44 RCW in 1989
10 to define rates and charges as synonymous with special
11 assessments. Therefore, as a procedural matter, assessing
12 districts desiring to impose an assessment of any kind on public
13 lands for the cost of local or other improvements must establish
14 that such lands will be "specially benefitted". Limiting the
15 term procedure to only those sections of this statute dealing
16 with notice would otherwise serve to defeat the express
17 statutory language contained in RCW 79.44.010 and .020.

18 It is not true that the inclusion of rates and charges
19 within Chapter 36.61 RCW as it applies to state lands would be a
20 frivolous act if the county was required to establish a special
21 benefit before imposing fees for local improvements. Summit
22 Lake is a public lake. The major portion of the benefit from
23 the lake improvements will be to the surrounding landowners. A
24 portion of the benefit clearly will inure to the general
25 public -- to the many residents primarily of Thurston County
26

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1 that use the lake. In fact, the creation of a public benefit is
 2 recognized as one of the purposes for the creation of lake
 3 management districts. RCW 36.61.010. Quite understandably, the
 4 lake management district would like somehow to assess the public
 5 for that part of the cost of the improvement that is
 6 attributable to the public benefit. Counties are empowered with
 7 the authority to levy assessments on state lands to pay for such
 8 improvements to the extent that such lands are "specially
 9 benefitted." If the total cost of the local improvements exceed
 10 the amount of special benefit to public lands, or there is no
 11 resulting special benefit, than the contribution for the public
 12 portion of the benefits should be secured from the appropriate
 13 local government.

14 The objective in construing statutes is to ascertain
 15 legislative intent as expressed in the statute. Martin v.
 16 Meier, 111 Wn.2d 471, 479, 760 P.2d 925 (1988); State v.
 17 Neslund, 103 Wn.2d 79, 82, 690 P.2d 1153 (1984). In construing
 18 any statute, a court attempts to give effect to the words the
 19 Legislature has used. The court views each provision in
 20 relation to other provisions and the court tries to achieve a
 21 consistent construction of the whole statute. State v.
 22 Sommerville, 111 Wn.2d 524, 531, 760 P.2d 932 (1988); Addleman
 23 v. Board of Prison Terms and Paroles, 107 Wn.2d 503, 509, 730
 24 P.2d 1327 (1986). Where the meaning of statutory language is
 25 plain and unambiguous, the statute is not open to construction or
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interpretation. Crown Cascade, Inc. v. O'Neal, 100 Wn.2d 256, 262, 668 P.2d 585 (1983).

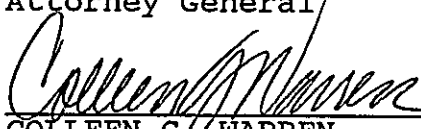
The clear intent of the legislature that can be gathered from a reading of Chapter 79.44 RCW is that local governments cannot impose "rates and charges" against publicly owned state lands absent a resulting special benefit. RCW 36.61, in requiring compliance with the procedures in RCW 79.44, intended that the statutory scheme of RCW 79.44 as a whole would be complied with in imposing such assessments. This statute only allows local governments to proceed to impose such assessments against public lands "specially benefitted." The assessment imposed by Thurston County against the Washington State Department of Wildlife did not meet this procedural prerequisite and thus is improper.

III. CONCLUSION

Appellants respectfully request that this court annul the rates and charges assessed on its property located at Summit Lake in Thurston County.

DATED this 7th day of November, 1989.

KENNETH O. EIKENBERRY
Attorney General


COLLEEN G. WARREN
Assistant Attorney General
WSBA No. 16506
Assistant Attorney General

FILED
SUPERIOR COURT
THURSTON COUNTY, WASH.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,
DEPARTMENT OF WILDLIFE,

Appellant,

v.

THURSTON COUNTY BOARD OF
COUNTY COMMISSIONERS,

Respondent,

BY _____
DEPUTY

No. 90 2 00327 0

RESPONDENT'S RESPONSE
TO APPELLANT'S POST
HEARING MEMORANDUM

STATEMENT OF FACTS

Lake Management District (hereinafter LMD) No. 5 for Summit Lake was initiated by petition by owners of acreage within the proposed LMD. The Board of Thurston County Commissioners (hereinafter Board) created LMD No. 5 for the purpose of protecting Summit Lake water quality. Summit Lake is the primary water source for residents of Summit Lake. Moreover, the lake supports recreational activities including fishing. The State of Washington Department of Wildlife (hereinafter Department) maintains a public boat ramp on Summit Lake. This boat ramp is located within the boundaries of LMD No. 5, and was included when LMD No. 5 was formed.

Pursuant to RCW 36.61.270, the Board imposed rates and charges for those properties located within the boundaries of LMD No. 5. The Department's property was charged \$3500.00

RESPONDENT'S RESPONSE
TO APPELLANT'S POST
HEARING MEMORANDUM - 1

PATRICK D. SUTHERLAND
THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

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1 annually as the Department's proportionate share for LMD No. 5.
2 Chapter 36.61 RCW makes available to counties two funding
3 methods when creating lake management districts, special
4 assessments and rates and charges. The Board did not impose
5 special assessments as the funding mechanism to finance lake
6 improvement for Summit Lake. Rather, the Board imposed rates
7 and charges on the property included within the boundaries of
8 LMD No. 5. Therefore, the Board did not make a finding of
9 "special benefit" when they imposed rates and charges.

10 PROCEDURAL HISTORY

11 The Department appealed the Board's imposition of rates
12 and charges on their property located within the boundaries of
13 LMD No. 5. An appeal of the Board's decision of the roll of
14 rates and charges must be accompanied by a transcript of the
15 record of the Board's action according to RCW 36.61.150. The
16 Department did not provide the court with such a record.
17 However, the court determined rather than dismissing the
18 appeal, this matter would be decided as a matter of law.
19 Therefore, the necessity of a record would not be an issue, and
20 the standard of review would be the unlawfulness of the Board's
21 action rather than arbitrary and capricious.

22 The court queried both parties in order to define the
23 issue before the court. The Department stipulated that Chapter
24 79.44 RCW related to procedures in assessing state-owned land
25 and that rates and charges must specially benefit state land.
26 The County stipulated that the Board did not make a finding of
27 "special benefit" since rates and charges, and not special
28

1 assessments, were being imposed. The single issue before the
2 court now is whether state-owned land must be specially
3 benefited before rates and charges can be imposed. In briefing
4 this issue, the court requested that the parties address: 1)
5 what are the procedures proscribed under Chapter 79.44 RCW; 2)
6 what is the relationship between Chapter 79.44 RCW and RCW
7 36.61.270; and 3) any pertinent legislative history with
8 appropriate certification.

9 ISSUE

10 Whether Thurston County acted unlawfully in imposing rates
11 and charges against the Department in the absence of a finding
12 of "special benefit" when the Board applied rates and charges
13 as the funding mechanism pursuant to RCW 36.61.270 rather than
14 special assessments?¹

15 ARGUMENT

16 I. IMPOSITION OF RATES AND CHARGES

17 In reviewing the Department's memorandum, it is difficult
18 to ascertain exactly what the Department is appealing. If the
19 County had imposed special assessments on the Department's
20 property, then portions of the Department's argument may have
21 some validity. However, that is not the case and,
22 consequently, the Department's appeal is without merit.
23 Nevertheless, the County assumes that the Department is arguing
24 that Chapter 79.44 RCW procedurally requires that the

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26 ¹The Department's issue statement is assuming that a
27 finding has already be made that special assessments will
28 always apply when state-owned land is involved. However, it
is that very issue which is before the court, and a
determination has not yet been made.

THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

1 imposition of rates and charges can only be applied to state-
2 owned lands if the lands are specially benefited. This is the
3 assumption that the County will address.

4 The legislature gave counties the ability to create lake
5 management districts and to finance the improvement and
6 maintenance of lakes within the districts through two funding
7 mechanisms: the imposition of special assessments or rates and
8 charges. RCW 36.61.020. The special assessments provision of
9 Chapter 36.61 RCW refers to a corresponding special benefit²
10 which is not the case when dealing with rates and charges. RCW
11 36.61.270 is the statute which was used to impose rates and
12 charges for LMD No. 5. RCW 36.61.270 states in pertinent part
13 that

14 [t]he county legislative authority shall have full
15 jurisdiction and authority to fix, alter, regulate,
16 and control the rates and charges imposed by a lake
17 management district . . .

18 . . .

19 . . . Public property, including state property,
20 shall be subject to the rates and charges to the same
21 extent that private property is subject to them,
22 except that liens may not be foreclosed on the public
23 property, and the procedure for imposing such rates
24 and charges on state property shall conform with the
25 procedure provided for in chapter 79.44 RCW

26 _____
27 ²RCW 36.61.160 states in part:

28 Whenever special assessments are imposed, all property
included within a lake management district shall be
considered to be the property specially benefited by the
lake improvement or maintenance activities . . . The
special assessments shall be imposed on property in
accordance with the special benefits conferred on the
property up to but not in excess of the total costs and
expenses of the lake improvement or maintenance activities
as provided in the special assessment roll.

1 concerning the imposition of special assessments upon
2 state property.

3 The differences between each of these funding mechanisms
4 needs to be addressed to determine how state property is to be
5 treated under RCW 36.61.270.

6 **A. SPECIAL ASSESSMENTS**

7 Special assessments are used to construct local
8 improvements that are appurtenant to specific property and
9 bring a benefit to that property substantially more intense
10 than is conferred on other property. Bellevue Assocs. v.
11 Bellevue, 108 Wn.2d 671, 674-75, 741 P.2d 993 (1987). The
12 measure of the special benefits to property as a result of a
13 local improvement is the difference in the fair market value of
14 the property before and immediately after the improvement.
15 Doolittle v. City of Everett, 114 Wn.2d 88, ___ P.2d ___
16 (1990). Further, article 7, section 9 of the Washington
17 Constitution requires that assessments be made only on property
18 benefited by the assessment. If the Board had proceeded under
19 the special assessment portion of Chapter 36.61 RCW, then the
20 assessment to the Department's property would have to be based
21 on the special benefit, as defined above, accruing to their
22 property. However, since the Board proceeded under the rates
23 and charges portion of this statute, the restriction of special
24 benefit does not apply.

25 **B. RATES AND CHARGES**

26 Rates and charges refers "to a system of financing a
27 public improvement by a local government, acting pursuant to a
28 grant of police power, by imposing charges unrelated to special

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1 benefit. See, e.g., Morse v. Wise, 37 Wn.2d at 810-11." AGO
2 18 (1989). Contrary to special assessments, rates and charges
3 stem from the general police powers of a state, and the benefit
4 analysis required under special assessments does not apply.

5 **II. THE INCLUSION OF CHAPTER 79.44 RCW WITHIN RCW**
6 **36.61.270 DOES NOT MEAN THAT A SPECIAL BENEFIT ANALYSIS MUST BE**
7 **APPLIED WHENEVER STATE LAND IS INCLUDED WITHIN A LAKE**
8 **MANAGEMENT DISTRICT.**

9 The Department argues that the inclusion of Chapter 79.44
10 RCW within RCW 36.61.270 mandates that the County must apply
11 the special assessments analysis each time the County wishes to
12 assess the state for local improvements without regard to the
13 form of financing employed. Their reliance on Chapter 79.44
14 RCW for that proposition is misplaced. The County agrees that
15 if special assessments are used to fund a local improvement
16 affecting state property that a corresponding special benefit
17 to that property must be found. Moreover, the County agrees
18 with the Department that the procedural (notice) requisites of
19 Chapter 79.44 RCW must be complied with when imposing either
20 special assessments or rates and charges on state property.
21 Where the County disagrees is with the Department's analysis
22 that the procedural requisites of Chapter 79.44 RCW mandates
23 that the County apply a special benefit analysis when imposing
24 rates and charges on state land.

25 The Department's contention is contrary to RCW 36.61.270.
26 If the Department's contention were correct, the state would
27 effectively be immune from ever being imposed assessments under
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1 lake management districts. A showing of special benefit would
2 be difficult when capital improvements are not taking place.³

3 III. REFERENCE TO THE PROCEDURAL ASPECTS OF CHAPTER 79.44
4 RCW WITHIN RCW 36.61.270 IS ONLY FOR THE PURPOSE OF NOTIFYING
5 THE STATE OF THE IMPOSITION OF RATES AND CHARGES ON STATE LAND.

6 The reference to the procedure provided in Chapter 79.44
7 RCW for imposing rates and charges on state property relates to
8 nothing more than notice to the state. The Department's
9 argument that reference to Chapter 79.44 RCW within RCW
10 36.61.270 for anything more than notice is incorrect. The
11 Department's contention would make the legislative enactment of
12 RCW 36.61.270 which included state property within rates and
13 charges a frivolous act. The canons of statutory construction
14 would dictate otherwise.

15 There is a presumption that the legislature does not
16 engage in unnecessary or meaningless acts. State v. McCullum,
17 98 Wn.2d 484, 493, 656 P.2d 1064 (1983). Statutes should be
18 construed to give effect to their purpose, and unlikely or
19 strained results should be avoided. State v. Stannard, 109
20 Wn.2d 29, 742 P.2d 1244 (1987). The legislature provided two
21 sources of financing lake management districts, both of which
22 were made applicable to public property. Consequently, the

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25 ³The creation of lake management districts is to
26 finance improvements and maintenance activities of lakes
27 within a county. These activities do not always concern the
28 construction of local improvements which is the usual means
by which property is specially benefited for the purpose of
imposing special assessments.

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1 legislature clearly intended rates and charges to apply to
2 state land.

3 RCW 36.61.270 indicates that the procedure for imposing
4 rates and charges on state property shall conform with the
5 procedure provided for in Chapter 79.44 RCW, Assessments
6 Against Public Lands. RCW 36.61.270 reference to procedure is
7 clear in its meaning, i.e., the County must take affirmative
8 steps to give the state notice when rates and charges are
9 imposed before the state is obligated to respond to the action
10 taken. As a general proposition, a court will give an
11 undefined statutory term its usual and ordinary meaning; such a
12 meaning can be determined by referring to a dictionary
13 definition. State v. Anderson, 58 Wn.App. 107, ___ P.2d ___
14 (1990). The word "procedure" is defined as:

- 15 1. the act, method, or manner of proceeding in some
- 16 process or course of action; esp., the sequence of
- 17 steps to be followed
- 18 2. a particular course of action
- 19 or way of doing something
- 20 3. the established way of
- 21 carrying on the business of a legislature, law court,
- 22 etc.

23 Webster's New World Dictionary 1133 (2d ed. 1976).

24 RCW 36.61.270 when read in its entirety within Chapter
25 36.61 RCW is unambiguous and resort to legislative history is
26 not mandated. In construing a statute which is unambiguous,
27 the general rule is that Washington courts will not look to
28 legislative history to construe statutory language. Everett
Concrete Prod. v. Labor & Indus., 109 Wn.2d 819, 748 P.2d 1112
(1988); accord Wang, Legislative History in Washington, 7 U.
Puget Sound L. Rev. 571. However, should the court view that
this statute is ambiguous as a whole, the court may resort to

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1 outside sources to determine statutory meaning. Everett
2 Concrete Prod., 109 Wn.2d at 822; State v. Turner, 98 Wn.2d
3 731, 658 P.2d 658 (1983). One outside source of legislative
4 intent which may be referred to is the history of the
5 legislation, including the changes to the bill, committee
6 action, staff analyses, and testimony at hearings. Turner, 98
7 Wn.2d 731. Legislative intent will demonstrate that reference
8 to Chapter 79.44 RCW is for the purpose of notifying the state
9 and nothing more.

10 A. LEGISLATIVE INTENT OF RCW 36.61.270 SPECIFICALLY
11 SHOWS THAT REFERENCE TO CHAPTER 79.44 RCW RELATES TO NOTICE
12 REQUIREMENTS.

13 RCW 36.61.270 was enacted in 1987. See Laws of 1987,
14 ch.432, section 11. The original bill, House Bill 63 (HB 63),
15 specifically included state property as being subject to rates
16 and charges to the same extent that private property is subject
17 to them. See HB 63, section 11. As indicated in HB 63 bill
18 analysis⁴, the legislature authorized counties the ability to
19 impose rates and charges in addition to, or in lieu of, special
20 assessments. Clearly, from the introduction of this bill the
21 legislature intended that rates and charges and special
22 assessments would be treated differently for purposes of lake
23 management districts. This provision did not change throughout
24 the history of the bill.

25
26 ⁴Work done at the committee level on proposed
27 legislation has been recognized by the courts in determining
28 legislative history. Wang, Legislative History in
Washington, 7 U. Puget Sound L. Rev. 571, 588 (1984).

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1 Public hearings were held before the House Local
2 Government committee on HB 63 which resulted in several
3 amendments. The bill passed out of committee as Substitute
4 House Bill 63 (SHB 63). The most noteworthy amendment for
5 purposes of this brief is the fact that a special procedure was
6 inserted to notify the state if state lands were subject to
7 rates and charges. See SHB 63, section 11; see also House
8 Committee on Local Government, 50th Legislature, House Bill
9 Report of HB 63 as of February 19, 1987; House Committee on
10 Local Government, 50th Legislature, House Bill Report of SHB 63
11 as passed House on March 2, 1987; House Committee on Local
12 Government, 50th Legislature, Final Bill Report of SHB 63 as
13 passed Legislature. There is no evidence that this procedural
14 amendment was ever intended to require a special benefit
15 analysis on state property when rates and charges were being
16 imposed. To the contrary, the legislature specifically
17 included state property under the rates and charges provision
18 but only referenced Chapter 79.44 RCW to clarify notice
19 procedures to make HB 63 consistent with procedures already in
20 effect for assessing state lands. See February 12, 1987 letter
21 from Art Stearns, Supervisor, Department of Natural Resources
22 to Representative Mary Haugen, Chair for House Committee on
23 Local Government.⁵

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26 ⁵The courts have also considered letters in the
27 committee files from individual nonlegislators. Wang,
28 Legislative History in Washington, 7 U. Puget Sound L. Rev.
571, 590 (1984).

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1 B. LEGISLATIVE INTENT IN AMENDING CHAPTER 79.44 RCW
2 TO INCLUDE RATES AND CHARGES IN THE DEFINITION OF ASSESSMENTS
3 WAS FOR THE PURPOSE OF NOTIFYING THE STATE WHEN RATES AND
4 CHARGES WERE BEING IMPOSED.

5 When the legislature amended Chapter 79.44 RCW in 1989, it
6 was for the purpose of making the notice procedures of Chapter
7 79.44 RCW applicable to rates and charges. A broader picture
8 of Chapter 79.44 RCW and subsequent amendments is necessary to
9 provide clarification of legislative intent. Senate Bill 5128
10 (SB 5128) was first introduced to the legislature on January
11 16, 1989 and was referred to the Senate Committee on
12 Governmental Operations. See SB 5128. As indicated in the
13 Senate Bill Report, SB 5128 was for the purpose of specifying
14 notice requirements for local improvements. See Senate
15 Committee on Governmental Operations, 51st Legislature, Senate
16 Bill Report of SB 5128 as of January 23, 1989; see also
17 Memorandum from Eugene Green, Senate staff, Senate Governmental
18 Operations to Senator B. McCaslin, January 26, 1989.⁶

19
20 ⁶The House Journal indicates that amendments to SB 5128
21 (which are not applicable to the issue before the court)
22 were made in the House Committee on Local Government. SB
23 5128 then became Substitute Senate Bill 5128 (SSB 5128).
24 House Journal, 51st Legislature (1989), at 1156.
25 Subsequently, amendments were made to SSB 5128 on the floor
26 of the House by Representative Haugen, Chair of House
27 Committee on Local Government. House Journal, 51st
28 Legislature (1989), at 1669-1672. These amendments
incorporated the language of House Bill 1895 (HB 1895),
without change. Id. HB 1895 was passed by the House but
was not referred to the Senate. Apparently, there was not
sufficient time for HB 1895 to complete the usual
legislative process before adjournment so it was attached to
SSB 5128. The House then proceeded to adopt SSB 5128, as
amended by the House. House Journal, 51st Legislature
(1989), at 1672. Shortly thereafter, the Senate passed SSB

THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

1 The Final Bill Report as prepared by the Senate Committee
2 on Governmental Operations for SSB 5128 indicates that the
3 addition of HB 1895 made the special notification process
4 concerning state property applicable to rates and charges. See
5 Senate Committee on Governmental Operations, 51st Legislature,
6 Final Bill Report of SSB 5128 Synopsis as Enacted. Further,
7 the bill analysis of HB 1895 supports this report. See House
8 Committee on Local Government, 51st Legislature, House of
9 Representatives Bill Analysis of HB 1895; see also House
10 Committee on Local Government, 51st Legislature, House Bill
11 Report of HB 1895. HB 1895 was a mechanism by which Chapter
12 79.44 RCW would be amended to enable the state to be notified
13 should their land be subject to local improvement assessments.
14 The anticipated notice procedure applied equally to special
15 assessments and rates and charges. Recorded Proceedings of
16 House Local Government Committee Hearing, February 21, 1989
17 (testimony of Steve Lundin and Pat McElroy).

18 IV. RECONCILING RCW 36.61.270 and CHAPTER 79.44 RCW

19 As indicated earlier, RCW 36.61.270 was passed in 1987.
20 Subsequently, in 1989, Chapter 79.44 RCW was amended. This
21 sequence of adoption would indicate that when RCW 36.61.270 was
22 adopted the legislature was referring to the procedural aspects
23 of Chapter 79.44 RCW and not the substantive portions. Since
24 RCW 36.61.270 is limited in its discussion on procedure when
25 state lands are involved, it makes sense to refer to Chapter

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28 5128, as amended by the House, without additional changes.
Senate Journal, 51st Legislature (1989), at 1954-1957.

THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

1 79.44 RCW for the procedural aspects. RCW 79.44.040-.050 deals
2 with notification to the state of the assessments being imposed
3 on state property. With the amount of state-owned land,
4 management of this land is cumbersome unless there is a central
5 means by which the state is notified of assessments. See
6 Recorded Proceedings of House Local Government Committee
7 Hearing, February 21, 1989 (testimony of Steve Lundin and Pat
8 McElroy). This provision assists the Office of Financial
9 Management and the state agency being imposed the assessment in
10 receiving timely notice to prevent the state from being imposed
11 interest upon late payments. Id.

12 When the amendments to Chapter 79.44 RCW were adopted,
13 legislative history indicates that only the process by which
14 the state is notified of assessments was extended to rates and
15 charges. Legislative history does not support the Department's
16 argument. Therefore, the Department's argument that reference
17 to Chapter 79.44 RCW in RCW 36.61.270 mandates that the special
18 benefit analysis applies to rates and charges must fail.

19 **V. CONCLUSION**

20 Based on the foregoing, the Respondent respectfully
21 requests that the court confirm the roll of rates and charges
22 for LMD No. 5 as they affect the Department's property; that
23 pursuant to RCW 36.61.150 the Department pay all costs incurred
24 by Respondent because of the appeal; and that the Department
25 pay interest in accordance with RCW 79.44.050 and Resolution
26 No. 9384 adopted by the Board of County Commissioners on
27
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1 January 8, 1990, which prescribes interest for late payments of
2 rates and charges for LMD No. 5.

