
SENATE BILL 6496

State of Washington

54th Legislature

1996 Regular Session

By Senator Heavey

Read first time 01/16/96. Referred to Committee on Government Operations.

1 AN ACT Relating to open space protection; amending RCW 84.34.210,
2 84.34.220, 36.96.010, and 84.52.052; and adding a new chapter to Title
3 36 RCW.

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

5 **Sec. 1.** RCW 84.34.210 and 1993 c 248 s 1 are each amended to read
6 as follows:

7 Any county, city, town, metropolitan park district, open space
8 protection district, metropolitan municipal corporation, nonprofit
9 historic preservation corporation as defined in RCW 64.04.130, or
10 nonprofit nature conservancy corporation or association, as such are
11 defined in RCW 84.34.250, may acquire by purchase, gift, grant,
12 bequest, devise, lease, or otherwise, except by eminent domain, the fee
13 simple or any lesser interest, development right, easement, covenant,
14 or other contractual right necessary to protect, preserve, maintain,
15 improve, restore, limit the future use of, or otherwise conserve,
16 selected open space land, farm and agricultural land, and timber land
17 as such are defined in chapter 84.34 RCW for public use or enjoyment.
18 Among interests that may be so acquired are mineral rights. Any
19 county, city, town, metropolitan park district, open space protection

1 district, metropolitan municipal corporation, nonprofit historic
2 preservation corporation as defined in RCW 64.04.130, or nonprofit
3 nature conservancy corporation or association, as such are defined in
4 RCW 84.34.250, may acquire such property for the purpose of conveying
5 or leasing the property back to its original owner or other person
6 under such covenants or other contractual arrangements as will limit
7 the future use of the property in accordance with the purposes of this
8 1971 amendatory act.

9 **Sec. 2.** RCW 84.34.220 and 1993 c 248 s 2 are each amended to read
10 as follows:

11 In accordance with the authority granted in RCW 84.34.210, a
12 county, city, town, metropolitan park district, open space protection
13 district, metropolitan municipal corporation, nonprofit historic
14 preservation corporation as defined in RCW 64.04.130, or nonprofit
15 nature conservancy corporation or association, as such are defined in
16 RCW 84.34.250, may specifically purchase or otherwise acquire, except
17 by eminent domain, rights in perpetuity to future development of any
18 open space land, farm and agricultural land, and timber land which are
19 so designated under the provisions of chapter 84.34 RCW and taxed at
20 current use assessment as provided by that chapter. For the purposes
21 of this 1971 amendatory act, such developmental rights shall be termed
22 "conservation futures". The private owner may retain the right to
23 continue any existing open space use of the land, and to develop any
24 other open space use, but, under the terms of purchase of conservation
25 futures, the county, city, town, metropolitan park district,
26 metropolitan municipal corporation, nonprofit historic preservation
27 corporation as defined in RCW 64.04.130, or nonprofit nature
28 conservancy corporation or association, as such are defined in RCW
29 84.34.250, may forbid or restrict building thereon, or may require that
30 improvements cannot be made without county, city, town, metropolitan
31 park district, metropolitan municipal corporation, nonprofit historic
32 preservation corporation as defined in RCW 64.04.130, or nonprofit
33 nature conservancy corporation or association, as such are defined in
34 RCW 84.34.250, permission. The land may be alienated or sold and used
35 as formerly by the new owner, subject to the terms of the agreement
36 made by the county, city, town, metropolitan park district,
37 metropolitan municipal corporation, nonprofit historic preservation
38 corporation as defined in RCW 64.04.130, or nonprofit nature

1 conservancy corporation or association, as such are defined in RCW
2 84.34.250, with the original owner.

3 NEW SECTION. **Sec. 3.** For the purposes of this chapter "district"
4 means an open space protection district.

5 NEW SECTION. **Sec. 4.** Any county shall have the power to create an
6 open space protection district for the purpose of purchasing,
7 financing, acquiring, and maintaining development rights under RCW
8 84.34.210, which shall be owned by the district. A district shall be
9 a quasi-municipal corporation, an independent taxing "authority" within
10 the meaning of section 1, Article 7 of the Constitution, and a "taxing
11 district" within the meaning of section 2, Article 7 of the
12 Constitution.

13 A district shall constitute a body corporate and shall possess all
14 the usual powers of a corporation for public purposes including, but
15 not limited to, the authority to hire employees, staff, and services,
16 to enter into contracts, to accept and expend or use gifts, grants, and
17 donations, and to sue and be sued as well as all other powers that may
18 now or hereafter be specifically conferred by statute.

19 The members of the county legislative authority, acting ex officio
20 and independently, shall compose the governing body of a district which
21 is created within the county: PROVIDED, That where a district includes
22 an incorporated city or town within the county, the district may be
23 governed as provided in an interlocal agreement adopted pursuant to
24 chapter 39.34 RCW. The voters of a district shall be all registered
25 voters residing within the district.

26 A multicounty district shall be governed as provided in an
27 interlocal agreement adopted pursuant to chapter 39.34 RCW.

28 NEW SECTION. **Sec. 5.** Districts may be initiated in any
29 unincorporated area of any county by a petition signed by ten percent
30 of the registered voters within the proposed district. Incorporated
31 areas may be included under section 19 of this act.

32 NEW SECTION. **Sec. 6.** (1) Any petition initiating a proposed
33 district shall set forth the boundaries of the district with certainty
34 and describe the purpose or purposes for which the district is to be
35 formed.

1 (2) Petitions shall be submitted to the county auditor who shall
2 verify the signatures thereon to determine that the petition has been
3 signed by the requisite number of persons who are registered voters
4 within the proposed district. If the petition is found not to have the
5 requisite number of signatures, it shall be returned to the
6 petitioners. If the petition is found to be sufficient, the auditor
7 shall so certify and transmit the same to the board of county
8 commissioners.

9 NEW SECTION. **Sec. 7.** Upon accepting a petition to form a
10 district, the county legislative authority shall order a full
11 investigation for the purpose or purposes of the proposed district to
12 determine the feasibility of forming the same and to determine the
13 estimated initial costs involved in obtaining the objectives set forth
14 in the petition or resolution. The reports on the feasibility and the
15 cost of the proposed district shall be made available to the county
16 legislative authority, and copies of such reports shall be filed with
17 the clerk of the county legislative authority not more than eighty days
18 after the county legislative authority first directs that the studies
19 and reports be undertaken. The county legislative authority shall also
20 provide by resolution that within twenty days after receiving the
21 reports a public hearing shall be held at the county seat or at some
22 convenient location within the proposed district. At least five days
23 before the hearing, the county legislative authority shall give notice
24 of the hearing