3 DATED this 15th day of October, 1990.

4 Respectfully submitted:

5 PATRICK D. SUTHERLAND
6 PROSECUTING ATTORNEY

7 By: Catherine B. Galvin
8 Catherine B. Galvin
9 Deputy Prosecuting Attorney
10 WSBA #15476
11 Attorneys for Respondent

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RESPONDENT'S RESPONSE
TO APPELLANT'S POST
HEARING MEMORANDUM - 14

PATRICK D. SUTHERLAND
THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DR SW
OLYMPIA, WASHINGTON 98502
(206) 786-5540

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INFORMATION RELATING TO

SSB 5128

chapter 57.28 RCW; adding a new section to chapter 57.32 RCW; adding a new section to chapter 57.36 RCW; adding a new section to chapter 57.40 RCW; adding a new section to chapter 57.90 RCW; adding a new section to chapter 65.38 RCW; adding a new section to chapter 86.15 RCW; adding a new section to chapter 87.03 RCW; adding a new section to chapter 87.52 RCW; adding a new section to chapter 87.53 RCW; adding a new section to chapter 87.56 RCW; and repealing RCW 36.93.050 and 36.93.040.

Signed by Representatives Haugen, Chair; Ferguson, Ranking Republican Member, Horn, Nealey, Nelson, Nulley, Phillips, Raiter, Rayburn, Todd, Wolfe, Wood and Zellinsky.

Absent: Representative Cooper, Vice Chair.

Passed to Committee on Rules for second reading

SSB 5128 Prime Sponsor, Committee on Governmental Operations' Specifying notice requirements for local improvements Reported by Committee on Local Government
March 30, 1989

MAJORITY recommendation: Do pass with the following amendments:

On page 1, line 22 after "improvements" insert " , or street lighting."
On page 2, line 13, after "improvements" insert " , or street lighting."
On page 3, line 18, after "improvements" insert " , or street lighting."
On page 4, line 32, after "improvements" insert " , or street lighting."

Signed by Representatives Haugen, Chair, Ferguson, Ranking Republican Member, Horn, Nealey, Nelson, Nulley, Phillips, Raiter, Rayburn, Todd, Wolfe, Wood and Zellinsky.

Absent: Representative Cooper, Vice Chair

Passed to Committee on Rules for second reading

2SSB 5174 Prime Sponsor, Committee on Ways & Means' Furthering the state hydropower plan Reported by Committee on Energy & Utilities
March 28, 1989

MAJORITY recommendation. Do pass Signed by Representatives Nelson, Chair, Todd, Vice Chair, Hanks, Ranking Republican Member, Brooks, Cooper, Jacobsen, Jesernig, May, R Meyers, Miller, H Myers and S Wilson

Absent: Representatives Gallagher and S Wilson

Passed to Committee on Rules for second reading

SSB 5220 Prime Sponsor, Committee on Higher Education' Establishing the community college exceptional faculty award program Reported by Committee on Higher Education
March 29, 1989

MAJORITY recommendation: Do pass with the following amendment' On page 2 beginning on line 30, after "used" strike all material through "projects," on line

34

Signed by Representatives Jacobsen, Chair, Spanel, Vice Chair, Van Luven, Ranking Republican Member, Basich, Doty, Fraser, Heavey, Inslee, Jesernig, Miller, H. Myers, Prince, Rector and Wood

Absent: Representatives Basich and Inslee

Referred to Committee on Appropriations

SSB 5221 Prime Sponsor, Committee on Higher Education Establishing the advance college payment program Reported by Committee on Higher Education
March 29, 1989

MAJORITY recommendation. Do pass with the following amendments:

Strike everything after the enacting clause and insert the following.

"NEW SECTION Sec 1 The treasurer shall study the feasibility of instituting an advance college payment program and submit a report, including recommendations, to the legislature by January 1, 1990 This study shall include but not be limited to

(1) An examination of potential income tax and unrelated business income tax consequences of establishing a program;

(2) Consideration of the impact of federal and state securities, insurance, and annuity laws on the sale of prepaid tuition contracts;

(3) An examination of state constitutional issues raised by the establishment of a prepaid tuition program, including limitations on state debt and prohibitions on gifts and loans of the state's credit;

(4) A review of state and federal financial aid policies and a determination of how such a program would impact present financial aid programs and how the plan matches the state's present and projected needs;

(5) An examination of the effect such a program would have on tuition, enrollment, residency, and admission policies;

(6) An actuarial analysis examining program risks and potential yields, computed over at least an eighteen-year horizon. This should include consideration of investment policy and participation rates necessary for maintaining an actuarially sound program;

(7) An examination of alternative approaches to saving for college, including bonds, investment, and insurance programs, along with the ability of private sector financial institutions and others to provide such a program. This shall include an examination of whether or not private investment opportunities will do as well or better for purchasers as state programs and consideration of state restrictions on commercial activities;

(8) Consideration of who should bear the risk and pay the difference if tuition costs increase faster than interest earnings or interest earnings are lower than expected and cannot cover tuition This shall include an examination of how purchasers can be protected from investment shortfalls and the means by which the state can reduce its liability and risk in case the program proves to be actuarially unsound;

(9) A determination of how much it would cost to start up and maintain an adequate program, including but not limited to staff, equipment, travel, and advertising needs;

(10) Consideration of whether the plans should cover more than undergraduate tuition costs, such as room and board, mandatory fees, graduate tuition, books, materials, and fees This shall include consideration of potential state tax incentives and whether the program should be limited to full-time or include part-time attendance;

(11) An examination of ways to involve independent institutions in the program reciprocity and other agreements; and

(12) An examination of the portability of benefits across state lines, including the effect on the states and the college board

On page 1, line 1 of the title, after "program," strike the remainder of the title and insert "and creating a new section."

Signed by Representatives Jacobsen, Chair, Spanel, Vice Chair, Van Luven, Ranking Republican Member, Basich, Doty, Fraser, Heavey, Inslee, Jesernig, Miller, H Myers, Prince, Rector and Wood

Absent: Representatives Basich and Inslee

Passed to Committee on Rules for second reading

SB 5222 Prime Sponsor, Senator Saling Repealing the termination of the loan program for mathematics and science teachers Reported by Committee on Higher Education
March 29, 1989

MAJORITY recommendation: Do pass with the following amendments.

Strike everything after the enacting clause and insert the following

"NEW SECTION Sec 1. The higher education coordinating board with the cooperation of the superintendent of public instruction, shall study and report to the legislature on the advisability of either expanding the loan program for mathematics and science teachers to other fields of study in which there are shortages of qualified teachers in the state of Washington or including the program in the future teachers conditional scholarship program, as outlined in chapter 28B 102 RCW The board shall submit the report by December of 1989. The report shall also include recommendations on

(1) Procedures and responsibilities for forecasting the need within the public schools of the state for teachers with specific skill specialties

(2) Student loan eligibility criteria and related procedures designed to attract prospective teachers into the specific skill specialties in which the greatest shortages are forecasted,

(3) The advisability of reducing the loan payback period for loan recipients not meeting the terms of loan forgiveness;

(4) The means of monitoring the student loan program to assure its continued effectiveness and efficiency, and

Substitute Senate Bill No. 6009 as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act

SENATE JOINT MEMORIAL NO. 8010, by Senators West, Smiltherman, Warnke, Anderson, Lee, Saling, Matson and Smith

Requessing Idaho and Oregon to enter into the joint trade compact

The memorial was read the second time.

With consent of the House, the rules were suspended, the second reading considered the third, and the memorial was placed on final passage

Representatives Cantwell, Padden and Doty spoke in favor of passage of the memorial.

ROLL CALL

The Clerk called the roll on the final passage of Senate Joint Memorial No 8010, and the memorial passed the House by the following vote Yeas, 97; excused,

1 Volting Yea Representatives Anderson, Appelwick, Ballard, Basich, Baugher, Beck, Belcher, Betzloff, Bowman, Braddock, Brekke, Bristol, Brooks, Brough, Brumstickle, Cantwell, Chandler, Cole, Cooper, Crane, Day, Dellwo, Dorn, Doty, Ebersole, Ferguson, Fisher G, Fisher R, Fraser, Fuhrman, Grant, Hankins, Hargrove, Haugen, Heavey, Hine, Holland, Horn, Inslee, Jacobsen, Jesernig, Jones King P, King R, Kremen, Leonard, Locke, May, McLean, Meyers R, Miller, Morris, Moyer, Myers H, Nealey, Nelson, Nulley, O'Brien, Padden, Patrick, Peery, Phillips, Prentice, Prince, Pruitt, Raiter, Rasmussen, Rayburn, Reclar, Rust, Sayan, Schmidt, Schoon, Scott, Silver, Smith, Sommers D, Sommers H, Spanel, Sprengle, Tate, Todd, Valle, Van Luven, Vekich, Walk, Walker, Wang, Wilson K, Wilson S, Wineberry, Winsley, Wolfe, Wood, Youngsman, Zellinsky, and Mr. Speaker - 97.

Excused Representative Gallagher - 1

Senate Joint Memorial No. 8010, having received the constitutional majority, was declared passed

SENATE JOINT RESOLUTION NO 8210, by Senators Barr, Talmadge, Hansen, Benitz and Williams

Modifying the Constitution to allow for entities engaged in water sale or distribution to undertake conservation

The resolution was read the second time

With consent of the House, the rules were suspended, the second reading considered the third, and the resolution was placed on final passage

Ms K. Wilson spoke in favor of passage of the resolution.

ROLL CALL

The Clerk called the roll on the final passage of Senate Joint Resolution No 8210, and the resolution passed the House by the following vote Yeas, 97; excused,

1 Volting Yea Representatives Anderson Appelwick, Ballard, Basich, Baugher, Beck, Belcher, Betzloff, Bowman, Braddock, Brekke, Bristol, Brooks, Brough, Brumstickle, Cantwell, Chandler, Cole, Cooper, Crane, Day, Dellwo, Dorn, Doty, Ebersole, Ferguson, Fisher G, Fisher R, Fraser, Fuhrman, Grant, Hankins, Hargrove, Haugen, Heavey, Hine, Holland, Horn, Inslee, Jacobsen, Jesernig, Jones King P, King R, Kremen, Leonard, Locke, May, McLean, Meyers R, Miller, Morris, Moyer, Myers H, Nealey, Nelson, Nulley, O'Brien, Padden, Patrick, Peery, Phillips, Prentice, Prince, Pruitt, Raiter, Rasmussen, Rayburn, Reclar, Rust, Sayan, Schmidt, Schoon, Scott, Silver, Smith, Sommers D, Sommers H, Spanel, Sprengle, Tate, Todd, Valle, Van Luven, Vekich, Walk, Walker, Wang, Wilson K, Wilson S, Wineberry, Winsley, Wolfe, Wood, Youngsman, Zellinsky, and Mr. Speaker - 97

Excused Representative Gallagher - 1.

Senate Joint Resolution No 8210, having received the constitutional majority, was declared passed

SECOND SUBSTITUTE SENATE BILL NO. 5073, by Committee on Ways & Means (originally sponsored by Senators Pullen and Talmadge)

Establishing a central repository for collection and analysis of information on crimes involving bigotry and bias.

The bill was read the second time. Committee on Judiciary recommendation Majority, do pass as amended. (For committee amendments, see Journal, 82nd Day, March 31, 1989)

Mr. Appelwick moved adoption of the committee amendment and spoke in favor of it.

MOTION

Mr. Heavey moved that the House defer further consideration of Second Substitute Senate Bill No 5073 and that the bill hold its place on the second reading calendar. The motion was carried

ENGROSSED SUBSTITUTE SENATE BILL NO 5107, by Committee on Children & Family Services (originally sponsored by Senators Smith, Stratton and Craswell)

Regarding abuse or exploitation of vulnerable adults/registry.

The bill was read the second time Committee on Judiciary recommendation Majority, do pass as amended (For committee amendments, see Journal, 82nd Day, March 31, 1989)

Mr. Appelwick moved adoption of the committee amendments and spoke in favor of them. The committee amendments were adopted

With consent of the House, the committee amendment to the title was adopted. With consent of the House, the rules were suspended, the second reading considered the third, and the bill was placed on final passage

Representatives Appelwick and Padden spoke in favor of passage of the bill

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No 5107 as amended by the House, and the bill passed the House by the following vote Yeas, 97, excused, 1

Volting Yea Representatives Anderson, Appelwick, Ballard, Basich, Baugher, Beck, Belcher, Betzloff, Bowman, Braddock, Brekke, Bristol, Brooks, Brough, Brumstickle, Cantwell, Chandler, Cole, Cooper, Crane, Day, Dellwo, Dorn, Doty, Ebersole, Ferguson, Fisher G, Fisher R, Fraser, Fuhrman, Grant, Hankins, Hargrove, Haugen, Heavey, Hine, Holland, Horn, Inslee, Jacobsen, Jesernig, Jones King P, King R, Kremen, Leonard, Locke, May, McLean, Meyers R, Miller, Morris, Moyer, Myers H, Nealey, Nelson, Nulley, O'Brien, Padden, Patrick, Peery, Phillips, Prentice, Prince, Pruitt, Raiter, Rasmussen, Rayburn, Reclar, Rust, Sayan, Schmidt, Schoon, Scott, Silver, Smith, Sommers D, Sommers H, Spanel, Sprengle, Tate, Todd, Valle, Van Luven, Vekich, Walk, Walker, Wang, Wilson K, Wilson S, Wineberry, Winsley, Wolfe, Wood, Youngsman, Zellinsky, and Mr. Speaker - 97.

Excused Representative Gallagher - 1.

Engrossed Substitute Senate Bill No. 5107 as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act

SUBSTITUTE SENATE BILL NO 5128, by Committee on Governmental Operations (originally sponsored by Senator McCaslin)

Specifying notice requirements for local improvements

The bill was read the second time Committee on Local Government recommendation Majority, do pass as amended (For committee amendments, see Journal, 82nd Day, March 31, 1989)

Ms Haugen moved that the House do not adopt the committee amendments. The motion was carried

Ms Haugen moved adoption of the following amendment by Representatives Haugen and Ferguson

Strike everything after the enacting clause and insert the following

Sec. 1, Section 35 43 120, chapter 7, Laws of 1965 as last amended by section 1, chapter 323, Laws of 1981 and RCW 35 43 120 are each amended to read as follows.

Any local improvement may be initiated upon a petition signed by the owners of property aggregating a majority of the area within the proposed district. The petition must briefly describe: (1) the nature of the proposed improvement, (2) the territorial extent of the proposed improvement, (3) what proportion of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor, and (4) the fact that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement or street lighting adds to the property.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the clerk or with such other officer as the city or town by charter or ordinance may require.

Sec. 2 Section 35 43 140, chapter 7, Laws of 1965 as last amended by section 29, chapter 469, Laws of 1985 and RCW 35 43 140 are each amended to read as follows.

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring its intention to order the improvement setting forth the nature and territorial extent of the improvement, containing a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement or street lighting adds to the property, and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein.

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, sewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourses, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used.

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire the resolution must set forth the routes along which the auxiliary water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof.

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, the first publication to be at least fifteen days before the day fixed for the hearing.

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city having a population of fifteen thousand or more may designate an officer to conduct the hearings. The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action.

Sec 3 Section 35 43 150, chapter 7, Laws of 1965 as amended by section 2, chapter 303, Laws of 1983 and RCW 35 43 150 are each amended to read as follows.

Notice of the hearing upon a resolution declaring the intention of the legislative authority of a city or town to order an improvement shall be given by mail at least fifteen days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the county assessor, directed to the address thereon shown.

The notice shall set forth the nature of the proposed improvement the estimated cost, a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting adds to the property, and the estimated benefits of the particular lot, tract, or parcel.

NEW SECTION Sec 4 A new section is added to chapter 36 69 RCW to read as follows

Any notice given to the public or to the owners of specific lots, tracts or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec 5 A new section is added to chapter 34 88 RCW to read as follows

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a county road improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec 6 A new section is added to chapter 36 94 RCW to read as follows

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district or utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec. 7. A new section is added to chapter 52.20 RCW to read as follows.

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec. 8. A new section is added to chapter 53.08 RCW to read as follows:

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec. 9. A new section is added to chapter 54.16 RCW to read as follows:

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local utility district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property.

NEW SECTION Sec 10 A new section is added to chapter 56.20 RCW to read as follows

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec 11 A new section is added to chapter 57.16 RCW to read as follows

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district or utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION Sec 12 A new section is added to chapter 87.03 RCW to read as follows.

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

Sec 13 Section 1, chapter 20, Laws of 1963 as amended by section 14 chapter 234 Laws of 1971 ex. sess and RCW 79 44 003 are each amended to read as follows

As used in this chapter 'assessing district' means

(1) Incorporated cities and towns;

(2) Diking districts,

(3) Drainage districts,

(4) Port districts

(5) Irrigation districts,

(6) Water districts;

(7) Sewer districts,

(8) Counties; and

(9) Any municipal corporation or public agency having power to levy local improvement or other assessments, rates or charges which by statute are expressly made applicable to lands of the state

Sec. 14 Section 4, chapter 164, Laws of 1919 as last amended by section 177, chapter 151, Laws of 1979 and RCW 79 44 040 are each amended to read as follows.

Notice of the intention to make such improvement or impose any assessment, together with the estimate of the amount to be charged to each lot tract or parcel of land, or other property owned by the state to be assessed ((for said improvement)) shall be forwarded by registered or certified mail to the director of financial management and to the chief administrative officer of the agency of state government occupying using, or having jurisdiction over such lands at least thirty days prior to the date fixed for hearing on the resolution or petition initiating said ((improvement)) assessment. Such assessing district, shall not have jurisdiction to order such improvement as to the interest of the state in harbor areas and state tidelands until the written consent of the commissioner of public lands to the making of such improvement shall have been obtained, unless other means be provided for paying that portion of the cost which would otherwise be levied on the interest of the state of Washington in and to said tidelands, and nothing herein shall prevent the city from assessing the proportionate cost of said improvement against any leasehold contractual or possessory interest in and to any tideland or harbor area owned by the state PROVIDED, HOWEVER, That in the case of tidelands and harbor areas within the boundaries of any port district, notice of intention to make such improvement shall also be forwarded to the commissioners of said port district.

Sec. 15, Section 5, chapter 164, Laws of 1919 as last amended by section 178, chapter 151, Laws of 1979 and RCW 79 44 050 are each amended to read as follows:

Upon the approval and confirmation of the assessment roll ((for-any-locat-improvement)) ordered by the proper authorities of any assessing district, the treasurer of such assessing district shall certify and forward to the director of financial management and to the chief administrative officer of the agency of state government occupying, using, or having jurisdiction over the lands in accordance with such rules and regulations as the director of financial management may provide, a statement of all the lots or parcels of land held or owned by the state and charged on such assessment roll ((for-the-cost-of-tech-improvement)) separately describing each such lot or parcel of the state's land, with the amount of the local assessment charged against it, or the proportionate amount assessed against the fee simple interest of the state, in case said land has been leased. The chief administrative officer upon receipt of such statement shall cause a proper record to be made in his office of the cost of such ((improvement)) assessment upon the lands occupied, used, or under the jurisdiction of his agency.

No penalty shall be provided or enforced against the state, and the interest upon such assessments shall be computed and paid at the rate paid by other property situated in the same ((improvement)) assessing district.

NEW SECTION Sec 16 A new section is added to chapter 79 44 RCW to read as follows: As used in this chapter, "assessment" shall mean any assessment, rate or charge levied, assessed, imposed, or charged by any assessing district as defined in RCW 79 44 003, and which assessments, rates or charges by statute are expressly made applicable to lands of the state.

Ms. Haugen spoke in favor of adoption of the amendment, and it was adopted.

With consent of the House, the following amendments to the title were adopted: On page 1, line 1 of the title, after "improvements" strike the remainder of the title and insert "amending RCW 35 43 120, 35 43 140, 35 43 150, 79 44 003, 79 44 040 and 79 44 050, adding a new section to chapter 36 69 RCW, adding a new section to chapter 36 88 RCW, adding a new section to chapter 36 94 RCW, adding a new section to chapter 52 20 RCW, adding a new section to chapter 53 08 RCW; adding a new section to chapter 54 16 RCW adding a new section to chapter 56 20 RCW, adding a new section to chapter 57 16 RCW, adding a new section to chapter 79 44 RCW, and adding a new section to chapter 87 03 RCW."

With consent of the House, the rules were suspended, the second reading considered the third, and the bill was placed on final passage.

Ms Haugen spoke in favor of passage of the bill

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No 5128 as amended by the House, and the bill passed the House by the following vote: Yeas, 97, excused, 1.

Voting yea Representatives Anderson, Appeltwick, Ballard, Basich, Baugher, Beck, Belcher, Beltraczi, Bowman, Braddock Brekke, Bristol, Brooks, Brough, Brumsickle, Cantwell, Chandler, Cole, Cooper, Crane, Day, Dellwo, Dom, Doly, Ebersole, Ferguson, Fisher G, Fisher R, Fraser, Fuhrman, Grant, Hankins, Hargrove, Haugen, Heavey, Hine, Holland, Horn, Inslee, Jacobsen, Jesernig, Jones, King P, King R, Kremen, Leonard, Locke, May, McLean, Meyers R, Miller, Morris, Moyer, Myers H, Nealey, Nelson, Nutley, O'Brien, Padden, Patrick, Peery, Phillips, Prentice, Prince, Pruitt, Raiter, Rasmussen, Rayburn, Rector, Rust, Sayan, Schoon, Scott, Silver, Smith, Sommers D, Sommers H, Spanel, Sprengle, Tate, Todd, Valle, Van Luven, Vekich, Walk, Walker, Wang, Wilson K, Wilson S, Wineberry, Winsley, Wolfe, Wood, Youngsman, Zellinsky, and Mr Speaker - 97

Excused Representative Gallagher - 1

Substitute Senate Bill No 5128 as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE SENATE BILL NO 5147, by Committee on Financial Institutions & Insurance (originally sponsored by Senators von Reichbauer, Rasmussen, Johnson, Smitherman, McMullen, McCaslin and West)

Revising definition of credit services organization

The bill was read the second time. Committee on Financial Institutions & Insurance recommendation. Majority, do pass as amended. (For committee amendments, see Journal, 82nd Day, March 31, 1989.)

On motion of Mr Dellwo, the committee amendment was adopted.

With consent of the House, the committee amendment to the title was adopted. With consent of the House, the rules were suspended, the second reading considered the third, and the bill was placed on final passage.

Mr Dellwo spoke in favor of passage of the bill

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No 5147 as amended by the House, and the bill passed the House by the following vote: Yeas, 97; excused, 1.

Voting yea Representatives Anderson, Appeltwick, Ballard, Basich, Baugher, Beck, Belcher, Beltraczi, Bowman, Braddock Brekke, Bristol, Brooks, Brough, Brumsickle, Cantwell, Chandler, Cole, Cooper, Crane, Day, Dellwo, Dom, Doly, Ebersole, Ferguson, Fisher G, Fisher R, Fraser, Fuhrman, Grant, Hankins, Hargrove, Haugen, Heavey, Hine, Holland, Horn, Inslee, Jacobsen, Jesernig, Jones, King P, King R, Kremen, Leonard, Locke, May, McLean, Meyers R, Miller, Morris, Moyer, Myers H, Nealey, Nelson, Nutley, O'Brien, Padden, Patrick, Peery, Phillips, Prentice, Prince, Pruitt, Raiter, Rasmussen, Rayburn, Rector, Rust, Sayan, Schoon, Scott, Silver, Smith, Sommers D, Sommers H, Spanel, Sprengle, Tate, Todd, Valle, Van Luven, Vekich, Walk, Walker, Wang, Wilson K, Wilson S, Wineberry, Winsley, Wolfe, Wood, Youngsman, Zellinsky, and Mr Speaker - 97

Excused Representative Gallagher - 1.

Substitute Senate Bill No 5147 as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO 5154, by Senators West and Kreidler: by request of Department of Social and Health Services

Providing for sanitary control of shellfish

The bill was read the second time

With consent of the House, the rules were suspended, the second reading considered the third, and the bill was placed on final passage--

Mr Braddock spoke in favor of passage of the bill

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No 5154, and the bill passed the House by the following vote: Yeas, 95, absent, 2, excused, 1.

Voting yea Representatives Anderson, Appeltwick, Ballard, Basich, Baugher, Beck, Belcher, Beltraczi, Bowman, Braddock Brekke, Bristol, Brooks, Brough, Brumsickle, Cantwell, Chandler, Cole, Cooper, Crane, Day, Dellwo, Dom, Doly, Ebersole, Ferguson, Fisher G, Fisher R, Fraser, Fuhrman, Grant, Hankins, Hargrove, Haugen, Heavey, Hine, Holland, Horn, Inslee, Jacobsen, Jesernig, Jones, King P, King R, Kremen, Leonard, Locke, May, McLean, Meyers R, Miller, Morris, Moyer, Myers H, Nealey, Nelson, Nutley, O'Brien, Padden, Patrick, Peery, Phillips, Prentice, Prince, Pruitt, Raiter, Rasmussen, Rayburn, Rector, Rust, Sayan, Schoon, Scott, Silver, Smith, Sommers D, Sommers H, Spanel, Sprengle, Tate, Todd, Valle, Vekich, Walk, Walker, Wang, Wilson K, Wilson S, Wineberry, Winsley, Wolfe, Wood, Youngsman, Zellinsky, and Mr Speaker - 95

Absent: Representatives Schmidt, Van Luven - 2

Excused Representative Gallagher - 1

Senate Bill No 5154, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO 5329, by Senators Lee, Warmke, Matson and Smitherman, by request of Department of Licensing

Establishing a master license delinquency fee

The bill was read the second time

With consent of the House, the rules were suspended, the second reading considered the third, and the bill was placed on final passage.

Ms Cole spoke in favor of passage of the bill

MOTION

On motion of Senator Smith, the Senate concurred in the House amendments to Engrossed Substitute Senate Bill No. 5107.

The President declared the question before the Senate to be the roll call on the final passage of Engrossed Substitute Senate Bill No. 5107, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No 5107, as amended by the House, and the bill passed the Senate by the following vote. Yeas, 39, excused, 10

Voting yeas: Senators Bailey, Barr, Bauer, Bender, Benitz, Bluechel, Cantu, Craswell, Hanson, Johnson, Kreidler, Lee, Madsen, Matson, McCaslin, McMullen, Meicall, Moore, Murray, Nelson, Newhouse, Niemi, Patterson, Pullen, Rasmussen, Rinehart, Saling, Sellar, Smith, Smitherman, Straton, Suherland, Thorsness, Vogtli, von Reichbauer, Warmke, West, Williams, Wolahn - 39
Excused: Senators Amundson, Anderson, Conner, DeJarmatt, Fleming, Gaspard, Hayner, McDonald, Owen Talmadge - 10

ENGROSSED SUBSTITUTE SENATE BILL NO 5107, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL

April 18, 1989

Mary Wiley
Journal Clerk

Because I was attending a blood bank function for Senator DeJarmatt, I missed the vote on Engrossed Substitute Senate Bill No 5107, as amended by the House I would have voted 'aye.'

SENATOR PHIL TALMADGE, 34th District

MOTION

On motion of Senator Warmke, Senator Madsen was excused.

MESSAGE FROM THE HOUSE

April 13, 1989

Mr President

The House has passed SUBSTITUTE SENATE BILL NO 5128 with the following amendments

Strike everything after the enacting clause and insert the following.

"Sec 1 Section 35 43 120 chapter 7, Laws of 1965 as last amended by section 1, chapter 323, Laws of 1981 and RCW 35 43 120 are each amended to read as follows.

Any local improvement may be initiated upon a petition signed by the owners of property aggregating a majority of the area within the proposed district. The petition must briefly describe (1) The nature of the proposed improvement (2) the territorial extent of the proposed improvement, (3) what proportion of the area within the proposed district is owned by the petitioners as shown by the records in the office of the county auditor and (4) the fact that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement or street lighting adds to the property.

If any of the property within the area of the proposed district stands in the name of a deceased person, or of any person for whom a guardian has been appointed and not discharged, the signature of the executor, administrator, or guardian, as the case may be shall be equivalent to the signature of the owner of the property on the petition. The petition must be filed with the clerk or with such other officer as the city or town by charter or ordinance may require.

Sec 2 Section 35 43 140, chapter 7, Laws of 1965 as last amended by section 29, chapter 469, Laws of 1985 and RCW 35 43 140 are each amended to read as follows

Any local improvement to be paid for in whole or in part by the levy and collection of assessments upon the property within the proposed improvement district may be initiated by a resolution of the city or town council or other legislative authority of the city or town, declaring its intention to order the improvement, setting forth the nature and territorial extent of the improvement, containing a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement or street lighting adds to the property, and notifying all persons who may desire to object thereto to appear and present their objections at a time to be fixed therein

In the case of trunk sewers and trunk water mains the resolution must describe the routes along which the trunk sewer, sewer and branches of trunk water main and laterals are to be constructed.

In case of dikes or other structures to protect the city or town or any part thereof from overflow or to open, deepen, straighten, or enlarge watercourses, waterways and other channels the resolution must set forth the place of commencement and ending thereof and the route to be used

In the case of auxiliary water systems, or extensions thereof or additions thereto for protection of the city or town or any part thereof from fire, the resolution must set forth the routes along which the auxiliary water system or extensions thereof or additions thereto are to be constructed and specifications of the structures or works necessary thereto or forming a part thereof

The resolution shall be published in at least two consecutive issues of the official newspaper of the city or town, the first publication to be at least fifteen days before the day fixed for the hearing

The hearing herein required may be held before the city or town council, or other legislative authority, or before a committee thereof. The legislative authority of a city having a population of fifteen thousand or more may designate an officer to conduct the hearings. The committee or hearing officer shall report recommendations on the resolution to the legislative authority for final action

Sec 3. Section 35 43 150, chapter 7, Laws of 1965 as amended by section 2, chapter 303, Laws of 1983 and RCW 35 43 150 are each amended to read as follows

Notice of the hearing upon a resolution declaring the intention of the legislative authority of a city or town to order an improvement shall be given by mail at least fifteen days before the day fixed for hearing to the owners or reputed owners of all lots, tracts, and parcels of land or other property to be specially benefited by the proposed improvement, as shown on the rolls of the county assessor directed to the address thereon shown.

The notice shall set forth the nature of the proposed improvement, the estimated cost, a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement or street lighting adds to the property, and the estimated benefits of the particular lot, tract, or parcel

NEW SECTION. Sec 4. A new section is added to chapter 36 69 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property

NEW SECTION. Sec 5. A new section is added to chapter 36 88 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts or parcels of land relating to the formation of a county road improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property

NEW SECTION. Sec 6. A new section is added to chapter 36 94 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts or parcels of land relating to the formation of a local improvement district or utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property

NEW SECTION. Sec 7. A new section is added to chapter 52 20 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property

NEW SECTION. Sec 8. A new section is added to chapter 53 08 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property

NEW SECTION. Sec 9. A new section is added to chapter 54 16 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local utility district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement, or street lighting, adds to the property.

NEW SECTION. Sec 10. A new section is added to chapter 56 20 RCW to read as follows
Any notice given to the public or to the owners of specific lots, tracts or parcels of land relating to the formation of a utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION. Sec 11. A new section is added to chapter 57 16 RCW to read as follows:

Any notice given to the public or to the owners of specific lots, tracts or parcels of land relating to the formation of a local improvement district or utility local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

NEW SECTION. Sec. 12. A new section is added to chapter 87.03 RCW to read as follows.

Any notice given to the public or to the owners of specific lots, tracts, or parcels of land relating to the formation of a local improvement district shall contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement adds to the property.

Sec. 13 Section 1, chapter 20, Laws of 1963 as amended by section 14, chapter 234, Laws of 1971 *ex. sess.* and RCW 79.44.003 are each amended to read as follows:

As used in this chapter "assessing district" means

- (1) Incorporated cities and towns;
- (2) Diking districts;
- (3) Drainage districts;
- (4) Port districts;
- (5) Irrigation districts;
- (6) Water districts;
- (7) Sewer districts;
- (8) Counties; and

(9) Any municipal corporation or public agency having power to levy local improvement or other assessments, rates, or charges which by statute are expressly made applicable to lands of the state.

Sec. 14 Section 4, chapter 164, Laws of 1919 as last amended by section 177, chapter 151, Laws of 1979 and RCW 79.44.040 are each amended to read as follows.

Notice of the intention to make such improvement or impose any assessment, together with the estimate of the amount to be charged to each lot, tract or parcel of land, or other property owned by the state to be assessed (*for-said-improvement*) shall be forwarded by registered or certified mail to the director of financial management and to the chief administrative officer of the agency of state government occupying, using, or having jurisdiction over such lands at least thirty days prior to the date fixed for hearing on the resolution or petition initiating said (*improvement*) assessment. Such assessing district shall not have jurisdiction to order such improvement as to the interest of the state in harbor areas and state tidelands until the written consent of the commissioner of public lands to the making of such improvement shall have been obtained, unless other means be provided for paying that portion of the cost which would otherwise be levied on the interest of the state of Washington in and to said tidelands, and nothing herein shall prevent the city from assessing the proportionate cost of said improvement against any leasehold, contractual or possessory interest in and to any tideland or harbor area owned by the state, **PROVIDED, HOWEVER,** That in the case of tidelands and harbor areas within the boundaries of any port district notice of intention to make such improvement shall also be forwarded to the commissioners of said port district.

Sec. 15 Section 5, chapter 164, Laws of 1919 as last amended by section 178, chapter 151 Laws of 1979 and RCW 79.44.050 are each amended to read as follows:

Upon the approval and confirmation of the assessment roll (*for-any-local-improvement*) ordered by the proper authorities of any assessing district, the treasurer of such assessing district shall certify and forward to the director of financial management and to the chief administrative officer of the agency of state government occupying, using, or having jurisdiction over the lands, in accordance with such rules and regulations as the director of financial management may provide, a statement of all the lots or parcels of land held or owned by the state and charged on such assessment roll (*for-the-cost-of-such-improvement*) separately describing each such lot or parcel of the state's land, with the amount of the local assessment charged against it or the proportionate amount assessed against the fee simple interest of the state, in case said land has been leased. The chief administrative officer upon receipt of such statement shall cause a proper record to be made in his office of the cost of such (*improvement*) assessment upon the lands occupied, used or under the jurisdiction of his agency.

No penalty shall be provided or enforced against the state, and the interest upon such assessments shall be computed and paid at the rate paid by other property situated in the same (*improvement*) assessing district.

NEW SECTION. Sec. 16. A new section is added to chapter 79.44 RCW to read as follows:

As used in this chapter, "assessment" shall mean any assessment rate or charge levied, assessed, imposed, or charged by any assessing district as defined in RCW 79.44.003, and which assessments, rates or charges by statute are expressly made applicable to lands of the state.

On page 1, line 1 of the title, after "improvements" strike the remainder of the title and insert "amending RCW 35.43.120, 35.43.140, 35.43.150, 79.44.003, 79.44.040, and 79.44.050 adding a new section to chapter 36.69 RCW, adding a new section to chapter 36.88 RCW, adding a new section to chapter 36.94 RCW, adding a new section to chapter 52.20 RCW, adding a new

section to chapter 53.08 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 56.20 RCW; adding a new section to chapter 57.16 RCW; adding a new section to chapter 79.44 RCW, and adding a new section to chapter 87.03 RCW."

and the same are herewith transmitted

DENNIS KARRAS, Deputy Chief Clerk

MOTION

On motion of Senator McCaslin, the Senate concurred in the House amendments to Substitute Senate Bill No. 5128

POINT OF INQUIRY

Senator Rasmussen "Senator McCaslin, it says, 'The assessment may vary from the assessment estimate, so long as they do not exceed a figure equal to the increased value, true and fair value of the improvement, or street lighting, adds to the property.' My question is this, when you're forming an LID and you have an assessment, you want to know what you're going to pay prior to this kind of leaves it as a floating assessment, that it can go to any figure they say your value of the property is increased. This is for everybody, not just the state? Is that true?"

Senator McCaslin "Senator Rasmussen, if you're looking for a specific answer and a guarantee on what they're going to charge and what the true and fair value of the property is and what it increases to when this assessment is added—a sewer or whatever—there is no one from the Governor on down who can answer your question specifically, because that's one of the reasons for the bill in the Spokane Valley, where we've had the sewer assessment, we have never had an opportunity to find out from anyone, what additional value is added to the property. That could not really be determined if there's a litigation over it until you proceeded and went through court action."

Senator Rasmussen "Well, it would seem, Senator McCaslin, that it should be on the assessment for the improvement it should be based on the property assessment that you have before you at the time, not on something nebulous whether it will increase or otherwise. I find it strange that you agreed to this amendment."

Senator McCaslin "Senator Rasmussen, again I repeat, number one, the assessment on your property is only an estimate and if you talk to any appraiser or assessor, he can tell you that the assessment that he issues on your property is based upon comparable values in your area. Then, when you add either a sewer or a street and so forth, again it's an estimate of how much value that's added to your property and the total of those is your assessed valuation. I wish I could give you a specific answer, but no one in this world can give you a specific answer until it goes to court and is adjudicated."

The President declared the question before the Senate to be the roll call on the final passage of Substitute Senate Bill No. 5128, as amended by the House

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5128, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; nays, 1, excused, 9

Volting yea, Senators Bailey, Barr, Bauer, Bender, Benitz, Bluechel, Cantu, Craswell, Fleming, Hansen, Johnson, Kreidler, Lee, Matson, McCaslin, McMullen, Meicall, Moore, Murray, Neilson, Newhouse, Nemi, Patterson, Pullen, Rhehart, Saiting, Sellar, Smith, Smitherman, Strickland, Sutherland, Talmadge, Thorsness, Vogt, von Reichbauer, Warnke, West, Williams, Wojahn - 39

Volting nay, Senator Rasmussen - 1

Excused Senators Amondson, Anderson, Conner, DeJarmatt, Gaspard, Hayner, Madsen, McDonald, Owen - 9

SUBSTITUTE SENATE BILL NO. 5128, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act

MOTION

On motion of Senator Warnke, Senator Moore was excused

Governmental Operations Committee

101 John A. Cherberg Building
Olympia, Washington 98504
(206) 786-7406



State of Washington Senate

October 9, 1990

I, Debbie Goldsby, Committee Assistant, certify that these are true and correct copies of the committee legislation on SSB 5128, bill report, and floor note from the original bill files of the Senate Committee on Governmental Operations.


Debbie L. Goldsby,
Committee Assistant

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Read first time 1/16/89 and referred to Committee on Governmental Operations.

1 AN ACT Relating to local improvements; amending RCW 35.43.120,
2 35.43.140, and 35.43.150; adding a new section to chapter 36.69 RCW;
3 adding a new section to chapter 36.88 RCW; adding a new section to
4 chapter 36.94 RCW, adding a new section to chapter 52.20 RCW; adding
5 a new section to chapter 53.08 RCW; adding a new section to chapter
6 54.16 RCW; adding a new section to chapter 56.20 RCW, adding a new
7 section to chapter 57.16 RCW; and adding a new section to chapter
8 87.03 RCW.

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

10 Sec. 1. Section 35 43.120, chapter 7, Laws of 1965 as last
11 amended by section 1, chapter 323, Laws of 1981 and RCW 35.43.120 are
12 each amended to read as follows:

13 Any local improvement may be initiated upon a petition signed by
14 the owners of property aggregating a majority of the area within the
15 proposed district. The petition must briefly describe: (1) The
16 nature of the proposed improvement, (2) the territorial extent of the
17 proposed improvement, ((and)) (3) what proportion of the area within
18 the proposed district is owned by the petitioners as shown by the
19 records in the office of the county auditor, and (4) the fact that
20 actual assessments may vary from assessment estimates so long as they
21 do not exceed a figure equal to the increased value the improvement
22 adds to the property.

23 If any of the property within the area of the proposed district
24 stands in the name of a deceased person, or of any person for whom a
25 guardian has been appointed and not discharged, the signature of the
26 executor, administrator, or guardian, as the case may be, shall be
27 equivalent to the signature of the owner of the property on the
28 petition. The petition must be filed with the clerk or with such
29 other officer as the city or town by charter or ordinance may

1 the property.

2 NEW SECTION. Sec. 6. A new section is added to chapter 36.94
3 RCM to read as follows:

4 Any notice given to the public or to the owners of specific lots,
5 tracts, or parcels of land relating to the formation of a local
6 improvement district or utility local improvement district shall
7 contain a statement that actual assessments may vary from assessment
8 estimates so long as they do not exceed a figure equal to the
9 increased value the improvement adds to the property

10 NEW SECTION. Sec. 7. A new section is added to chapter 52.20
11 RCM to read as follows:

12 Any notice given to the public or to the owners of specific lots,
13 tracts, or parcels of land relating to the formation of a local
14 improvement district shall contain a statement that actual
15 assessments may vary from assessment estimates so long as they do not
16 exceed a figure equal to the increased value the improvement adds to
17 the property.

18 NEW SECTION. Sec. 8 A new section is added to chapter 53.08
19 RCM to read as follows

20 Any notice given to the public or to the owners of specific lots,
21 tracts, or parcels of land relating to the formation of a local
22 improvement district shall contain a statement that actual
23 assessments may vary from assessment estimates so long as they do not
24 exceed a figure equal to the increased value the improvement adds to
25 the property.

26 NEW SECTION. Sec. 9. A new section is added to chapter 54.16
27 RCM to read as follows:

28 Any notice given to the public or to the owners of specific lots,
29 tracts, or parcels of land relating to the formation of a local
30 utility district shall contain a statement that actual assessments
31 may vary from assessment estimates so long as they do not exceed a
32 figure equal to the increased value the improvement adds to the
33 property.

34 NEW SECTION. Sec. 10. A new section is added to chapter 56.20
SB 5128

1 RCM to read as follows:

2 Any notice given to the public or to the owners of specific lots,
3 tracts, or parcels of land relating to the formation of a utility
4 local improvement district shall contain a statement that actual
5 assessments may vary from assessment estimates so long as they do not
6 exceed a figure equal to the increased value the improvement adds to
7 the property

8 NEW SECTION. Sec. 11. A new section is added to chapter 57.16
9 RCM to read as follows:

10 Any notice given to the public or to the owners of specific lots,
11 tracts, or parcels of land relating to the formation of a local
12 improvement district or utility local improvement district shall
13 contain a statement that actual assessments may vary from assessment
14 estimates so long as they do not exceed a figure equal to the
15 increased value the improvement adds to the property.

16 NEW SECTION. Sec. 12 A new section is added to chapter 57.03
17 RCM to read as follows:

18 Any notice given to the public or to the owners of specific lots,
19 tracts, or parcels of land relating to the formation of a local
20 improvement district shall contain a statement that actual
21 assessments may vary from assessment estimates so long as they do not
22 exceed a figure equal to the increased value the improvement adds to
23 the property.

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1 fifteen thousand or more may designate an officer to conduct the
2 hearings. The committee or hearing officer shall report
3 recommendations on the resolution to the legislative authority for
4 final action.

5 Sec. 3. Section 35.43.150, chapter 7, Laws of 1965 as amended by
6 section 2, chapter 303, Laws of 1983 and RCW 35.43.150 are each
7 amended to read as follows:

8 Notice of the hearing upon a resolution declaring the intention
9 of the legislative authority of a city or town to order an
10 improvement shall be given by mail at least fifteen days before the
11 day fixed for hearing to the owners or reputed owners of all lots,
12 tracts, and parcels of land or other property to be specially
13 benefited by the proposed improvement, as shown on the rolls of the
14 county assessor, directed to the address thereon shown.

15 The notice shall set forth the nature of the proposed
16 improvement, the estimated cost, a statement that actual assessments
17 may vary from assessment estimates so long as they do not exceed a
18 figure equal to the increased value the improvement adds to the
19 property, and the estimated benefits of the particular lot, tract, or
20 parcel.

21 NEW SECTION. Sec. 4. A new section is added to chapter 36.69
22 RCW to read as follows:

23 Any notice given to the public or to the owners of specific lots,
24 tracts, or parcels of land relating to the formation of a local
25 improvement district shall contain a statement that actual
26 assessments may vary from assessment estimates so long as they do not
27 exceed a figure equal to the increased value the improvement adds to
28 the property.

29 NEW SECTION. Sec. 5. A new section is added to chapter 36.88
30 RCW to read as follows:

31 Any notice given to the public or to the owners of specific lots,
32 tracts, or parcels of land relating to the formation of a county road
33 improvement district shall contain a statement that actual
34 assessments may vary from assessment estimates so long as they do not
35 exceed a figure equal to the increased value the improvement adds to

SENATE BILL REPORT

SB 5128

BY Senator McCaslin

Specifying notice requirements for local improvements.

Senate Committee on Governmental Operations

Senate Hearing Date(s): January 24, 1989

Senate Staff: Eugene Green (786-7405); Sam Thompson (786-7754)

AS OF JANUARY 23, 1989

BACKGROUND:

Cities, counties, fire protection districts, port districts, public utility districts, sewer districts, water districts, and irrigation districts may form local improvement districts. Upon the filing of a petition or upon the adoption of a resolution, as the case may be, initiating a proceeding for the formation of a local improvement district or utility local improvement district, preliminary estimates are made of the cost and expense of the proposed improvement. The actual assessments may vary substantially from the assessment estimates so long as they do not exceed a figure equal to the increased value the improvement adds to the property. Citizens have complained that if they had known that the actual assessment could be more than double the assessment estimates they may not have agreed to the formation of the improvement district.

SUMMARY:

In the formation of local improvement districts or utility local improvement districts, any notice given to the public or to owners of land relating to the formation of the district must contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased value the improvement adds to the property. For cities, the petition or resolution must also contain such statement.

Appropriation: none

Revenue: none

Fiscal Note: none requested

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SENATE BILL REPORT

SB 5128

BY Senator McCaslin

Specifying notice requirements for local improvements.

Senate Committee on Governmental Operations

Senate Hearing Date(s): January 24, 1989

Majority Report: That Substitute Senate Bill No. 5128 be substituted therefor, and the substitute bill do pass.

Signed by Senators McCaslin, Chairman; Thorsness, Vice Chairman; DeJarnatt, Sutherland.

Senate Staff: Eugene Green (786-7405); Sam Thompson (786-7754)
January 24, 1989

AS REPORTED BY COMMITTEE ON GOVERNMENTAL OPERATIONS, JANUARY 24, 1989

BACKGROUND:

Cities, counties, fire protection districts, port districts, public utility districts, sewer districts, water districts, and irrigation districts may form local improvement districts. Upon the filing of a petition or the adoption of a resolution initiating a proceeding for the formation of a local improvement district or utility local improvement district, preliminary estimates are made of the cost and expense of the proposed improvement. The actual assessments may vary substantially from the assessment estimates so long as they do not exceed a figure equal to the increased value the improvement adds to the property. Citizens have complained that if they had known that the actual assessment could be more than double the assessment estimates they may not have agreed to the formation of the improvement district.

SUMMARY:

Any notice given to the public or to owners of land in the formation of local improvement districts or utility local improvement districts must contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased value the improvement adds to the property. For cities, the petition or resolution must also contain such statement.

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EFFECT OF PROPOSED SUBSTITUTE:

Technical language was added.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Senate Committee - Testified: Kent Swisher, Association of Washington
Cities (pro)

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101 John A. Cherberg Building
Olympia, Washington 98504
(206) 786-7406



State of Washington Senate

JANUARY 26, 1989

FLOOR NOTE:

TO: SENATOR McCASLIN
FROM: ~~BARBARA HOWARD~~ ^{EDWARD GREEN}
SUBJECT: SB 5128 - LOCAL IMPROVEMENT DISTRICTS/NOTICE

WHEN PEOPLE ARE CONSIDERING WHETHER OR NOT TO PROCEED WITH THE FORMATION OF A LOCAL IMPROVEMENT DISTRICT, THE COST PER HOUSEHOLD IS USUALLY A MAJOR FACTOR IN SUCH CONSIDERATION. HOWEVER, THE ESTIMATE THAT EACH OWNER OF BENEFITTED PROPERTY IS PRESENTED WITH BY THE UNIT OF LOCAL GOVERNMENT IS JUST THAT, AN ESTIMATE. THE FINAL ACTUAL ASSESSMENT COULD BE SUBSTANTIALLY HIGHER OR LOWER THAN THE ESTIMATE (IN SOME INSTANCES DOUBLE THE ESTIMATE). THE ONLY CAP ON AN ASSESSMENT IS THAT IT CAN NOT EXCEED A FIGURE EQUAL TO THE INCREASED TRUE AND FAIR VALUE THE IMPROVEMENT ADDS TO THE PROPERTY.

** THIS BILL DOES ONLY ONE THING. IT MANDATES THAT ALL UNITS OF LOCAL GOVERNMENT THAT CAN FORM AN LID (E.G. CITIES, COUNTIES, PORTS, SEWER DISTRICTS, WATER DISTRICTS, ETC.,) THAT IN ANY NOTICES TO THE PUBLIC OR SENT TO BENEFITTED PROPERTY OWNERS MUST CONTAIN A STATEMENT THAT THE ACTUAL ASSESSMENTS MAY VARY FROM THE ESTIMATES SO LONG AS THEY DO NOT EXCEED A FIGURE EQUAL TO THE INCREASED TRUE AND FAIR VALUE THE IMPROVEMENT ADDS TO THE PROPERTY.

THIS BILL DOES NOT CHANGE ANY FORMATION PROCEDURES. IT IS STRICTLY A NOTICE BILL.

THE ASSOCIATION OF CITIES SPOKE IN FAVOR OF THE BILL.

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IN THE LEGISLATURE
OF THE
STATE OF WASHINGTON



CERTIFICATION OF ENROLLED ENACTMENT

SUBSTITUTE SENATE BILL NO. 5128

CHAPTER NO. _____

Passed the Senate March 3, 19 89

Yeas 47 Nays 0

Passed the House April 13, 19 89

Yeas 97 Nays 0

4/18/89 - The Senate concurred in the House amendments and passed the bill as amended by the House.
YEAS 39 NAYS 1

CERTIFICATE

I, Gordon A. Golob, Secretary of the Senate of the State of Washington do hereby certify that the attached is enrolled Substitute Senate Bill No. 5128 as passed by the Senate and the House of Representatives on the date hereon set forth.

Gordon A. Golob
Secretary of the Senate

1 certify and forward to the director of financial management and to
 2 the chief administrative officer of the agency of state government
 3 occupying, using, or having jurisdiction over the lands, in
 4 accordance with such rules and regulations as the director of
 5 financial management may provide, a statement of all the lots or
 6 parcels of land held or owned by the state and charged on such
 7 assessment roll ((for the est--sueh--improvement)), separately
 8 describing each such lot or parcel of the state's land, with the
 9 amount of the local assessment charged against it, or the
 10 proportionate amount assessed against the fee simple interest of the
 11 state, in case said land has been leased. The chief administrative
 12 officer upon receipt of such statement shall cause a proper record to
 13 be made in his office of the cost of such ((improvement)) assessment
 14 upon the lands occupied, used, or under the jurisdiction of his
 15 agency.
 16 No penalty shall be provided or enforced against the state, and
 17 the interest upon such assessments shall be computed and paid at the
 18 rate paid by other property situated in the same ((improvement))
 19 assessing district
 20 NEW SECTION Sec. 16. A new section is added to chapter 79.44
 21 RCW to read as follows:
 22 As used in this chapter, "assessment" shall mean any assessment,
 23 rate or charge levied, assessed, imposed, or charged by any assessing
 24 district as defined in RCW 79.44.003, and which assessments, rates or
 25 charges by statute are expressly made applicable to lands of the
 26 state.

Passed the Senate April 18, 1989.
John P. ...
 President of the Senate.

Passed the House April 13, 1989.
John P. ...
 Speaker of the House.

1 other officer as the city or town by charter or ordinance may
 2 require.
 3 Sec. 2. Section 35.43.140, chapter 7, Laws of 1965 as last
 4 amended by section 29, chapter 469, Laws of 1985 and RCW 35.43.140
 5 are each amended to read as follows:
 6 Any local improvement to be paid for in whole or in part by the
 7 levy and collection of assessments upon the property within the
 8 proposed improvement district may be initiated by a resolution of the
 9 city or town council or other legislative authority of the city or
 10 town, declaring its intention to order the improvement, setting forth
 11 the nature and territorial extent of the improvement, containing a
 12 statement that actual assessments may vary from assessment estimates
 13 so long as they do not exceed a figure equal to the increased true
 14 and fair value the improvement, or street lighting, adds to the
 15 property, and notifying all persons who may desire to object thereto
 16 to appear and present their objections at a time to be fixed therein.
 17 In the case of trunk sewers and trunk water mains the resolution
 18 must describe the routes along which the trunk sewer, subsewer and
 19 branches of trunk water main and laterals are to be constructed
 20 In case of dikes or other structures to protect the city or town
 21 or any part thereof from overflow or to open, deepen, straighten, or
 22 enlarge watercourses, waterways and other channels the resolution
 23 must set forth the place of commencement and ending thereof and the
 24 route to be used.
 25 In the case of auxiliary water systems, or extensions thereof or
 26 additions thereto for protection of the city or town or any part
 27 thereof from fire, the resolution must set forth the routes along
 28 which the auxiliary water system or extensions thereof or additions
 29 thereto are to be constructed and specifications of the structures or
 30 works necessary thereto or forming a part thereof.
 31 The resolution shall be published in at least two consecutive
 32 issues of the official newspaper of the city or town, the first
 33 publication to be at least fifteen days before the day fixed for the
 34 hearing.
 35 The hearing herein required may be held before the city or town
 36 council, or other legislative authority, or before a committee

SUBSTITUTE SENATE BILL NO 5128
AS AMENDED BY THE HOUSE

State of Washington 51st Legislature 1989 Regular Session
by Committee on Governmental Operations (originally sponsored by
Senator McCaslin)

Read first time 1/26/89.

1 AN ACT Relating to local improvements, amending RCW 35 43.120,
2 35.43.140, 35.43.150, 79.44 003, 79.44.040, and 79.44.050, adding a
3 new section to chapter 36.69 RCW, adding a new section to chapter
4 36.88 RCW; adding a new section to chapter 36 94 RCW; adding a new
5 section to chapter 52 20 RCW; adding a new section to chapter 53 08
6 RCW; adding a new section to chapter 54.16 RCW; adding a new section
7 to chapter 56 20 RCW; adding a new section to chapter 57.16 RCW,
8 adding a new section to chapter 79.44 RCW; and adding a new section
9 to chapter 87.03 RCW.

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

11 Sec. 1. Section 35.43.120, chapter 7, Laws of 1965 as last
12 amended by section 1, chapter 323, Laws of 1981 and RCW 35.43.120 are
13 each amended to read as follows:

14 Any local improvement may be initiated upon a petition signed by
15 the owners of property aggregating a majority of the area within the
16 proposed district. The petition must briefly describe: (1) The
17 nature of the proposed improvement, (2) the territorial extent of the
18 proposed improvement, ((amd)) (3) what proportion of the area within
19 the proposed district is owned by the petitioners as shown by the
20 records in the office of the county auditor, and (4) the fact that
21 actual assessments may vary from assessment estimates so long as they
22 do not exceed a figure equal to the increased true and fair value the
23 improvement, or street lighting, adds to the property.

24 If any of the property within the area of the proposed district
25 stands in the name of a deceased person, or of any person for whom a
26 guardian has been appointed and not discharged, the signature of the
27 executor, administrator, or guardian, as the case may be, shall be
28 equivalent to the signature of the owner of the property on the
29 petition. The petition must be filed with the clerk or with such

1 exceed a figure equal to the increased true and fair value the
2 improvement adds to the property.

3 NEW SECTION. Sec. 6. A new section is added to chapter 36 94
4 RCW to read as follows:

5 Any notice given to the public or to the owners of specific lots,
6 tracts, or parcels of land relating to the formation of a local
7 improvement district or utility local improvement district shall
8 contain a statement that actual assessments may vary from assessment
9 estimates so long as they do not exceed a figure equal to the
10 increased true and fair value the improvement adds to the property.

11 NEW SECTION. Sec. 7. A new section is added to chapter 52 20
12 RCW to read as follows:

13 Any notice given to the public or to the owners of specific lots,
14 tracts, or parcels of land relating to the formation of a local
15 improvement district shall contain a statement that actual
16 assessments may vary from assessment estimates so long as they do not
17 exceed a figure equal to the increased true and fair value the
18 improvement adds to the property.

19 NEW SECTION. Sec. 8. A new section is added to chapter 53 08
20 RCW to read as follows:

21 Any notice given to the public or to the owners of specific lots,
22 tracts, or parcels of land relating to the formation of a local
23 improvement district shall contain a statement that actual
24 assessments may vary from assessment estimates so long as they do not
25 exceed a figure equal to the increased true and fair value the
26 improvement adds to the property.

27 NEW SECTION. Sec. 9. A new section is added to chapter 54 16
28 RCW to read as follows:

29 Any notice given to the public or to the owners of specific lots,
30 tracts, or parcels of land relating to the formation of a local
31 utility district shall contain a statement that actual assessments
32 may vary from assessment estimates so long as they do not exceed a
33 figure equal to the increased true and fair value the improvement, or
34 street lighting, adds to the property.

1 NEW SECTION. Sec. 10. A new section is added to chapter 56.20
2 RCW to read as follows:

3 Any notice given to the public or to the owners of specific lots,
4 tracts, or parcels of land relating to the formation of a utility
5 local improvement district shall contain a statement that actual
6 assessments may vary from assessment estimates so long as they do not
7 exceed a figure equal to the increased true and fair value the
8 improvement adds to the property.

9 NEW SECTION. Sec. 11. A new section is added to chapter 57.16
10 RCW to read as follows:

11 Any notice given to the public or to the owners of specific lots,
12 tracts, or parcels of land relating to the formation of a local
13 improvement district or utility local improvement district shall
14 contain a statement that actual assessments may vary from assessment
15 estimates so long as they do not exceed a figure equal to the
16 increased true and fair value the improvement adds to the property.

17 NEW SECTION. Sec. 12. A new section is added to chapter 87.03
18 RCW to read as follows:

19 Any notice given to the public or to the owners of specific lots,
20 tracts, or parcels of land relating to the formation of a local
21 improvement district shall contain a statement that actual
22 assessments may vary from assessment estimates so long as they do not
23 exceed a figure equal to the increased true and fair value the
24 improvement adds to the property.

25 Sec. 13. Section 1, chapter 20, Laws of 1963 as amended by
26 section 14, chapter 234, Laws of 1971 ex sess and RCW 79.44.003 are

27 each amended to read as follows:

- 28 As used in this chapter "assessing district" means:
- 29 (1) Incorporated cities and towns;
 - 30 (2) Diking districts,
 - 31 (3) Drainage districts;
 - 32 (4) Port districts;
 - 33 (5) Irrigation districts;
 - 34 (6) Water districts,
 - 35 (7) Sewer districts,

1 (8) Counties; and
 2 (9) Any municipal corporation or public agency having power to
 3 levy local improvement or other assessments, rates, or charges which
 4 by statute are expressly made applicable to lands of the state.
 5 Sec. 14. Section 4, chapter 164, Laws of 1919 as last amended by
 6 section 177, chapter 151, Laws of 1979 and RCM 79.44.040 are each
 7 amended to read as follows:
 8 Notice of the intention to make such improvement, or impose any
 9 assessment, together with the estimate of the amount to be charged to
 10 each lot, tract or parcel of land, or other property owned by the
 11 state to be assessed ((fer-said-improvement)), shall be forwarded by
 12 registered or certified mail to the director of financial management
 13 and to the chief administrative officer of the agency of state
 14 government occupying, using, or having jurisdiction over such lands
 15 at least thirty days prior to the date fixed for hearing on the
 16 resolution or petition initiating said ((improvement)) assessment.
 17 Such assessing district, shall not have jurisdiction to order such
 18 improvement as to the interest of the state in harbor areas and state
 19 tidelands until the written consent of the commissioner of public
 20 lands to the making of such improvement shall have been obtained,
 21 unless, other means be provided for paying that portion of the cost
 22 which would otherwise be levied on the interest of the state of
 23 Washington in and to said tidelands, and nothing herein shall prevent
 24 the city from assessing the proportionate cost of said improvement
 25 against any leasehold, contractual or possessory interest in and to
 26 any tideland or harbor area owned by the state: PROVIDED, HOWEVER,
 27 That in the case of tidelands and harbor areas within the boundaries
 28 of any port district, notice of intention to make such improvement
 29 shall also be forwarded to the commissioners of said port district.
 30 Sec. 15. Section 5, chapter 164, Laws of 1919 as last amended by
 31 section 178, chapter 151, Laws of 1979 and RCM 79.44.050 are each
 32 amended to read as follows:
 33 Upon the approval and confirmation of the assessment roll ((fer
 34 any-legal-improvement)) ordered by the proper authorities of any
 35 assessing district, the treasurer of such assessing district shall

1 thereof The legislative authority of a city having a population of
 2 fifteen thousand or more may designate an officer to conduct the
 3 hearings. The committee or hearing officer shall report
 4 recommendations on the resolution to the legislative authority for
 5 final action.
 6 Sec. 3. Section 35.43.150, chapter 7, Laws of 1965 as amended by
 7 section 2, chapter 303, Laws of 1983 and RCM 35.43.150 are each
 8 amended to read as follows:
 9 Notice of the hearing upon a resolution declaring the intention
 10 of the legislative authority of a city or town to order an
 11 improvement shall be given by mail at least fifteen days before the
 12 day fixed for hearing to the owners or reputed owners of all lots,
 13 tracts, and parcels of land or other property to be specially
 14 benefited by the proposed improvement, as shown on the rolls of the
 15 county assessor, directed to the address thereon shown.
 16 The notice shall set forth the nature of the proposed
 17 improvement, the estimated cost, a statement that actual assessments
 18 may vary from assessment estimates so long as they do not exceed a
 19 figure equal to the increased true and fair value the improvement, or
 20 street lighting, adds to the property, and the estimated benefits of
 21 the particular lot, tract, or parcel
 22 NEW SECTION. Sec. 4. A new section is added to chapter 36.69
 23 RCM to read as follows.
 24 Any notice given to the public or to the owners of specific lots,
 25 tracts, or parcels of land relating to the formation of a local
 26 improvement district shall contain a statement that actual
 27 assessments may vary from assessment estimates so long as they do not
 28 exceed a figure equal to the increased true and fair value the
 29 improvement adds to the property.
 30 NEW SECTION. Sec. 5. A new section is added to chapter 36.88
 31 RCM to read as follows:
 32 Any notice given to the public or to the owners of specific lots,
 33 tracts, or parcels of land relating to the formation of a county road
 34 improvement district shall contain a statement that actual
 35 assessments may vary from assessment estimates so long as they do not

FINAL BILL REPORT

SSB 5128

C 243 L 89

BY Senate Committee on Governmental Operations (originally sponsored by Senator McCaslin)

Specifying notice requirements for local improvements.

Senate Committee on Governmental Operations

House Committee on Local Government

SYNOPSIS AS ENACTED

BACKGROUND:

Cities, counties, fire protection districts, port districts, public utility districts, sewer districts, water districts, and irrigation districts may form local improvement districts. Upon the filing of a petition or the adoption of a resolution initiating a proceeding for the formation of a local improvement district or utility local improvement district, preliminary estimates are made of the cost and expense of the proposed improvement. The actual assessments may vary substantially from the assessment estimates so long as they do not exceed a figure equal to the increased value the improvement adds to the property.

A special notification process exists whenever a local government proposes to impose special assessments on state-owned land.

SUMMARY:

Any notice given to the public or to owners of land in the formation of local improvement districts or utility local improvement districts must contain a statement that actual assessments may vary from assessment estimates so long as they do not exceed a figure equal to the increased true and fair value the improvement or street lighting adds to the property. For cities, the petition or resolution must also contain such statement.

The special notification process regarding state-owned land is made applicable to rates and charges proposed on state land by a local government.

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VOTES ON FINAL PASSAGE:

Senate	47	0	
House	97	0	(House amended)
Senate	39	1	(Senate concurred)

EFFECTIVE: July 23, 1989

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INFORMATION RELATING TO

HB 1895



Office of Program Research

House of Representatives

House Office Bldg
Second Floor, AS-33
Olympia, WA 98504
Tel (206) 786-7100

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I, Kathie Thompson, Legislative Assistant for the House Local Government Committee, do hereby certify that HB 1895, the bill analysis for HB 1895, the House Bill Report for HB 1895 on February 22, 1989, and a tape of the Committee on Local Government's meeting on February 21, 1989 regarding HB 1895, are true and correct copies of the originals as the same appears on file and of record in my office.

Dated this 11th day of October 1990.

Kathie Thompson
Legislative Assistant

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1 government occupying, using, or having jurisdiction over such lands
 2 at least thirty days prior to the date fixed for hearing on the
 3 resolution or petition initiating said ((improvement)) assessment.
 4 Such assessing district, shall not have jurisdiction to order such
 5 improvement as to the interest of the state in harbor areas and state
 6 tidelands until the written consent of the commissioner of public
 7 lands to the making of such improvement shall have been obtained,
 8 unless other means be provided for paying that portion of the cost
 9 which would otherwise be levied on the interest of the state of
 10 Washington in and to said tidelands, and nothing herein shall prevent
 11 the city from assessing the proportionate cost of said improvement
 12 against any leasehold, contractual or possessory interest in and to
 13 any tideland or harbor area owned by the state. PROVIDED, HOWEVER,
 14 That in the case of tidelands and harbor areas within the boundaries
 15 of any port district, notice of intention to make such improvement
 16 shall also be forwarded to the commissioners of said port district.

17 Sec. 3. Section 5, chapter 164, Laws of 1919 as last amended by
 18 section 178, chapter 151, Laws of 1979 and RCW 79.44.050 are each
 19 amended to read as follows

20 Upon the approval and confirmation of the assessment roll ((for
 21 any local improvement)) ordered by the proper authorities of any
 22 assessing district, the treasurer of such assessing district shall
 23 certify and forward to the director of financial management and to
 24 the chief administrative officer of the agency of state government,
 25 occupying, using, or having jurisdiction over the lands, in
 26 accordance with such rules and regulations as the director of
 27 financial management may provide, a statement of all the lots or
 28 parcels of land held or owned by the state and charged on such
 29 assessment roll ((for the cost of such improvement)), separately
 30 describing each such lot or parcel of the state's land with the
 31 amount of the local assessment charged against it, or the
 32 proportionate amount assessed against the fee simple interest of the
 33 state, in case said land has been leased. The chief administrative
 34 officer upon receipt of such statement shall cause a proper record to
 35 be made in his office of the cost of such ((improvement)) assessment
 36 upon the lands occupied, used, or under the jurisdiction of his

1 agency.
 2 No penalty shall be provided or enforced against the state, and
 3 the interest upon such assessments shall be computed and paid at the
 4 rate paid by other property situated in the same ((improvement))
 5 assessing district.

6 NEW SECTION. Sec. 4. A new section is added to chapter 79.44
 7 RCW to read as follows:

8 AS used in this chapter, "assessment" shall mean any assessment,
 9 rate or charge levied, assessed, imposed, or charged by any assessing
 10 district as defined in RCW 79.44.003, and which assessments, rates or
 11 charges by statute are expressly made applicable to lands of the
 12 state

State of Washington 51st Legislature 1989 Regular Session
by Representatives Haugen and Ferguson

Read first time 2/10/89 and referred to Committee on Local Government.

1 AN ACT Relating to assessments against public lands, amending RCW
2 79.44.003, 79.44.040, and 79.44.050, and adding a new section to
3 chapter 79.44 RCW.

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

5 Sec. 1. Section 1, chapter 20, Laws of 1963 as amended by
6 section 14, chapter 234, Laws of 1971 ex sess and RCW 79.44.003 are
7 each amended to read as follows

8 As used in this chapter "assessing district" means:

9 (1) Incorporated cities and towns;

10 (2) Diking districts,

11 (3) Drainage districts,

12 (4) Port districts;

13 (5) Irrigation districts,

14 (6) Water districts;

15 (7) Sewer districts;

16 (8) Counties; and

17 (9) Any municipal corporation or public agency having power to
18 levy local improvement or other assessments, rates, or charges which
19 by statute are expressly made applicable to lands of the state.

20 Sec. 2. Section 4, chapter 164, Laws of 1919 as last amended by
21 section 177, chapter 151, Laws of 1979 and RCW 79.44.040 are each
22 amended to read as follows

23 Notice of the intention to make such improvement or impose any
24 assessment, together with the estimate of the amount to be charged to
25 each lot, tract or parcel of land, or other property owned by the
26 state to be assessed ((fer-said-improvement)), shall be forwarded by
27 registered or certified mail to the director of financial management
28 and to the chief administrative officer of the agency of state

HOUSE OF REPRESENTATIVES

Olympia, Washington

BILL ANALYSIS

Bill No.: HB 1895
Comp. Meas.

Brief Title:

Modifying assessments against public lands.

Sponsors:

Representatives Haugen and Ferguson

BACKGROUND

State-owned land is declared to be subject to special assessments imposed for the costs of local improvements. A special notification process exists for notice to be provided to the state whenever a local government proposes to impose special assessments on state-owned land. The special notice must be forwarded by registered or certified mail to the director of financial management and to the chief administrative officer of the state agency having jurisdiction over the land.

SUMMARY

The special notice procedure for local governments to notify the state that the local government is intending to impose special assessments on state-owned land is made applicable to rates and charges that are proposed to be imposed on state land by a local government, if state lands are subject to such rates and charges.

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Appropriation: _____
Revenue: _____
Fiscal Note: NA

HOUSE BILL REPORT

HB 1895

BY Representatives Haugen and Ferguson

Modifying assessments against public lands.

House Committee on Local Government

Majority Report: Do pass. (14)

Signed by Representatives Haugen, Chair; Cooper, Vice Chair; Ferguson, Ranking Republican Member; Horn, Nealey, Nelson, Nutley, Phillips, Raiter, Rayburn, Todd, Wolfe, Wood and Zellinsky.

House Staff: Steve Lundin (786-7127)

AS REPORTED BY COMMITTEE ON LOCAL GOVERNMENT FEBRUARY 22, 1989

BACKGROUND:

State-owned land is declared to be subject to special assessments imposed for the costs of local improvements.

A special notification process exists for notice to be provided to the state whenever a local government proposes to impose special assessments on state-owned land. The special notice must be forwarded by registered or certified mail to the director of financial management and to the chief administrative officer of the state agency having jurisdiction over the land.

SUMMARY:

The special notice procedure for local governments to notify the state that the local government is intending to impose special assessments on state-owned land is made applicable to rates and charges that are proposed to be imposed on state land by a local government, if state lands are subject to such rates and charges.

Fiscal Note: Not Requested.

House Committee - Testified For Original Measure in Committee: Pat McElroy, Department of Natural Resources.

House Committee - Testified Against Original Measure in Committee: None Presented.

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House Committee - Testimony For: This will require the correct state agency to be notified or the penalties for late payment are not applicable.

House Committee - Testimony Against: None Presented.



Thurston County Prosecuting Attorney

2000 Lakeridge Drive S.W., Olympia, WA 98502
Telephone (206) 786-5540

PATRICK D. SUTHERLAND
PROSECUTING ATTORNEY

I, LINDA L. OLSEN, Legal Secretary in the Office of the
Thurston County Prosecuting Attorney, hereby certify that
the document to which this statement is affixed is a true
and correct transcript of that portion of the tape
pertaining to HB 1895 of the tape marked "H-LG-51 Tape 19
2/2/89 1371/1799/1895/1909 Ex:".

Linda L. Olsen
Linda L. Olsen

SUBSCRIBED AND SWORN to before me this 12th day of
October, 1990.

Marcia A. Reggell
NOTARY PUBLIC
My Commission Expires: 3-16-92

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TRANSCRIPT OF HOUSE LOCAL GOVERNMENT COMMITTEE
Public Hearing on HB 1895 - Public Lands Assessments

Date: February 21, 1989
Time: 8:00 a.m.
Tape: 19

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STEVE LUNDIN: House Bill 1895 involves or amends the process by which state agencies are notified of special assessments that are proposed to be imposed on, on state property. Under the process a special notification, uh, notice is given to both, uh, uh, forwarded by registered or certified mail to the director of OFM and also the chief administrative officer of the state agency that has jurisdiction over the land. The proposal would extend this concept of this special notice to the state concerning special assessments that would extend it to the proposed application of rates and charges to the state land and, if you will, the difference would be the kind of charge that a diking district or an irrigation district could impose is an assessment which . . . or in an IID which is a funding device that a unit of government uses to finance improvements. And there should be some relationship between the benefit to the land and what

the amount is . . . and what it is being used for. In a rate and a charge, although there should be some relationship, I think is a little less close does not be demonstrated to the degree that an assessment would have to be and that's frequently done in a utility such as a storm drainage utility. They will have rates and charges. So what the bill would do is extend the special notice provisions for assessments to state agencies and state agencies are declared in state law to be subject to special assessments and it would extend this to rates and charges if other laws make these rates and charges applicable to state agencies. I would be glad to respond to any questions.

REPRESENTATIVE HAUGEN: I have a question. I . . .

[unrecognizable] I think we need to hear from the state agency, I think, Pat McElroy. Good morning.

PAT McELROY: Thank you Madam Chair and members of the committee. I'm Pat McElroy, Deputy Supervisor of the Department of Natural Resources. The Department supports House Bill 1895. As staff as I think aptly indicated, it amends Chapter 79.44 to provide that when an assessing district seeks to establish these assessments there must be a notification of the state, uh, of the state that this is happening. This comes as a result of the legislature's recent actions in establishing things like drain . . . [clears throat] excuse me, drainage districts and flood and the, uh, that sort of thing. And if I can just move to the

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instant case here what prompted us. The Department manages about two point million acres, 2.9 million acres of land held in trust for various educational beneficiaries and for the counties. In the case of the King County Service Water Management District was established over 19, over the period of 1985 and 86. A number of our parcels of land were included in that. Now we haven't . . . as staff has indicated, our lands are subject to those assessments and we have no argument with that. However, we began to get bills in all sorts of strange places in state government regarding these assessments. We managed the school lands. Some of the bills went to the superintendent of public instruction. We manage university land, some went to the universities. Some were delivered to our office in Enumclaw. Some went to the Office of Financial Management. Some came to our office in Olympia and by the time we got all of the bills rounded up we found that we were subjected to, uh, interest penalties and, and that sort of thing simply because the, the notification processes clearly outlined in Chapter 79.44 for all state agencies that own land that are subject to these assessments. And that is the purpose of this bill, is to take the rates and charges provision and make the, make the notification process the same as if it . . . were an assessment. And that's the process of notifying both the Office of Financial Management for budgetary purposes as well as

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the director of the state agency that owns, that manages the land for, for the state so that we can both provide budgeting for the . . . uh . . . for the . . . uh uh . . . assessments and rates and charges as they come along as well as having a central place where the bills are, are sent to us. That's the intent and purpose. As again I state that we're not at all concerned about whether or not we are going to pay these rates and assessments. I known many times I come here and say that you can't do that to us but in this case, you can do it to us. It's fine, but please let us get the bills in one place at one time.

REPRESENTATIVE HAUGEN: This is going to do it?

PAT McELROY: I hope so. Well what it does, actually does, is if they don't follow the process, we're not obligated to pay the bill. That's basically what it boils down to.

REPRESENTATIVE HAUGEN: All right. Okay. Representative Ferguson.

REPRESENTATIVE FERGUSON: What's the problem on the notification? Is it the fact that . . . is there something in the title or some . . . when they go to look this up that they can't locate you guys or, or what's the problem there, Pat?

PAT McELROY: Well, there, you, the land is, you know, the state acquired the land in many ways over many, over many years and in some cases, for example, will be held on the records as state school land. Well when they

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saw state school land they sent the bill to the superintendent of public instruction rather than to the Department of Natural Resources who's the agency that manages state school land. And there is a formal process under the assessment provision where they know that if their going to send the bill to state land they've got to figure out who it is. Much of it is forest board land. Particularly in the case we are involved with here actually the one time own . . . belonged to King County and the bills that we were paying were really were on forest board, uh, granted lands . . . forest board lands and they, they . . . the money for that would come out of the Forest Development Council. In this particular case, we see this happening more and more. And what we want to do is really rationalize the process so that, so if somebody is going to put a rate or charge against state land, and this occurs for all state land, that they follow the normal practice of notification. Further, that we get notified that this is going on. We, uh, uh, that there has to, uh, there is a prior notification that there is even a hearing that there is going to be a discussion that this sort of thing is, is going on.

REPRESENTATIVE HAUGEN: That certainly sounds reasonable.

Is there any questions? Representative Blair.

REPRESENTATIVE BLAIR: Thank you Madam Chair. I have a question which is probably just for maybe you or staff. When I see this it makes me think of all of the bills

we consider and pass and I heard it stated that if the notice isn't given, then the state would not be subject to the assessment. And how do we assure that all of our small communities learn of this . . . these new rules and regulations, those that maybe only have one part-time staff? Would they run the risk of losing money because they don't read the big thick book that comes out every year or what?

REPRESENTATIVE HAUGEN: I don't know. Can you answer that?

PAT McELROY: Well I can't answer, except to say that you know we don't have, uh, we, uh, D & R does not manage land that would fit in that category. Now maybe the Highway Department or some of the others do, but, uh, you actually, I don't think that it has not been a problem particularly the LIDs. You know we do a lot, I mean many many cases, where state land is subject to LIDs and those sorts of, uh, sorts of charges and this . . . they're quite specific. Now they're, they're going to do a road district or a road improvement or something and then they search out who actually owns the land. In this case, I don't think a small district is going to do it. In the case we were looking at is King County or major area larger units of government putting in these storm drain districts and their just sort of blanketing broad areas like you know a quarter of the county or two thirds of the county and they're just sending out the bills where, wherever they are and they, in this particular case, they made no particular

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efforts to find out who owns the land even though if it were road district it would have had to follow the rules. That may be confusing, I am sure it is.

REPRESENTATIVE HAUGEN: Representative Horn.

REPRESENTATIVE HORN: Yes. A question. As I understand what you are telling me is that if they don't send the bill to the right place they're not obligated to pay it. And I guess my question to you is are they not, are you not obligated to pay the bill or are you not obligated to pay the, the penalties?

PAT MCELROY: I can't answer that question directly right now, but let me take a quick look because I think its in, its in the act. I could consult with the manager of our lands program. [Mr. McElroy is talking to someone in background] Yes, the penalties provision that we're not, we're not obligated to pay.

REPRESENTATIVE HORN: Okay. Thank you.

REPRESENTATIVE HAUGEN: Thank you, Pat, for answering that question. Are there any other questions? Thank you very much.

PAT MCELROY: Thank you.

REPRESENTATIVE HAUGEN: We appreciate you coming forward. This is one of the problems when we have so many different types of jurisdictions out there folks. Did you notice this is all . . . I mean all these diking and draining and irrigation and port districts and water districts. 68 different kinds in this state. Is

there anyone else who cares to testify on that? If not
we will move on to House Bill 1909.

END OF DISCUSSION REGARDING HB 1895.

(WORK\PLD\HB1895)(CBG/llo)

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INFORMATION RELATING TO

HB 63



STATE of WASHINGTON SECRETARY of STATE

Certificate

I, Patricia A. Hopkins in accordance with the provisions of the Revised Code of Washington 40.14, Certify that I have carefully compared the annexed copy, or specific part thereof, listed below, with the originals, and that the same, or each of the same, is a full, true and correct copy of the original Record in the Official Custody of the State Archivist of the State of Washington.

FROM THE RECORDS OF: Washington State House of Representatives

Local Government Committee bill files 1937, HB 63 Revising Provisions on Lake Management Districts.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed hereto the Seal of the Office of the State Archivist of the State of Washington.

Patricia A. Hopkins

Done at the Capitol at Olympia, Washington

9th day of October, A. D. 1990

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4. Read first time 1/15/87 and referred to Committee on Local Government.

1 AN ACT Relating to lake management districts; amending RCW
2 36.61.010, 36.61.020, 36.61.030, 36.61.040, 36.61.070, 36.61.080,
3 36.61.090, 36.61.100, and 36.61.160; and adding new sections to
4 chapter 36.61 RCW.

5. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON;

6 Sec. 1. Section 1, chapter 398, Laws of 1985 and RCW 36.61.010
7 are each amended to read as follows:

8 The legislature finds that the environmental, recreational, and
9 aesthetic values of many of the state's lakes are threatened by
10 eutrophication and other deterioration and that existing governmental
11 authorities are unable to adequately improve and maintain the quality
12 of the state's lakes.

13 It is the purpose of this chapter to establish a governmental
14 mechanism by which property owners can embark on a program of lake
15 improvement and maintenance for their and the general public's
16 benefit, health, and welfare. Public property, including state
17 property, shall be considered the same as private property in this
18 chapter, except liens for special assessments and liens for rates and
19 charges shall not extend to public property. Lake bottom property
20 shall not be considered to be benefited, shall not be subject to
21 special assessments or rates and charges, and shall not receive
22 voting rights under this chapter.

23 Sec. 2. Section 2, chapter 398, Laws of 1985 and RCW 36.61.020
24 are each amended to read as follows:

25 Any county may create lake management districts to finance the
26 improvement and maintenance of lakes located within or partially
27 within the boundaries of the county. All or a portion of a lake, and
28 the adjacent land areas may be included within one or more lake

1 management districts. More than one lake, or portions of lakes, and
 2 the adjacent land areas may be included in a single lake management
 3 district. A lake management district may be created for a period of
 4 up to ten years.

5 Special assessments or rates and charges may be imposed on the
 6 property included within a lake management district to finance lake
 7 improvement and maintenance activities, including: (1) The control
 8 or removal of aquatic plants and vegetation; (2) water quality; (3)
 9 the control of water levels; (4) storm water diversion and treatment;
 10 (5) agricultural waste control; (6) studying lake water quality
 11 problems and solutions; (7) cleaning and maintaining ditches and
 12 streams entering or leaving the lake; and (8) the related
 13 administrative, engineering, legal, and operational costs, including
 14 the costs of creating the lake management district.

15 Special assessments or rates and charges may be imposed annually
 16 on all the land in a lake management district for the duration of the
 17 lake management district without a related issuance of lake
 18 management district bonds or revenue bonds. Special assessments also
 19 may be imposed in the manner of special assessments in a local
 20 improvement district with each landowner being given the choice of
 21 paying the entire special assessment in one payment, or to paying
 22 installments, with lake management district bonds being issued to
 23 obtain moneys not derived by the initial full payment of the special
 24 assessments, and the installments covering all of the costs related
 25 to issuing, selling, and redeeming the lake management district
 26 bonds.

27 Sec. 3. Section 3, chapter 398, Laws of 1985 and RCW 36.61.030
 28 are each amended to read as follows:

29 A lake management district may be initiated upon either the
 30 adoption of a resolution of intention by a county legislative
 31 authority or the filing of a petition signed by ten landowners or
 32 ((twenty-five)) the owners of at least fifteen percent of the
 33 ((landowners)) acreage contained within the proposed lake management
 34 district, whichever is greater. A petition or resolution of
 35 intention shall set forth: (1) The nature of the lake improvement or
 36 maintenance activities proposed to be financed; (2) the amount of

1 money proposed to be raised by special assessments or rates and
 2 charges; (3) if special assessments are to be imposed, whether the
 3 special assessments will be imposed annually for the duration of the
 4 lake management district, or the full special assessments will be
 5 imposed at one time, with the possibility of installments being made
 6 to finance the issuance of lake management district bonds, or both
 7 methods; (4) if rates and charges are to be imposed, the annual
 8 amount of revenue proposed to be collected and whether revenue bonds
 9 payable from the rates and charges are proposed to be issued; (5) the
 10 number of years proposed for the duration of the lake management
 11 district; and ((5)) (6) the proposed boundaries of the lake
 12 management district.

13 The county legislative authority may require the posting of a
 14 bond of up to five thousand dollars before the county considers the
 15 proposed creation of a lake management district initiated, by
 16 petition. The bond may only be used by the county to finance its
 17 costs in studying, holding hearings, making notices, preparing
 18 special assessment rolls or rolls showing the rates and charges on
 19 each parcel, and conducting elections related to the lake management
 20 district if the proposed lake management district is not created.

21 A resolution of intention shall also designate the number of the
 22 proposed lake management district, and fix a date, time, and place
 23 for a public hearing on the formation of the proposed lake management
 24 district. The date for the public hearing shall be at least thirty
 25 days and no more than ninety days after the adoption of the
 26 resolution of intention unless an emergency exists,

27 Petitions shall be filed with the county legislative authority.
 28 The county legislative authority shall determine the sufficiency of
 29 the signatures, which shall be conclusive upon all persons. No
 30 person may withdraw his or her name from a petition after it is
 31 filed. If the county legislative authority determines a petition to
 32 be sufficient and the proposed lake management district appears to be
 33 in the public interest and the financing of the lake improvement or
 34 maintenance activities is feasible, it shall adopt a resolution of
 35 intention, setting forth all of the details required to be included
 36 when a resolution of intention is initiated by the county legislative

Sec. 3

1 authority.

2 Sec. 4. Section 4, chapter 398, Laws of 1985 and RCW 36.61.040

3 are each amended to read as follows:

4 Notice of the public hearing shall be published in at least two

5 consecutive issues of a newspaper of general circulation in the

6 proposed lake management district, the date of the first publication

7 to be at least fifteen days prior to the date fixed for the public

8 hearing by the resolution of intention. Notice of the public hearing

9 shall also be given to the owner or reputed owner of any lot, tract,

10 parcel of land, or other property within the proposed lake management

11 district by mailing the notice at least fifteen days before the date

12 fixed for the public hearing to the owner or reputed owner of the

13 property as shown on the tax rolls of the county assessor at the

14 address shown thereon. Notice of the public hearing shall also be

15 mailed to the departments of fisheries, game, and ecology at least

16 fifteen days before the date fixed for the public hearing.

17 Notices of the public hearing shall: (1) Refer to the resolution

18 of intention; (2) designate the proposed lake management district by

19 number; (3) set forth a proposed plan describing: (a) The nature of

20 the proposed lake improvement or maintenance activities; (b) the

21 amount of special assessments or rates and charges proposed to be

22 raised by the lake management district; (c) if special assessments

23 are proposed to be imposed, whether the special assessments will be

24 imposed annually for the duration of the lake management district, or

25 the full special assessments will be payable at one time, with the

26 possibility of periodic installments being paid and lake management

27 bonds being issued, or both, ((and)) (d) if rates and charges are

28 proposed to be imposed, the annual amount of revenue proposed to be

29 collected and whether revenue bonds payable from the rates and

30 charges are proposed to be issued; and (e) the proposed duration of

31 the lake management district; and (4) indicate the date, time, and

32 place of the public hearing designated in the resolution of

33 intention.

34 In the case of the notice sent to each owner or reputed owner by

35 mail, the notice shall set forth the estimated amount of the cost of

36 the lake improvement or maintenance activities to be borne by special

1 assessment, or annual special assessments, or rates and charges on

2 the lot, tract, parcel of land, or other property owned by the owner

3 or reputed owner.

4 If the county legislative authority has designated a committee of

5 itself or an officer to hear complaints and make recommendations to

6 the full county legislative authority, as provided in RCW 36.61.060,

7 the notice shall also describe this additional step before the full

8 county legislative authority may adopt a resolution creating the lake

9 management district.

10 Sec. 5. Section 6, chapter 398, Laws of 1985 and RCW 36.61.070

11 are each amended to read as follows:

12 After the public hearing, the county legislative authority may

13 adopt a resolution submitting the question of creating the lake

14 management district to the owners of land within the proposed lake

15 management district, including publicly owned land, if the county

16 legislative authority finds that it is in the public interest to

17 create the lake management district and the financing of the lake

18 improvement and maintenance activities is feasible. The resolution

19 shall also include: (1) A plan describing [the proposed lake

20 improvement and maintenance activities which avoid adverse impacts on

21 fish and wildlife and provide for appropriate measures to protect and

22 enhance fish and wildlife((r)); (2) the number of years, the lake

23 management district will exist((r)); (3) the amount to be raised by

24 special assessments((r)) or rates and charges; (4) if special

25 assessments are to be imposed, whether the special assessments shall

26 be imposed annually for the duration of the lake management district

27 or only once with the possibility of installments being imposed and

28 lake management bonds being issued, or both, and, if both types of

29 special assessments are proposed to be imposed, the lake improvement

30 or maintenance activities proposed to be financed by each type of

31 special assessment; (5) if rates and charges are to be imposed, a

32 description of the rates and charges and the possibility of revenue

33 bonds being issued that are payable from the rates and charges; and

34 (6) the estimated special assessment or rate and charge proposed to

35 be imposed on each parcel included in the proposed lake management

36 district.

1 No lake management district may be created by a county that
2 includes territory located in another county without the approval of
3 the legislative authority of the other county.

4 Sec. 6. Section 7, chapter 398, Laws of 1985 and RCW 36.61.080
5 are each amended to read as follows:

6 A ballot shall be mailed to each owner or reputed owner of any
7 lot, tract, parcel of land, or other property within the proposed
8 lake management district, including publicly owned land, which ballot
9 shall contain the following proposition:

10 "Shall lake management district No. be formed?"

11 Yes.... ..

12 No

13 In addition, the ballot shall contain appropriate spaces for the
14 signatures of the landowner or landowners, or officer authorized to
15 cast such a ballot. Each ballot shall include a description of the
16 property owner's property ((the number of acres--of--such--property,
17 and--the--number--of--feet--of--lake--front--feetage,--if--any)) and the
18 estimated special assessment, or rate and charge, proposed to be
19 imposed upon the property. A copy of the instructions and the
20 resolution submitting the question to the landowners shall also be
21 included.

22 Sec. 7. Section 8, chapter 398, Laws of 1985 and RCW 36.61.090
23 are each amended to read as follows:

24 The balloting shall be subject to the following conditions, which
25, shall be included in the instructions mailed with each ballot, as
26 provided in RCW 36.61.080: (1) All ballots must be signed by the
27 owner or reputed owner of property according to the assessor's tax
28 rolls; (2) each ballot must be returned to the county legislative
29 authority not later than five o'clock p.m. of a specified day, which
30 shall be at least twenty but not more than thirty days after the
31 ballots are mailed; (3) each property owner shall mark his or her
32 ballot for or against the creation of the proposed lake management
33 district, with the ballot weighted so that the property owner has one
34 vote for ((any amount of property up to one acre--and--one--vote--for
35 each--additional--acre,--or--major--portion--of--an--acre,--he--or--she--owns--in

1 the proposed lake management district and one vote for any amount--up
2 to--fifty--feet,--and--one--vote--for--each--additional--fifty--feet,--or--major
3 portion--thereof,--of--lake--frontage--he--or--she--owns--in--the--proposed--lake
4 management--district)) each dollar of estimated special assessment or
5 rate and charge proposed to be imposed on his or her property; and
6 (4) the valid ballots shall be tabulated and a simple majority of the
7 votes cast shall determine whether the proposed lake management
8 district shall be approved or rejected.

9 Sec. 8. Section 9, chapter 398, Laws of 1985 and RCW 36.61.100
10 are each amended to read as follows:

11 If the proposal receives a simple majority vote in favor of
12 creating the lake management district, the county legislative
13 authority shall adopt an ordinance creating the lake management
14 district and may proceed with establishing the special assessments or
15 rates and charges, collecting the special assessments or rates and
16 charges, and performing the lake improvement or maintenance
17 activities. If a proposed lake management district includes more
18 than one lake and its adjacent areas, the lake management district
19 may only be established if the proposal receives a simple majority
20 vote in favor of creating it by the voters on each lake and its
21 adjacent areas. The county legislative authority shall publish a
22 notice in a newspaper of general circulation in a lake management
23 district indicating that such an ordinance has been adopted within
24 ten days of the adoption of the ordinance.
25 The ballots shall be available for public inspection after they
26 are counted.

27 NEW SECTION. Sec. 9. A new section is added to chapter 36.61
28 RCW to read as follows

29 A special assessment, or rate and charge, on any lot, tract,
30 parcel of land, or other property shall not be increased beyond one
31 hundred ten percent of the estimated special assessment, or rate and
32 charge, proposed to be imposed as provided in the resolution adopted
33 in RCW 36.61.070, unless the creation of a lake management district
34 is approved under another mailed ballot election that reflects the
35 weighted voting arising from such increases.

1 Sec. 10. Section 16, chapter 398, Laws of 1985 and RCW 36.61.160
2 are each amended to read as follows:

3 All property included within a lake management district shall be
4 considered to be the property specially benefited by the lake
5 improvement or maintenance activities and shall be the property upon
6 which special assessments are imposed to pay the costs and expenses
7 of the lake improvement or maintenance activities, or such part of
8 the costs and expenses as may be chargeable against the property
9 specially benefited. The special assessments shall be imposed on
10 property in accordance with the special benefits conferred on the
11 property up to but not in excess of the total costs and expenses of
12 the lake improvement or maintenance activities as provided in the
13 special assessment roll.

14 Special assessments may be measured by front footage, acreage,
15 the extent of improvements on the property, or any other factors
16 that are deemed to fairly reflect special benefits, including those
17 authorized under RCW 35.51.030. Special assessments may be
18 calculated by using more than one factor. Zones around the public
19 improvement may be used that reflect different levels of benefit in
20 each zone that are measured by a front footage, acreage, the extent
21 of improvements, or other factors.

22 Public property, including property owned by the state of
23 Washington, shall be subject to special assessments to the same
24 extent that private property is subject to the special assessments,
25 except no lien shall extend to public property.

26 NEW SECTION. Sec. 11. A new section is added to chapter 36.61
27 RCW to read as follows:

28 Whenever rates and charges are to be imposed in a lake management
29 district, the county legislative authority shall prepare a roll of
30 rates and charges that includes those matters required to be included
31 in a special assessment roll and shall hold a public hearing on the
32 proposed roll of rates and charges as provided under RCW 36.61.120
33 through 36.61.150 for a special assessment roll. The county
34 legislative authority shall have full jurisdiction and authority to
35 fix, alter, regulate, and control the rates and charges imposed by a
36 lake management district and may classify the rates or charges by any

1 reasonable factor or factors, including benefit, use, front footage,
2 acreage, the extent of improvements on the property, the type of
3 improvements on the property, uses to which the property is put, and
4 any other reasonable factor or factors. The flexibility to establish
5 rates and charges includes the authority to reduce rates and charges
6 on property owned by low-income persons.

7 Except as provided in this section, the collection of rates and
8 charges, lien status of unpaid rates and charges, and method of
9 foreclosing on such liens shall be subject to the provisions of
10 chapter 36.94 RCW. Public property, including state property, shall
11 be subject to the rates and charges to the same extent that private
12 property is subject to them, except that liens may not be foreclosed
13 on the public property. The total amount of rates and charges, cannot
14 exceed the cost of lake improvement or maintenance activities
15 proposed to be financed by such rates and charges, as specified in
16 the resolution of intention. Revenue bonds exclusively payable from
17 the rates and charges may be issued by the county under chapter 39.46
18 RCW.

HOUSE OF REPRESENTATIVES

Olympia, Washington

BILL ANALYSIS

Bill No.: HB 63

Comp. Meas.

Brief Title:

Revising provisions on lake management districts.

Sponsors:

Reps. Unsoeld/Haugen/Cooper/Madsen/Nutley/Belcher

BACKGROUND

Legislation was enacted in 1985 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds.

SUMMARY

The laws relating to lake management districts are altered as follows:

- 1) Rates and charges could be imposed in a lake management district in addition to, or in lieu of, special assessments. The county legislative authority is granted the authority to reduce rates and charges for low income persons. Revenue bonds may be issued payable from these rates and charges.
- 2) The signature requirement to initiate the creation of a lake management district is altered from the greater of ten land owners or 25% of the landowners, to the owners of 15% or more of the acreage in the proposed district.
- 3) The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage, to one vote for each dollar of special assessment or rate and charge proposed to be imposed on his or her property.
- 4) A special assessment, or rate and charge, may not be increased to an amount greater than 110% of the estimated amount used as the basis for voting to created the district.
- 5) It is clarified that a variety of factors, including land uses, can be used to measure benefits if special assessments are imposed.

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George L. Barner, Jr.
District One
Karen Fraser
District Two
Les Eldridge
District Three

Thurston County Commissioners

Olympia, Washington 98502

(206) 786-5440

February 10, 1987

The Honorable Mary Margaret Haugen
Chair, House Local Government Committee
House Office Building Room 331
Olympia, WA 98504

SUBJECT: House Bill No. 63

Dear Representative Haugen:

We appreciate the House Local Government Committee's attention to House Bill 63, proposing amendments to RCW 36.61. Thurston County was very involved with the initial development of the lake management district legislation codified in RCW 36.61. We have established one lake management district and are in the process of creating another. On the basis of our experience, we strongly support the proposed amendments contained in House Bill 63. We would like to make the following suggestions which we believe will clarify the legislation:

1. Section 10, page 8 (revising RCW 36.61.160)
We are concerned that the existing language of this section may create an unintentional conflict with the Bill's intent of providing a "rates and charges" option in addition to the existing "special assessments" approach. As drafted, the bill retains language in RCW 36.61.160 which states:

All property included within a lake management district shall be considered to be the property specially benefited... (emphasis added)

By referring to "all property" as necessarily being "specially benefited", this language has the appearance of creating an unintentional contradiction with proposed revisions to allow a "rates and charges" approach. We have encountered some difficulty with applying the conventional "special benefits" test to lake management situations, and fully support providing the option for an alternative approach.

To clarify this technical but potentially confusing problem, we suggest that Section 10 be constructed similar to Section 11 regarding rates and charges, i.e., on page 8, line 3 strike the word "All" and insert the following: "Whenever special assessments are imposed, all..."

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2. Section 11 (new section on rates and charges)

On page 9, lines 1 through 4, a non-exclusive set of factors for establishing rates and charges is listed. While we understand that other "reasonable" factors may be utilized, we suggest that one additional key factor for LMD rates might be "service provided". From our experience, the "rates and charges" rationale is needed not only to allow low-income exemptions, but also to provide a fundamentally different and more workable option for basing LMD assessments. Specifically including the "service provided" criteria (as in RCW 36.89.080 regarding storm water control) may assist jurisdictions with defining their rate rationale.

We suggest an amendment to read: Insert on page 9 line 3 after the word "put" the following: "service to be provided".

The Board of Thurston County Commissioners appreciates this opportunity to testify and hopes that our experience is helpful in clarifying the lake management district legislation.

Sincerely,



Karen Fraser
Chairman
Board of Thurston County Commissioners

cc: Honorable Jolene Unsoeld

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WASHINGTON STATE DEPARTMENT OF
Natural Resources

BRIAN BOYLE
Commissioner of Public Lands

OLYMPIA, WA 98504

February 12, 1987

The Honorable Mary Margaret Haugen
Washington State Representative
House Office Building - Room 331
Olympia, WA 98504

Dear Representative Haugen:

I would like to propose an amendment to House Bill 63, which relates to lake management districts. This amendment is similar to one I requested for House Bill 35.

On page 9, line 10 after "." insert "Except as provided in Chapter 79.44 RCW, regarding assessments against public lands," strike "P" and insert "p".

The reason for proposing this amendment is that Chapter 79.44 RCW contains the procedures for assessing public lands. A review of the bill by the Department's Assistant Attorney General revealed several areas of language in HB 63 which are not consistent with those procedures. The amendment clarifies that Chapter 79.44 RCW contains procedures specific to assessments against public lands.

Sincerely,

A handwritten signature in black ink, appearing to read "Art Stearns".

Art Stearns
Supervisor

AS:ksj

cc: Pat Harper

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Notes

MINUTES - HOUSE LOCAL GOVERNMENT COMMITTEE

Date: February 12, 1987
Time: 8:00 AM
Tape: 12

Members in attendance: See attached roster.

Agenda: Public Hearing

- ✓ HB 578 - Taxing dist. boundaries
- HB 63 - Lake Management dists
- HB 545 - Correcting double amendment

Chairman Haugen called the meeting to order and asked staff counsel to briefly explain the bills.

HB 578

Mr. Lundin explained boundaries of a taxing district are established for purposes of imposing property taxes in any year on the first day of March. Property taxes are imposed in December and then collected in the following year.

Trevor Thompson, Dept. of Revenue, testified in opposition to the bill. To adopt the June deadline would require an additional 8 FTE's for the department to implement. He said they did not object to the October 1 date. The bill did not require any additional work on their part, but the time frame in which they must complete their task is cut substantially.

Rep. Beck inquired into how many boundary changes occurred last year. Mr. Thompson said there were about 200 changes in boundaries. The cities report to OFM when they annex. We get a quarterly report from OFM, which brings attention to it, but no specific details.

Stan Finkelstein, AWC, spoke in support of the proposed legislation, because they believe it would resolve some of the problems with regard to \$9.15 with annexation and incorporation. When there is a change in a boundary, that change must be achieved prior to March 1 for the district to levy taxes or there

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could be almost 2 years delay in tax receipts. The boundary occurs immediately and also the responsibility of full service. He said they are not unmindful of the problems faced by the Department of Revenue, but did not think it would require an additional 8 FTE's. He said they would prefer to see the bill in tact, but would agree to the proposed amendment.

Fred Saeger, WACO, said that HB 578 presents them with some dilemmas. Primarily it is the assessor that will have to make the adjustments and subsequently, the treasurer. When you stop and think about the process we use for assessing property, first we have to fix the values, then we sit down to do a levy calculation. The districts would like to have the information by September. The property tax system is complex. Occasionally we have an exception and we can deal with, but this usually causes a chain reaction. The assessor's budget isn't the highest priority, and have a difficult time complying with mandated re-assessments to keep the assessments current. Maybe the districts should help pay a portion of the assessors work. If the boundaries are coterminous, our problems are minimized.

HB 63

Steve Lundin, staff counsel explained that legislation was enacted in 1987 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds. The bill changes the signature requirements to owners of 15% or more of the acreage, and also changes the scheme of weighing the votes. This is directly related to the amount they have to pay. The bill also clarifies a variety of factors used to measure benefits.

Rep. Madsen asked the question if a person owned a dairy on the lake, could the assessment be higher than his neighbor who grew carrots, for instance? Mr. Lundin responded that it was his understanding that is in current law now. Specific circumstances could be taken into consideration by the local government jurisdiction. A public hearing is held at which time the question of "fairness" of the assessments could be adjusted.

Karen Fraser, Thurston County Commissioner, explained she had been involved in the 1985 legislation and the implementation on 3 lakes. Of those 3, one has been completed (Lawrence); Patterson Lake voted it down; and Long Lake has just held a hearing. The biggest issue is the need for clarification in flexibility. Each lake is different and has its own special problems.

To respond to Rep. Beck's question, the voting process is changed to reflect acreage. Otherwise, how do you define owners, is that

husband and wife, so do they both get to vote? The 15% was an arbitrary figure that was picked.

Rose Maurer, spoke briefly to support the bill.

Randy Ellison, Department of Game, signed up in opposition to the bill. They objected to that fact that the Department was being assessed higher than others. He said they were not opposed to cleaning up the lake. They have 450 accesses throughout the state and this could be an extremely financial burden.

Rep. Nelson asked if the district took into the account the general benefit that the Department provided. Mr. Ellison did not know the answer.

William Fosdick, resident of Lawrence Lake, said that they felt that 20% of the use came from the Department's access, and therefore they should pay more than just a single property owner. He supported the passage of the bill and the changes with regard to voting.

HB 545

Steve Lundin, staff counsel, summarized the bill. The statute so restricting city and town utility authority was inconsistently amended by two separate laws in 1985.

Chuck Mize, City of Revenue, and representing Randy Scott from the City of Seattle said they both support the bill. As Mr. Lundin explained, this is an attempt to eliminate confusion that arose from the double amendments.

Randy Scott, Seattle City & Light, stated they have no objection to either amendment as they stand alone. It creates a dichotomy for us. There is something missing from the separate amendment, but as a whole they are good.

Executive Session

HB 263

Steve Lundin, staff counsel, briefly described the bill.

Stan Finkelstein, AWC, said that the proposed bill before you was a compromise between current law and the proposed debt. It is a political call. He said they would prefer to see the original bill be adopted but they could live with the proposed amended version.

Bill moved out of committee as a substitute bill. 12 ayes

Notes

MINUTES - HOUSE LOCAL GOVERNMENT COMMITTEE

Date: February 13, 1987
Time: 8:00 AM
Tape: 13

Members in attendance: See attached roster.

Agenda: Public Hearing

1. HB 46 - Excise tax distrib/watercraft
2. HB 238 - Solid waste management/provisions

Executive Session

1. HB 63 - Lake management Dist.

Chairman Haugen called the meeting to order and asked Steve Lundin, staff counsel, to briefly explain the bills.

HB 46

Steve Lundin, staff counsel, explained that counties are authorized to impose an excise tax on certain watercraft at a rate of up to 50 cents per foot per year, if the population of the unincorporated area of the county, together with the population of any city that is a party to an interlocal agreement with the county, equals at least two-thirds of the total population of the county. The interlocal agreement may provide that the county gives some of the tax revenues to municipal corporations that are parties to the agreement and which provide boating safety services.

Albert Angland, City of Medina, said they have their own boat patrol. The bill as stands now does not force King County into sharing that boat tax with the City of Mercer Island. Mercer Island now patrols over half of Lake Washington. He feels they are paying a double tax.

Rep. Ferguson - so are you just asking for the option to negotiate? Mr. Angland said yes, but also creating the ability to go into arbitration if King County does not meet the agreements.

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Ron Dickinson, city attorney, Mercer Island, said they are asking that they be entitled to 25% of the marine patrol excise tax. He felt they were entitled to get half of what the county is getting.

Rep. Haugen asked if they had tried to negotiate? Mr. Dickinson said this bill is very similar to a bill last year and nothing has been accomplished. He said they would have no objection of returning to original language of "municipal corporation" so fire protection districts could be included. The bill now says cities or towns. Mr. Dickinson said this bill could affect other areas such as Moses Lake, Lake Chelan, etc.

Ron Main, King County, stated that he believed this bill was premature. He said they are in the middle of a discussion with Mercer Island to resolve these issues. Mercer Island appears to be continuing to settle this through the judicial systems. Marine patrol services are provided as a regular service. Prior to the enactment of this, King County provided this service out of its own fund. In 1983 approached the legislature with the proposal to authorize counties to impose local option boat tax for boating safety service. In the past Medina and Mercer Island had provided some service. I believe this has been a waterfront police service, rather than a boating safety service. Part of the problem is that we are fighting over a pot of money that is inadequate. We have a new county executive who is committed t working with the cities.

Mr. Main responded to Rep. Zellinsky's question of how much money is being discussed. He said approximately \$200,000 is collected countywide.

Stan Finkelstein, AWC, spoke in support of the bill. By way of background, this is the second year this legislation is before the committee. Part of the rub in the original language is that King County does not require that Mercer Island be a part of the agreement, even though Mercer Island does provide the service. This is the second year Mr. Hill has been in charge and the problem is still not resolved. It is time that the counties and cities got together. Now the bill only applies to King County, but eventually it could apply elsewhere.

Pete Spiller, Wash. Fire Commissioner Assn., said that the problem mentioned by the Attorney for Mercer Island is also a concern they have. The language eliminates the possibility of us participating in any agreements. He requested that the original language be returned to include municipal corporation. Second concern is the idea of expanding service to police activities. You are going to add additional activities to a fund that is already underfunded.

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Rep. May, prime sponsor of the bill, testified in support of the bill. He noted that this was an agreed upon bill last year. It is true that negotiations have not been going on as aggressively as hoped.

HB 238

Steve Lundin, staff counsel, explained that state law authorizes the UTC to franchise, regulate and supervise garbage and refuse collection companies in the state that operate outside of a city or town. Cities and towns can collect garbage with their own employees or contract with a garbage and refuse collection for such collection, neither of which is subject to UTC regulation.

Rep. Cooper, prime sponsor, stated that this bill had been brought to his attention by Rep. Nutley and the counties. It is all about solid waste flow. It is not clearly defined where the waste goes. That was the original purpose of it. It makes sense to tie it into the comprehensive plan. Consumer protection is a feedback issue. Most individuals do not know where to go with their complaints. As far as how to force compliance is another issue. Some in between ground is needed.

George Cvitanich, Washington Waste Management Association, said he was here reluctantly to speak in opposition to the bill. He proposed that the wording be changed on page 1, line 27 to receive letters of comment, not just complaints. He said there are two other bills being given some attention: HB 115 and SB 5218. In his opinion the language on line 20, page 2 was redundant. He referenced Section 3. The existing state statute does provide a penalty. \$1,000 is too high. Does the bill not provide for arbitration? He offered another change on page 4, section 4.

Mr. Cvitanich said there is existing mechanisms now to deal with most of the problems, and therefore he did not feel this bill was needed. If the committee made several changes he could however, live with the bill.

Rep. Nutley said that she did not feel that the system was responsive enough to the public.

Kathleen Collins, AWC, supported the bill. The bill clarifies the intent of the legislation.

Jim Williams, Assn. of Counties, also in support of this bill, said the request for this bill has a direct relationship of concern with the haulers and UTC. In trying to implement priorities of existing statutes we need a line of communication and direct access. The approach that HB 238 is good. He was however somewhat concerned with the penalty provisions. That was

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not in our original bill. We have no utility tax or franchise fees. The "tipping fee" is set to cover our costs of operation and maintenance of disposing of the garbage.

Steve McCullum, UTC, said the bill has basically two parts. The cities currently have the option to take over garbage collection. The complaint section we have transferred to our consumer services area. Language in this bill may be redundant. It directs the counties to send us comments or complaints. They do that now. The volume of penalty compliance cases is very low. It is a complex issue. Different jurisdictions have different parts of level. Maybe a move to a system where one entity has all the levers would be better.

Rep. Haugen asked why the fiscal note indicated an increase if they already review the comments submitted by the counties. Mr. McCullum responded that they will have to review the comments and make comparisons to the solid waste plan.

Mr. McCullum suggested that level of penalty be reduced to a maximum of \$500. There was some discussion as to when the penalty begins.

Executive Session

Steve Lundin, staff counsel, briefly summarized the bill.

Karen Fraser, Thurston Co. Commissioner spoke to the amendments on page 9, line 3, submitted by DNR. She was not sure as to their intent. Perhaps reading between the lines it would negate the ability from going to rates and charges approach and stay with the LID approach. Lake management districts are not true LIDS. The Game Dept. feels they are being unfairly singled out for fishing launch on lake. The launch handles the higher percentage of these on the lake and we feel they should pay equivalent to two family homes. We disagree with their philosophy.

Ken Sold, DNR, said the purpose of their amendment is to have a procedure of notices and apportionments of assessments. To assess more than separate private owners isn't right. He agreed that the language in 79.44 is not clear, but their Attorney General believed they could use that procedure.

Rep. Bumgarner noted that the assessment on this property would approximate \$2,005 and this is just one lake. The Department manages many lakes and if this were to be imposed throughout the state it could cost them over \$1 million.

Rep. Nelson asked if it were fair to charge the state for weeds they didn't produce? Karen Fraser responded that if they benefit, shouldn't they pay?

Meeting adjourned.

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Notes

MINUTES - HOUSE LOCAL GOVERNMENT COMMITTEE

Date: February 19, 1987
Time: 8 AM
Tape: 15

Members in attendance: See attached roster.

Agenda: Public Hearing

HB 651 - Public funds/authorized investment

Possible Executive Session

HB 63 - Lake management dists.

HB 238 - Solid waste management/provisions

HB 643 - Bonds/special assessment use

Chairman Haugen called the meeting to order and immediately went into executive session.

EXEC SESS

HB 63 - Steve Lundin, staff counsel, briefly explained the bill.

Rep. Cooper moved the amendment on page 8, line 3. This would place a new phrase in existing law to clarify existing language. Amendment adopted.

Rep. Cooper then moved the amendment on page 9, line 3, which; would add another example onto the list of things to take into consider. Rep. Zellinsky asked if this would affect DNR who is already short of money? Amendment adopted.

Rep. Cooper then moved the amendment on page 9, line 13. Rep. Ferguson asked if this is common practice or is this something new being proposed? Mr. Lundin said it was a common practice for special assessments. Amendment adopted.

Rep. Cooper then moved the amendment page 8, line 22, proposed by DNR. Rep. Bumgarner noted that DNR really does not provide an extra charge to the public for stocking the lake. He felt like

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the amendment enabled the Department to continue its program. Rep. Nutley said I think you have to look at it on a statewide basis. Each lake is different and their criteria should be looked at differently. Rep. Ferguson said he would like to see something in between. If it passes, we give the locals a blank check. I think they should pay a little more but not an unlimited amount. Amendment adopted.

Amendment on page 9, line 3 adopted.

Rep. Cooper moved that the amendments be incorporated into a substitute bill and moved out of committee. 12 ayes.

HB 651

Steve Lundin, staff counsel, explained that the bill provides that county treasurers and the state treasurer may invest public funds in their possession in guaranteed interest contracts, deferred adjustment contracts, or annuities, guaranteed under the Washington Insurance Guaranty Association Act or the Washington Life and Disability Insurance Guaranty Association Act.

Rep. Zellinsky, prime sponsor, testified that this came to light where little fire districts can pool their money. This gives an opportunity for the county treasurers to take a look at all the alternatives to get the best for their money.

Brad Van Huizen, Emerald Equities and Insurance, testified in support of the bill. He said this offers one more opportunity for investment. By pooling their money they may be able to get as high as 8% loan interest instead of 5%.

Basil Bradley, American Insurance Company also urged the Committee's support of the bill. He said that all companies that do business in Washington must belong to the Washington Guaranty Act. There does not appear to be any limit on the guaranty for these types of products.

Karen Shrader, Kitsap County Treasurer, expressed her personal support for any investment options. She suggested 651 as a vehicle. A problem to be addressed is who will address the cost of the system? The existing fee in the bill is inadequate. Rep. Beck asked if she had discussed the fee structure with participants? She said she was in the process of doing that now. Remember, this participation would be at their option.

Doug Lasher, Clark Co. Treasurer, also echoed Karen's comments in support of the bill and proposed amendment. He said the local pool was a new tool and has not really been implemented at the fullest because of the fee structure. Mr. Lasher also proposed an amendment to invest in any kind of investment offered by other taxing district. This would provide uniformity. Rep. Haugen

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expressed concern about safeguards. She requested that he provide the committee with a list of the types of investments that they utilize.

Mr. Lasher continued his testimony and said that it costs money to invest if under \$25,000. If they participated in pooling in the long run it would be cheaper.

Rep. Cooper asked Mr. Lasher if he would favor language that would say if they did not join now they would have to wait two years. Mr. Lasher responded no.

Fred Saeger, Wash. Association County Elected Officials, said he did not feel that either amendments were controversial.

Executive Session

HB 238

Steve Lundin, staff counsel, briefly explained the bill. Rep. Cooper moved the amendment on page 1, line 27. (Adopted) Amendment moved on page 3, line 28 to decrease the fine to \$500 from \$1000. (Adopted.) Rep. Cooper then moved that the amendments be incorporated into a substitute bill and moved out do pass. (9 ayes 2 no.)

HB 643

Steve Lundin, staff counsel, briefly explained the proposed substitute bill. Bill moved out 11 ayes.

Meeting adjourned.

Appropriation: _____
Revenue: _____
Fiscal Note: _____

HOUSE BILL REPORT

HB 63

BY Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher and May

Revising provisions on lake management districts.

House Committee on Local Government

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. (12)

Signed by Representatives Haugen, Chair; Cooper, Vice Chair; Beck, Bumgarner, Ferguson, Hine, Nealey, Nelson, Nutley, Rayburn, L. Smith and Zellinsky.

House Staff: Steve Lundin (786-7127)

AS REPORTED BY COMMITTEE ON LOCAL GOVERNMENT FEBRUARY 19, 1987

BACKGROUND:

Legislation was enacted in 1985 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds.

SUMMARY:

SUBSTITUTE BILL: The laws relating to lake management districts are altered as follows:

- (1) Rates and charges could be imposed in a lake management district in addition to, or in lieu of, special assessments. The county legislative authority is granted the authority to reduce rates and charges for low income persons. Revenue bonds may be issued payable from these rates and charges. Special procedures to notify the state are provided if state property would be subject to the rates and charges.
- (2) Rates and charges, or special assessments, imposed upon state lands cannot consider the extent of the public use of these lands.
- (3) The signature requirement to initiate the creation of a lake management district is altered from the greater of ten landowners or 25 percent of the landowners, to the owners of 15 percent or more of the acreage in the proposed district.

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(4) The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage, to one vote for each dollar of special assessment or rate and charge proposed to be imposed on his or her property.

(5) A special assessment, or rate and charge, may not be increased to an amount greater than 110 percent of the estimated amount used as the basis for voting to create the district.

(6) It is clarified that a variety of factors, including land uses, can be used to measure benefits if special assessments are imposed.

SUBSTITUTE BILL COMPARED TO ORIGINAL: The limitations were added measuring assessments or rates and charges on state land. The special procedure to notify the state if state lands were subject to rates and charges was added.

Fiscal Note: Not Requested.

House Committee - Testified For Original Measure in Committee: Karen Fraser, Thurston County Commissioner; Rose Maurer, resident of Lawrence Lake; and William Fosdick, resident of Lawrence Lake.

House Committee - Testified Against Original Measure in Committee: Randy Ellison, Department of Game.

House Committee - Testimony For: We need more flexibility to measure and impose charges on property to fit the particular circumstances of each lake. This establishes a fairer method of voting.

House Committee - Testimony Against: The Department of Game does not have the funds to pay large assessments on rates and charges.

Read first time 2/23/87 and passed to Committee on Rules.

1 AN ACT Relating to lake management districts: amending RCW
2 36.61.010, 36.61.020, 36.61.030, 36.61.040, 36.61.070, 36.61.080,
3 36.61.090, 36.61.100, and 36.61.160; and adding new sections to
4 chapter 36.61 RCW.

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

6 Sec. 1. Section 1, chapter 398, Laws of 1985 and RCW 36.61.010
7 are each amended to read as follows:

8 The legislature finds that the environmental, recreational, and
9 aesthetic values of many of the state's lakes are threatened by
10 eutrophication and other deterioration and that existing governmental
11 authorities are unable to adequately improve and maintain the quality
12 of the state's lakes.

13 It is the purpose of this chapter to establish a governmental
14 mechanism by which property owners can embark on a program of lake
15 improvement and maintenance for their and the general public's
16 benefit, health, and welfare. Public property, including state
17 property, shall be considered the same as private property in this
18 chapter, except liens for special assessments and liens for rates and
19 charges shall not extend to public property. Lake bottom property
20 shall not be considered to be benefited, shall not be subject to
21 special assessments or rates and charges, and shall not receive
22 voting rights under this chapter.

23 Sec. 2. Section 2, Chapter 398, Laws of 1985 and RCW 36.61.020
24 are each amended to read as follows:

25 Any county may create lake management districts to finance the
26 improvement and maintenance of lakes located within or partially
27 within the boundaries of the county. All or a portion of a lake and
28 the adjacent land areas may be included within one or more lake

1 management districts. More than one lake, or portions of lakes, and
 2 the adjacent land areas may be included in a single lake management
 3 district. A lake management district may be created for a period of
 4 up to ten years.
 5 Special assessments or rates and charges may be imposed on the
 6 property included within a lake management district to finance lake
 7 improvement and maintenance activities, including: (1) The control
 8 or removal of aquatic plants and vegetation; (2) water quality; (3)
 9 the control of water levels; (4) storm water diversion and treatment;
 10 (5) agricultural waste control; (6) studying lake water quality
 11 problems and solutions; (7) cleaning and maintaining ditches and
 12 streams entering or leaving the lake; and (8) the related
 13 administrative, engineering, legal, and operational costs, including
 14 the costs of creating the lake management district.

15 Special assessments or rates and charges may be imposed annually
 16 on all the land in a lake management district for the duration of the
 17 lake management district without a related issuance of lake
 18 management district bonds or revenue bonds. Special assessments also
 19 may be imposed in the manner of special assessments in a local
 20 improvement district with each landowner being given the choice of
 21 paying the entire special assessment in one payment, or to paying
 22 installments, with lake management district bonds being issued to
 23 obtain moneys not derived by the initial full payment of the special
 24 assessments, and the installments covering all of the costs related
 25 to issuing, selling, and redeeming the lake management district
 26 bonds.

27 Sec. 3. Section 3, chapter 398, Laws of 1985 and RCW 36.61.030
 28 are each amended to read as follows.

29 A lake management district may be initiated upon either the
 30 adoption of a resolution of intention by a county legislative
 31 authority or the filing of a petition signed by ten landowners or
 32 ((twenty-five)) the owners of at least fifteen percent of the
 33 ((landowners)) acreage contained within the proposed lake management
 34 district, whichever is greater. A petition or resolution of
 35 intention shall set forth: (1) The nature of the lake improvement or
 36 maintenance activities proposed to be financed, (2) the amount of

1 money proposed to be raised by special assessments or rates and
 2 charges; (3) if special assessments are to be imposed, whether the
 3 special assessments will be imposed annually for the duration of the
 4 lake management district, or the full special assessments will be
 5 imposed at one time, with the possibility of installments being made
 6 to finance the issuance of lake management district bonds, or both
 7 methods; (4) if rates and charges are to be imposed, the annual
 8 amount of revenue proposed to be collected and whether revenue bonds
 9 payable from the rates and charges are proposed to be issued; (5) the
 10 number of years proposed for the duration of the lake management
 11 district; and ((5)) (6) the proposed boundaries of the lake
 12 management district.

13 The county legislative authority may require the posting of a
 14 bond of up to five thousand dollars before the county considers the
 15 proposed creation of a lake management district initiated by
 16 petition. The bond may only be used by the county to finance its
 17 costs in studying, holding hearings, making notices, preparing
 18 special assessment rolls or rolls showing the rates and charges on
 19 each parcel, and conducting elections related to the lake management
 20 district if the proposed lake management district is not created.

21 A resolution of intention shall also designate the number of the
 22 proposed lake management district, and fix a date, time, and place
 23 for a public hearing on the formation of the proposed lake management
 24 district. The date for the public hearing shall be at least thirty
 25 days and no more than ninety days after the adoption of the
 26 resolution of intention unless an emergency exists.
 27 Petitions shall be filed with the county legislative authority.
 28 The county legislative authority shall determine the sufficiency of
 29 the signatures, which shall be conclusive upon all persons. No
 30 person may withdraw his or her name from a petition after it is
 31 filed. If the county legislative authority determines a petition to
 32 be sufficient and the proposed lake management district appears to be
 33 in the public interest and the financing of the lake improvement or
 34 maintenance activities is feasible, it shall adopt a resolution of
 35 intention, setting forth all of the details required to be included
 36 when a resolution of intention is initiated by the county legislative

1 authority.

2 Sec. 4. Section 4, chapter 398, Laws of 1985 and RCW 36.61.040

3 are each amended to read as follows:

4 Notice of the public hearing shall be published in at least two

5 consecutive issues of a newspaper of general circulation in the

6 proposed lake management district, the date of the first publication

7 to be at least fifteen days prior to the date fixed for the public

8 hearing by the resolution of intention. Notice of the public hearing

9 shall also be given to the owner or reputed owner of any lot, tract,

10 parcel of land, or other property within the proposed lake management

11 district by mailing the notice at least fifteen days before the date

12 fixed for the public hearing to the owner or reputed owner of the

13 property as shown on the tax rolls of the county assessor at the

14 address shown thereon. Notice of the public hearing shall also be

15 mailed to the departments of fisheries, game, and ecology at least

16 fifteen days before the date fixed for the public hearing.

17 Notices of the public hearing shall: (1) Refer to the resolution

18 of intention; (2) designate the proposed lake management district by

19 number; (3) set forth a proposed plan describing: (a) The nature of

20 the proposed lake improvement or maintenance activities; (b) the

21 amount of special assessments or rates and charges proposed to be

22 raised by the lake management district; (c) if special assessments

23 are proposed to be imposed, whether the special assessments will be

24 imposed annually for the duration of the lake management district, or

25 the full special assessments will be payable at one time, with the

26 possibility of periodic installments being paid and lake management

27 bonds being issued, or both; ((and)) (d) if rates and charges are

28 proposed to be imposed, the annual amount of revenue proposed to be

29 collected and whether revenue bonds payable from the rates and

30 charges are proposed to be issued; and (e) the proposed duration of

31 the lake management district; and (4) indicate the date, time, and

32 place of the public hearing designated in the resolution of

33 intention.

34 In the case of the notice sent to each owner or reputed owner by

35 mail, the notice shall set forth the estimated amount of the cost of

36 the lake improvement or maintenance activities to be borne by special

1 assessment, or annual special assessments, or rates and charges on

2 the lot, tract, parcel of land, or other property owned by the owner

3 or reputed owner.

4 If the county legislative authority has designated a committee of

5 itself or an officer to hear complaints and make recommendations to

6 the full county legislative authority, as provided in RCW 36.61.060,

7 the notice shall also describe this additional step before the full

8 county legislative authority may adopt a resolution creating the lake

9 management district.

10 Sec. 5. Section 5, chapter 398, Laws of 1985 and RCW 36.61.070

11 are each amended to read as follows:

12 After the public hearing, the county legislative authority may

13 adopt a resolution submitting the question of creating the lake

14 management district to the owners of land within the proposed lake

15 management district, including publicly owned land, if the county

16 legislative authority finds that it is in the public interest to

17 create the lake management district and the financing of the lake

18 improvement and maintenance activities is feasible. The resolution

19 shall also include: (1) A plan describing the proposed lake

20 improvement and maintenance activities which avoid adverse impacts on

21 fish and wildlife and provide for appropriate measures to protect and

22 enhance fish and wildlife(()); (2) the number of years the lake

23 management district will exist(()); (3) the amount to be raised by

24 special assessments(()) or rates and charges; (4) if special

25 assessments are to be imposed, whether the special assessments shall

26 be imposed annually for the duration of the lake management district

27 or only once with the possibility of installments being imposed and

28 lake management bonds being issued, or both, and, if both types of

29 special assessments are proposed to be imposed, the lake improvement

30 or maintenance activities proposed to be financed by each type of

31 special assessment; (5) if rates and charges are to be imposed, a

32 description of the rates and charges and the possibility of revenue

33 bonds being issued that are payable from the rates and charges; and

34 (6) the estimated special assessment or rate and charge proposed to

35 be imposed on each parcel included in the proposed lake management

36 district.

1 No lake management district may be created by a county that
 2 includes territory located in another county without the approval of
 3 the legislative authority of the other county.

4 Sec. 6. Section 7, chapter 398, Laws of 1985 and RCW 36.61.080
 5 are each amended to read as follows:

6 A ballot shall be mailed to each owner or reputed owner of any
 7 lot, tract, parcel of land, or other property within the proposed
 8 lake management district, including publicly owned land, which ballot
 9 shall contain the following proposition:

10 "Shall lake management district No. be formed?"

11 Yes... ..
 12 No"

13 In addition, the ballot shall contain appropriate spaces for the
 14 signatures of the landowner or landowners, or officer authorized to
 15 cast such a ballot. Each ballot shall include a description of the
 16 property owner's property ((r--the-number-of-aeres--of--such--prepery,
 17 and--the--number--of--feet--of--lake--front--feetage,--if--any)) and the
 18 estimated special assessment, or rate and charge, proposed to be
 19 imposed upon the property. A copy of the instructions and the
 20 resolution submitting the question to the landowners shall also be
 21 included.

22 Sec. 7. Section 8, chapter 398, Laws of 1985 and RCW 36.61.090
 23 are each amended to read as follows:

24 The balloting shall be subject to the following conditions, which
 25 shall be included in the instructions mailed with each ballot, as
 26 provided in RCW 36.61.080: (1) All ballots must be signed by the
 27 owner or reputed owner of property according to the assessor's tax
 28 rolls; (2) each ballot must be returned to the county legislative
 29 authority not later than five o'clock p.m. of a specified day, which
 30 shall be at least twenty but not more than thirty days after the
 31 ballots are mailed; (3) each property owner shall mark his or her
 32 ballot for or against the creation of the proposed lake management
 33 district, with the ballot weighted so that the property owner has one
 34 vote for ((any-amount-of-property-up-to-one-aere--and--one--vote--for
 35 each--additional-aere,--or--major-portion-of-an-aere,--he-or--she--owns--in

1 the-proposed-lake-management-district-and-one-vote-for-any-amount--up
 2 to--fifty-feet,--and-one-vote-for-each-additional-fifty-feet,--or--major
 3 portion--thereof,--of--lake-frontage--he-or--she--owns--in--the--proposed--lake
 4 management-district)) each dollar of estimated special assessment or
 5 rate and charge proposed to be imposed on his or her property; and
 6 (4) the valid ballots shall be tabulated and a simple majority of the
 7 votes cast shall determine whether the proposed lake management
 8 district shall be approved or rejected.

9 Sec. 8. Section 9, chapter 398, Laws of 1985 and RCW 36.61.100
 10 are each amended to read as follows:

11 If the proposal receives a simple majority vote in favor of
 12 creating the lake management district, the county legislative
 13 authority shall adopt an ordinance creating the lake management
 14 district and may proceed with establishing the special assessments or
 15 rates and charges, collecting the special assessments or rates and
 16 charges, and performing the lake improvement or maintenance
 17 activities. If a proposed lake management district includes more
 18 than one lake and its adjacent areas, the lake management district
 19 may only be established if the proposal receives a simple majority
 20 vote in favor of creating it by the voters on each lake and its
 21 adjacent areas. The county legislative authority shall publish a
 22 notice in a newspaper of general circulation in a lake management
 23 district indicating that such an ordinance has been adopted within
 24 ten days of the adoption of the ordinance.

25 The ballots shall be available for public inspection after they
 26 are counted.

27 NEW SECTION. Sec. 9. A new section is added to chapter 36.61
 28 RCW to read as follows:

29 A special assessment, or rate and charge, on any lot, tract,
 30 parcel of land, or other property shall not be increased beyond one
 31 hundred ten percent of the estimated special assessment, or rate and
 32 charge, proposed to be imposed as provided in the resolution adopted
 33 in RCW 36.61.070, unless the creation of a lake management district
 34 is approved under another mailed ballot election that reflects the
 35 weighted voting arising from such increases.

1 legislative authority shall have full jurisdiction and authority to
 2 fix, alter, regulate, and control the rates and charges imposed by a
 3 lake management district and may classify the rates or charges by any
 4 reasonable factor or factors, including benefit, use, front footage,
 5 acreage, the extent of improvements on the property, the type of
 6 improvements on the property, uses to which the property is put
 7 except public uses, service to be provided, and any other reasonable
 8 factor or factors. The flexibility to establish rates and charges
 9 includes the authority to reduce rates and charges on property owned
 10 by low-income persons.
 11 Except as provided in this section, the collection of rates and
 12 charges, lien status of unpaid rates and charges, and method of
 13 foreclosing on such liens shall be subject to the provisions of
 14 chapter 36.94 RCW. Public property, including state property, shall
 15 be subject to the rates and charges to the same extent that private
 16 property is subject to them, except that liens may not be foreclosed
 17 on the public property, and the procedure for imposing such rates and
 18 charges on state property shall conform with the procedure provided
 19 for in chapter 79.44 RCW concerning the imposition of special
 20 assessments upon state property. The total amount of rates and
 21 charges cannot exceed the cost of lake improvement or maintenance
 22 activities proposed to be financed by such rates and charges, as
 23 specified in the resolution of intention. Revenue bonds exclusively
 24 payable from the rates and charges may be issued by the county under
 25 chapter 39.46 RCW.

1 Sec. 10. Section 16, chapter 398, Laws of 1985 and RCW 36.61.160
 2 are each amended to read as follows:
 3 Whenever special assessments are imposed, all property included
 4 within a lake management district shall be considered to be the
 5 property specially benefited by the lake improvement or maintenance
 6 activities and shall be the property upon which special assessments
 7 are imposed to pay the costs and expenses of the lake improvement or
 8 maintenance activities, or such part of the costs and expenses as may
 9 be chargeable against the property specially benefited. The special
 10 assessments shall be imposed on property in accordance with the
 11 special benefits conferred on the property up to but not in excess of
 12 the total costs and expenses of the lake improvement or maintenance
 13 activities as provided in the special assessment roll.
 14 Special assessments may be measured by front footage, acreage,
 15 the extent of improvements on the property, or any other factors
 16 that are deemed to fairly reflect special benefits, including those
 17 authorized under RCW 35.51.030. Special assessments may be
 18 calculated by using more than one factor. Zones around the public
 19 improvement may be used that reflect different levels of benefit in
 20 each zone that are measured by a front footage, acreage, the extent
 21 of improvements, or other factors.
 22 ((Public property, including property owned by the state of
 23 Washington, shall be subject to special assessments to the same
 24 extent that private property is subject to the special assessments))
 25 Publicly owned property shall be assessed at the same rate as similar
 26 privately owned property within the district without regard to the
 27 extent of use of such property by the general public, except no lien
 28 shall extend to public property.

29 NEW SECTION. Sec. 11. A new section is added to chapter 36.61
 30 RCW to read as follows:
 31 Whenever rates and charges are to be imposed in a lake management
 32 district, the county legislative authority shall prepare a roll of
 33 rates and charges that includes those matters required to be included
 34 in a special assessment roll and shall hold a public hearing on the
 35 proposed roll of rates and charges as provided under RCW 36.61.120,
 36 through 36.61.150 for a special assessment roll. The county

Appropriation: _____
Revenue: _____
Fiscal Note: _____

HOUSE BILL REPORT

SHB 63

BY House Committee on Local Government (originally sponsored by Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher and May)

Revising provisions on lake management districts.

House Committee on Local Government

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. (12)

Signed by Representatives Haugen, Chair; Cooper, Vice Chair; Beck, Bumgarner, Ferguson, Hine, Nealey, Nelson, Nutley, Rayburn, L. Smith and Zellinsky.

House Staff: Steve Lundin (786-7127)

~~AS~~PASSED HOUSE MARCH 2, 1987

BACKGROUND:

Legislation was enacted in 1985 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds.

SUMMARY:

The laws relating to lake management districts are altered as follows:

(1) Rates and charges could be imposed in a lake management district in addition to, or in lieu of, special assessments. The county legislative authority is granted the authority to reduce rates and charges for low income persons. Revenue bonds may be issued payable from these rates and charges. Special procedures to notify the state are provided if state property would be subject to the rates and charges.

(2) Rates and charges, or special assessments, imposed upon state lands cannot consider the extent of the public use of these lands.

(3) The signature requirement to initiate the creation of a lake management district is altered from the greater of ten landowners

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or 25 percent of the landowners, to the owners of 15 percent or more of the acreage in the proposed district.

(4) The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage, to one vote for each dollar of special assessment or rate and charge proposed to be imposed on his or her property.

(5) A special assessment, or rate and charge, may not be increased to an amount greater than 110 percent of the estimated amount used as the basis for voting to create the district.

(6) It is clarified that a variety of factors, including land uses, can be used to measure benefits if special assessments are imposed.

EFFECT OF SENATE AMENDMENT(S): The composition of special assessments or charges on public property could reflect the public use of such property.

Fiscal Note: Not Requested.

House Committee - Testified For Original Measure in Committee: Karen Fraser, Thurston County Commissioner; Rose Maurer, resident of Lawrence Lake; and William Fosdick, resident of Lawrence Lake.

House Committee - Testified Against Original Measure in Committee: Randy Ellison, Department of Game.

House Committee - Testimony For: We need more flexibility to measure and impose charges on property to fit the particular circumstances of each lake. This establishes a fairer method of voting.

House Committee - Testimony Against: The Department of Game does not have the funds to pay large assessments on rates and charges.

VOTE ON FINAL PASSAGE:

Yeas 95; Nays 0; Absent 0; Excused 3

Excused: Representatives Fuhrman, Locke and Padden

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FINAL BILL REPORT

SHB 63

BY House Committee on Local Government (originally sponsored by Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher and May)

Revising provisions on lake management districts.

House Committee on Local Government

Senate Committee on Parks & Ecology

AS PASSED LEGISLATURE

BACKGROUND:

Legislation was enacted in 1985 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds.

SUMMARY:

The laws relating to lake management districts are altered:

Rates and charges can be imposed in a lake management district in addition to, or in lieu of, special assessments. The county legislative authority is granted the authority to reduce rates and charges for low income persons. Revenue bonds may be issued payable from these rates and charges. Special procedures to notify the state are provided if state property would be subject to the rates and charges.

The signature requirement to initiate the creation of a lake management district is altered from the greater of ten landowners or 25 percent of the landowners, to the owners of 15 percent or more of the acreage in the proposed district.

The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage, to one vote for each dollar of special assessment or rate and charge proposed to be imposed on a property-owner's property.

A special assessment, or rate and charge, may not be increased to an amount greater than 110 percent of the estimated amount used as the basis for voting to create the district.

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It is clarified that a variety of factors, including land uses, can be used to measure benefits if special assessments are imposed.

VOTES ON FINAL PASSAGE:

House	95	0	
Senate	48	1	(Senate amended)
House	61	35	(House concurred)

EFFECTIVE: July 26, 1987

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IN THE LEGISLATURE
of the
STATE OF WASHINGTON



CERTIFICATION OF ENROLLED ENACTMENT
SUBSTITUTE HOUSE BILL NO. 61

Passed the House March 2, 1987 1987 Read the Senate April 9, 1987
as amended

Yea 95 Nays 0 Yeas 98 Nays 1

April 20, 1987: House refused to concur in Senate amendments and asked Senate for conference thereon.

April 23, 1987: Senate insisted on its position and asked House to concur.

April 25, 1987: House insisted on its position and asked Senate for a conference.

Senate refused request for conference, adhered to its position and asked House to concur.

April 26, 1987: House concurred in Senate amendments and passed the bill as amended by the Senate.

Yeas 61 Nays 35

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is enrolled **SUBSTITUTE HOUSE BILL NO. 61** as passed by the House of Representatives and the Senate on April 26, 1987.

Alan Thompson
ALAN THOMPSON, Chief Clerk

SUBSTITUTE HOUSE BILL NO. 63
AS AMENDED BY THE SENATE

State of Washington 50th Legislature 1987 Regular Session
by Committee on Local Government (originally sponsored by
Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher
and May)

Read first time 2/23/87 and passed to Committee on Rules.

1 AN ACT Relating to lake management districts; amending RCW
2 36.61.010, 36.61.020, 36.61.030, 36.61.040, 36.61.070, 36.61.080,
3 36.61.090, 36.61.100, and 36.61.160; and adding new sections to
4 chapter 36.61 RCW.

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

6 Sec. 1. Section 1, chapter 398, Laws of 1985 and RCW 36.61.010
7 are each amended to read as follows:

8 The legislature finds that the environmental, recreational, and
9 aesthetic values of many of the state's lakes are threatened by
10 eutrophication and other deterioration and that existing governmental
11 authorities are unable to adequately improve and maintain the quality
12 of the state's lakes.

13 It is the purpose of this chapter to establish a governmental
14 mechanism by which property owners can embark on a program of lake
15 improvement and maintenance for their and the general public's
16 benefit, health, and welfare. Public property, including state
17 property, shall be considered the same as private property in this
18 chapter, except liens for special assessments and liens for rates and
19 charges shall not extend to public property. Lake bottom property
20 shall not be considered to be benefited, shall not be subject to
21 special assessments or rates and charges, and shall not receive
22 voting rights under this chapter.

23 Sec. 2. Section 2, chapter 398, Laws of 1985 and RCW 36.61.020
24 are each amended to read as follows:

25 Any county may create lake management districts to finance the
26 improvement and maintenance of lakes located within or partially
27 within the boundaries of the county. All or a portion of a lake and
28 the adjacent land areas may be included within one or more lake

Sec. 2

1 management districts. More than one lake, or portions of lakes, and
 2 the adjacent land areas may be included in a single lake management
 3 district. A lake management district may be created for a period of
 4 up to ten years.
 5 Special assessments or rates and charges may be imposed on the
 6 property included within a lake management district to finance lake
 7 improvement and maintenance activities, including: (1) The control
 8 or removal of aquatic plants and vegetation; (2) water quality; (3)
 9 the control of water levels; (4) storm water diversion and treatment;
 10 (5) agricultural waste control; (6) studying lake water quality
 11 problems and solutions; (7) cleaning and maintaining ditches and
 12 streams entering or leaving the lake; and (8) the related
 13 administrative, engineering, legal, and operational costs, including
 14 the costs of creating the lake management district.

15 Special assessments or rates and charges may be imposed annually
 16 on all the land in a lake management district for the duration of the
 17 lake management district without a related issuance of lake
 18 management district bonds or revenue bonds. Special assessments also
 19 may be imposed in the manner of special assessments in a local
 20 improvement district with each landowner being given the choice of
 21 paying the entire special assessment in one payment, or to paying
 22 installments, with lake management district bonds being issued to
 23 obtain moneys not derived by the initial full payment of the special
 24 assessments, and the installments covering all of the costs related
 25 to issuing, selling, and redeeming the lake management district
 26 bonds.

27 Sec. 3. Section 3, chapter 398, Laws of 1985 and RCW 36.61.030
 28 are each amended to read as follows:

29 A lake management district may be initiated upon either the
 30 adoption of a resolution of intention by a county legislative
 31 authority or the filing of a petition signed by ten landowners or
 32 ((twenty-five)) the owners of at least fifteen percent of the
 33 ((landowners)) acreage contained within the proposed lake management
 34 district, whichever is greater. A petition or resolution of
 35 intention shall set forth: (1) The nature of the lake improvement or
 36 maintenance activities proposed to be financed; (2) the amount of

1 money proposed to be raised by special assessments or rates and
 2 charges; (3) if special assessments are to be imposed, whether the
 3 special assessments will be imposed annually for the duration of the
 4 lake management district, or the full special assessments will be
 5 imposed at one time, with the possibility of installments being made
 6 to finance the issuance of lake management district bonds, or both
 7 methods; (4) if rates and charges are to be imposed, the annual
 8 amount of revenue proposed to be collected and whether revenue bonds
 9 payable from the rates and charges are proposed to be issued; (5) the
 10 number of years proposed for the duration of the lake management
 11 district; and ((15)) (6) the proposed boundaries of the lake
 12 management district.

13 The county legislative authority may require, the posting of a
 14 bond of up to five thousand dollars before the county considers the
 15 proposed creation of a lake management district initiated by
 16 petition. The bond may only be used by the county to finance its
 17 costs in studying, holding hearings, making notices, preparing
 18 special assessment rolls, or rolls showing the rates and charges on
 19 each parcel, and conducting elections related to the lake management
 20 district if the proposed lake management district is not created.

21 A resolution of intention shall also designate the number of the
 22 proposed lake management district, and fix a date, time, and place
 23 for a public hearing on the formation of the proposed lake management
 24 district. The date for the public hearing shall be at least thirty
 25 days and no more than ninety days after the adoption of the
 26 resolution of intention unless an emergency exists.

27 Petitions shall be filed with the county legislative authority.
 28 The county legislative authority shall determine the sufficiency of
 29 the signatures, which shall be conclusive upon all persons. No
 30 person may withdraw his or her name from a petition after it is
 31 filed. If the county legislative authority determines a petition to
 32 be sufficient and the proposed lake management district appears to be
 33 in the public interest and the financing of the lake improvement or
 34 maintenance activities is feasible, it shall adopt a resolution of
 35 intention, setting forth all of the details required to be included
 36 when a resolution of intention is initiated by the county legislative

1 assessment, or annual special assessments, or rates and charges on
 2 the lot, tract, parcel of land, or other property owned by the owner
 3 or reputed owner.
 4 If the county legislative authority has designated a committee of
 5 itself or an officer to hear complaints and make recommendations to
 6 the full county legislative authority, as provided in RCW 36.61.060,
 7 the notice shall also describe this additional step before the full
 8 county legislative authority may adopt a resolution creating the lake
 9 management district.

10 Sec. 5. Section 6, chapter 398, Laws of 1985 and RCW 36.61.070
 11 are each amended to read as follows:
 12 After the public hearing, the county legislative authority may
 13 adopt a resolution submitting the question of creating the lake
 14 management district to the owners of land within the proposed lake
 15 management district, including publicly owned land, if the county
 16 legislative authority finds that it is in the public interest to
 17 create the lake management district and the financing of the lake
 18 improvement and maintenance activities is feasible. The resolution
 19 shall also include: (1) A plan describing the proposed lake
 20 improvement and maintenance activities which avoid adverse impacts on
 21 fish and wildlife and provide for appropriate measures to protect and
 22 enhance fish and wildlife; (2) the number of years the lake
 23 management district will exist; (3) the amount to be raised by
 24 special assessments; (4) if rates and charges; (4) if special
 25 assessments are to be imposed, whether the special assessments shall
 26 be imposed annually for the duration of the lake management district
 27 or only once with the possibility of installments being imposed and
 28 lake management bonds being issued, or both, and, if both types of
 29 special assessments are proposed to be imposed, the lake improvement
 30 or maintenance activities proposed to be financed by each type of
 31 special assessment; (5) if rates and charges are to be imposed, a
 32 description of the rates and charges and the possibility of revenue
 33 bonds being issued that are payable from the rates and charges; and
 34 (6) the estimated special assessment or rate and charge proposed to
 35 be imposed on each parcel included in the proposed lake management
 36 district.

1 authority.
 2 Sec. 4. Section 4, chapter 398, Laws of 1985 and RCW 36.61.040
 3 are each amended to read as follows:
 4 Notice of the public hearing shall be published in at least two
 5 consecutive issues of a newspaper of general circulation in the
 6 proposed lake management district, the date of the first publication
 7 to be at least fifteen days prior to the date fixed for the public
 8 hearing by the resolution of intention. Notice of the public hearing
 9 shall also be given to the owner or reputed owner of any lot, tract,
 10 parcel of land, or other property within the proposed lake management
 11 district by mailing the notice at least fifteen days before the date
 12 fixed for the public hearing to the owner or reputed owner of the
 13 property as shown on the tax rolls of the county assessor at the
 14 address shown thereon. Notice of the public hearing shall also be
 15 mailed to the departments of fisheries, game, and ecology at least
 16 fifteen days before the date fixed for the public hearing.

17 Notices of the public hearing shall: (1) Refer to the resolution
 18 of intention; (2) designate the proposed lake management district by
 19 number; (3) set forth a proposed plan describing: (a) The nature of
 20 the proposed lake improvement or maintenance activities; (b) the
 21 amount of special assessments or rates and charges proposed to be
 22 raised by the lake management district; (c) if special assessments
 23 are proposed to be imposed, whether the special assessments will be
 24 imposed annually for the duration of the lake management district, or
 25 the full special assessments will be payable at one time, with the
 26 possibility of periodic installments being paid and lake management
 27 bonds being issued, or both; (and) (d) if rates and charges are
 28 proposed to be imposed, the annual amount of revenue proposed to be
 29 collected and whether revenue bonds payable from the rates and
 30 charges are proposed to be issued; and (e) the proposed duration of
 31 the lake management district; and (4) indicate the date, time, and
 32 place of the public hearing designated in the resolution of
 33 intention.
 34 In the case of the notice sent to each owner or reputed owner by
 35 mail, the notice shall set forth the estimated amount of the cost of
 36 the lake improvement or maintenance activities to be borne by special

1 No lake management district may be created by a county that
2 includes territory located in another county without the approval of
3 the legislative authority of the other county.

4 Sec. 6. Section 7, chapter 398, Laws of 1985 and RCW 36.61.080
5 are each amended to read as follows:

6 A ballot shall be mailed to each owner or reputed owner of any
7 lot, tract, parcel of land, or other property within the proposed
8 lake management district, including publicly owned land, which ballot
9 shall contain the following proposition:

10 "Shall lake management district No. be formed?

11 Yes....
12 No"

13 In addition, the ballot shall contain appropriate spaces for the
14 signatures of the landowner or landowners, or officer authorized to
15 cast such a ballot. Each ballot shall include a description of the
16 property owner's property((, the number of acres of such property,
17 and the number of feet of lake frontage, if any)) and the
18 estimated special assessment, or rate and charge, proposed to be
19 imposed upon the property. A copy of the instructions and the
20 resolution submitting the question to the landowners shall also be
21 included.

22 Sec. 7. Section 8, chapter 398, Laws of 1985 and RCW 36.61.090
23 are each amended to read as follows:

24 The balloting shall be subject to the following conditions, which
25 shall be included in the instructions mailed with each ballot, as
26 provided in RCW 36.61.080: (1) All ballots must be signed by the
27 owner or reputed owner of property according to the assessor's tax
28 rolls; (2) each ballot must be returned to the county legislative
29 authority not later than five o'clock p.m. of a specified day, which
30 shall be at least twenty but not more than thirty days after the
31 ballots are mailed; (3) each property owner shall mark his or her
32 ballot for or against the creation of the proposed lake management
33 district, with the ballot weighted so that the property owner has one
34 vote for ((any amount of property up to one acre and one vote for
35 each additional acre; or major portion of an acre, he or she owns in

1 the proposed lake management district and one vote for any amount up
2 to fifty feet, and one vote for each additional fifty feet, or major
3 portion thereof, of lake frontage he or she owns in the proposed lake
4 management district)) each dollar of estimated special assessment or
5 rate and charge proposed to be imposed on his or her property; and
6 (4) the valid ballots shall be tabulated and a simple majority of the
7 votes cast shall determine whether the proposed lake management
8 district shall be approved or rejected.

9 Sec. 8. Section 9, chapter 398, Laws of 1985 and RCW 36.61.100
10 are each amended to read as follows:

11 If the proposal receives a simple majority vote in favor of
12 creating the lake management district, the county legislative
13 authority shall adopt an ordinance creating the lake management
14 district and may proceed with establishing the special assessments or
15 rates and charges, collecting the special assessments or rates and
16 charges, and performing the lake improvement or maintenance
17 activities. If a proposed lake management district includes more
18 than one lake and its adjacent areas, the lake management district
19 may only be established if the proposal receives a simple majority
20 vote in favor of creating it by the voters on each lake and, its
21 adjacent areas. The county legislative authority shall publish a
22 notice in a newspaper of general circulation in a lake management
23 district indicating that such an ordinance has been adopted within
24 ten days of the adoption of the ordinance.

25 The ballots shall be available for public inspection after they
26 are counted.

27 NEW SECTION. Sec. 9. A new section is added to chapter 36.61
28 RCW to read as follows:

29 A special assessment, or rate and charge, on any lot, tract,
30 parcel of land, or other property shall not be increased beyond one
31 hundred ten percent of the estimated special assessment, or rate and
32 charge, proposed to be imposed as provided in the resolution adopted
33 in RCW 36.61.070, unless the creation of a lake management district
34 is approved under another mailed ballot election that reflects the
35 weighted voting arising from such increases.

1 Sec. 10. Section 16, chapter 398, Laws of 1985 and RCW 36.61.160
2 are each amended to read as follows:

3 Whenever special assessments are imposed, all property included
4 within a lake management district shall be considered to be the
5 property specially benefited by the lake improvement or maintenance
6 activities and shall be the property upon which special assessments
7 are imposed to pay the costs and expenses of the lake improvement or
8 maintenance activities, or such part of the costs and expenses as may
9 be chargeable against the property specially benefited. The special
10 assessments shall be imposed on property in accordance with the
11 special benefits conferred on the property up to but not in excess of
12 the total costs and expenses of the lake improvement or maintenance
13 activities as provided in the special assessment roll.

14 Special assessments may be measured by front footage, acreage,
15 the extent of improvements on the property, or any other factors
16 that are deemed to fairly reflect special benefits, including those
17 authorized under RCW 35.51.030. Special assessments may be
18 calculated by using more than one factor. Zones around the public
19 improvement may be used that reflect different levels of benefit in
20 each zone that are measured by a front footage, acreage, the extent
21 of improvements, or other factors.
22 Public property, including property owned by the state of
23 Washington, shall be subject to special assessments to the same
24 extent that private property is subject to the special assessments,
25 except no lien shall extend to public property.

26 NEW SECTION. Sec. 11. A new section is added to chapter 36.61
27 RCW to read as follows:

28 Whenever rates and charges are to be imposed in a lake management
29 district, the county legislative authority shall prepare a roll of
30 rates and charges that includes those matters required to be included
31 in a special assessment roll and shall hold a public hearing on the
32 proposed roll of rates and charges as provided under RCW 36.61.120
33 through 36.61.150 for a special assessment roll. The county
34 legislative authority shall have full jurisdiction and authority to
35 fix, alter, regulate, and control the rates and charges imposed by a
36 lake management district and may classify the rates or charges by any

1 reasonable factor or factors, including benefit, use, front footage,
2 acreage, the extent of improvements on the property, the type of
3 improvements on the property, uses to which the property is put,
4 service to be provided, and any other reasonable factor or factors.
5 The flexibility to establish rates and charges includes the authority
6 to reduce rates and charges on property owned by low-income persons.
7 Except as provided in this section, the collection of rates and
8 charges, lien status of unpaid rates and charges, and method of
9 foreclosing on such liens shall be subject to the provisions of
10 chapter 36.94 RCW. Public property, including state property, shall
11 be subject to the rates and charges to the same extent that private
12 property is subject to them, except that liens may not be foreclosed
13 on the public property, and the procedure for imposing such rates and
14 charges on state property shall conform with the procedure provided
15 for in chapter 79.44 RCW concerning the imposition of special
16 assessments upon state property. The total amount of rates and
17 charges cannot exceed the cost of lake improvement or maintenance
18 activities proposed to be financed by such rates and charges, as
19 specified in the resolution of intention. Revenue bonds exclusively
20 payable from the rates and charges may be issued by the county under
21 chapter 39.46 RCW.

Passed the House April 26, 1987.

Speaker of the House.

Passed the Senate April 8, 1987.

President of the Senate.

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INFORMATION RELATING TO

SHB 63



STATE of WASHINGTON SECRETARY of STATE

Certificate

I, Patricia A. Hopkins in accordance with the provisions of the Revised Code of Washington 40.14, Certify that I have carefully compared the annexed copy, or specific part thereof, listed below, with the originals, and that the same, or each of the same, is a full, true and correct copy of the original Record in the Official Custody of the State Archivist of the State of Washington.

FROM THE RECORDS OF: Washington State Senate

Parks & Ecology Committee bill files 1987, SHB 63, Revising Provisions on Lake Management Districts.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed hereto the Seal of the Office of the State Archivist of the State of Washington.

Patricia A. Hopkins

Done at the Capitol at Olympia, Washington

9th day of October, A.D. 1990

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FLOOR SYNOPSIS
SHB 63

REVISING PROVISIONS ON LAKE MANAGEMENT DISTRICTS.

A. WHAT IT DOES

- PROVIDES THAT LAKE MANAGEMENT DISTRICTS MAY IMPOSE RATES AND CHARGES IN ADDITION TO SPECIAL ASSESSMENTS FOR MAKING LAKE IMPROVEMENTS.
- CHANGES THE NUMBER OF OWNERS REQUIRED TO INITIATE FORMATION OF A LAKE MANAGEMENT DISTRICT.
- CHANGES THE WEIGHTING OF BALLOTS IN ELECTIONS FOR FORMATION OF LAKE MANAGEMENT DISTRICTS FROM LAND AREA TO ASSESSED VALUE.
- PROVIDES LIMITS ON INCREASES FOR SPECIAL ASSESSMENTS AND/OR RATES AND CHARGES.
- PUBLIC PROPERTY MUST BE ASSESSED WITHOUT REGARD TO THE EXTENT OF GENERAL PUBLIC USES.
- EFFECT OF PROPOSED AMENDMENT:
 - DELETES REQUIREMENT THAT PUBLIC PROPERTY BE ASSESSED WITHOUT REGARD TO THE EXTENT OF GENERAL PUBLIC USES.

B. WHY IT IS NEEDED

- LAKE MANAGEMENT DISTRICTS ARE A SIGNIFICANT TOOL FOR PREVENTION OF DETERIORATION, INCLUDING AQUATIC PLANT INFESTATIONS AND STORMWATER CONTROL.
- IMPOSITION OF RATES AND CHARGES AS AN ALTERNATIVE TO SPECIAL ASSESSMENTS WILL PROVIDE GREATER FLEXIBILITY TO CHARGE THOSE LAKEFRONT PROPERTIES WHICH PARTICULARLY BENEFIT BY THE IMPROVEMENTS.
- EXPERIENCE IN INITIAL FORMATION OF DISTRICTS UNDER THE 1985 ELECTION HAS REVEALED CHANGES NEEDED IN THE FORMATION PROCEDURES WHICH THE BILL ADDRESSES.

C. FISCAL IMPACT

NONE ON THE GENERAL FUND.

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111 111

D. COMMENTS

- THE GAME DEPARTMENT WAS THE SOURCE OF ORIGINAL BILL LANGUAGE RESTRICTING CONSIDERATION OF PUBLIC USES IN THE ASSESSMENT OF PUBLICLY OWNED PROPERTY DUE TO LACK OF FUNDS.
- PROponents OF THE PROPOSED AMENDMENT ARGUE THAT PUBLIC USE OF SUCH LAKES IS A SIGNIFICANT SOURCE OF IMPROVEMENT NEED, AND SHOULD PAY THEIR FAIR SHARE OF SUCH IMPROVEMENTS.

GW:VC9-2

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SENATE BILL REPORT

SHB 63

BY House Committee on Local Government (originally sponsored by Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher and May)

Revising provisions on lake management districts.

House Committee on Local Government

Senate Committee on Parks & Ecology

Senate Hearing Date(s): March 23, 1987

Majority Report: Do pass as amended.

Signed by Senators Kreidler, Chairman; Rinehart, Vice Chairman; Hansen, Kiskaddon.

Senate Staff: Gary Wilburn (786-7453)
March 23, 1987

AS REPORTED BY COMMITTEE ON PARKS & ECOLOGY, MARCH 23, 1987

BACKGROUND:

In 1985 the Legislature authorized the creation of lake management districts to provide an alternative governmental mechanism for lake improvements and maintenance, to prevent eutrophication and other deterioration. Any county is authorized to create lake management districts for a period of up to ten years. Special assessments may be imposed within the district to finance improvement and maintenance activities including removal of aquatic plants and vegetation, water quality, control of water levels, storm water diversion and treatment, and similar activities. Formation of a district may be initiated either by resolution of the county legislative authority or filing of a petition signed by the greater of ten landowners or the owners of at least 25 percent of the landowners within the proposed district. Following a public hearing upon a petition a proposed ballot must be mailed to each owner describing the number of acres on the owner's property and the amount of lake front footage.

SUMMARY:

The laws relating to lake management districts are altered as follows:

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(1) Rates and charges may be imposed within lake management districts in addition to, or in lieu of, special assessments. Revenue bonds may be issued payable from these rates and charges as well as from special assessments. Existing law under Chapter 79.44 RCW is to govern procedures for imposing rates and charges upon state property.

(2) The extent of public use cannot be considered when imposing rates and charges.

(3) The signature requirement to initiate the creation of the lake management district is altered from the greater of ten landowners or 25 percent of the landowners, to the greater of ten landowners or the owners of 15 percent or more of the acreage in the proposed district.

(4) The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage to one vote for each dollar of special assessment or rates and charges proposed on the voter's property.

(5) A special assessment, or rate or charge, may not be increased to an amount greater than 110 percent of the estimated amount used as the basis for voting to create the district.

(6) Special assessments may be measured considering existing facilities on the property, public and private land use restrictions, square footage of the property, access to the improvement, and other factors.

SUMMARY OF PROPOSED SENATE AMENDMENT:

Language prohibiting consideration of the extent of public uses when imposing special assessments or rates and charges is deleted.

Fiscal Note: none requested

Senate Committee - Testified: Representative Gary Bumgarner; Wallace Kydland, Long Lake Improvement Association; Karen Fraser, Thurston County Commissioner; Randy Ellison, Department of Game; Maryan Reynolds, Lakes Imp. Association; Thomas Clingman, WALPA; William Fozdick, Lake Lawrence Clean-up Comm.

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March 23, 1987

Substitute House Bill

NO. 63

(Type in brief title exactly as it appears on back cover of original bill)

Revising provisions on lake management districts.

(reported by Committee on Parks and Ecology): (5)

Recommendation - Majority

 Do pass

 X Do pass as amended

SHB 63 - S Amd

By Comm on Parks and Ecology

On page 8, lines 22 through 24, reinsert all language stricken

On page 8, lines 25 through 27 delete all language beginning with "Publicly" and ending with "public"

On page 9, line 7, delete "except public uses"

STATE OF WASHINGTON
SENATE

Receipt for Bills

Olympia, Mar. 30, 1987

RECEIVED OF Debbie Chastain

H.B. No. 49

S.B. No. _____

No. _____

By = SA

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FINAL BILL REPORT

SHB 63

C 432 L 87

BY House Committee on Local Government (originally sponsored by Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher and May)

Revising provisions on lake management districts.

House Committee on Local Government

Senate Committee on Parks & Ecology

SYNOPSIS AS ENACTED

BACKGROUND:

Legislation was enacted in 1985 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds.

SUMMARY:

The laws relating to lake management districts are altered:

Rates and charges can be imposed in a lake management district in addition to, or in lieu of, special assessments. The county legislative authority is granted the authority to reduce rates and charges for low income persons. Revenue bonds may be issued payable from these rates and charges. Special procedures to notify the state are provided if state property would be subject to the rates and charges.

The signature requirement to initiate the creation of a lake management district is altered from the greater of ten landowners or 25 percent of the landowners, to the owners of 15 percent or more of the acreage in the proposed district.

The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage, to one vote for each dollar of special assessment or rate and charge proposed to be imposed on a property owner's property.

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A special assessment, or rate and charge, may not be increased to an amount greater than 110 percent of the estimated amount used as the basis for voting to create the district.

It is clarified that a variety of factors, including land uses, can be used to measure benefits if special assessments are imposed.

VOTES ON FINAL PASSAGE:

House	95	0	
Senate	48	1	(Senate amended)
House	61	35	(House concurred)

EFFECTIVE: July 26, 1987

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FINAL BILL REPORT

SHB 63

BY House Committee on Local Government (originally sponsored by Representatives Unsoeld, Haugen, Cooper, Madsen, Nutley, Belcher and May)

Revising provisions on lake management districts.

House Committee on Local Government

Senate Committee on Parks & Ecology

AS PASSED LEGISLATURE

BACKGROUND:

Legislation was enacted in 1985 authorizing the creation of lake management districts, which are mechanisms within which special assessments are imposed on real property to finance lake improvement and maintenance programs, such as the removal of weeds.

SUMMARY:

The laws relating to lake management districts are altered:

Rates and charges can be imposed in a lake management district in addition to, or in lieu of, special assessments. The county legislative authority is granted the authority to reduce rates and charges for low income persons. Revenue bonds may be issued payable from these rates and charges. Special procedures to notify the state are provided if state property would be subject to the rates and charges.

The signature requirement to initiate the creation of a lake management district is altered from the greater of ten landowners or 25 percent of the landowners, to the owners of 15 percent or more of the acreage in the proposed district.

The voting scheme to authorize the creation of a district is altered from weighted voting based on acreage and lake front footage, to one vote for each dollar of special assessment or rate and charge proposed to be imposed on a property owner's property.

A special assessment, or rate and charge, may not be increased to an amount greater than 110 percent of the estimated amount used as the basis for voting to create the district.

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It is clarified that a variety of factors, including land uses, can be used to measure benefits if special assessments are imposed.

VOTES ON FINAL PASSAGE:

House	95	0	
Senate	48	1	(Senate amended)
House	61	35	(House concurred)

EFFECTIVE: July 26, 1987

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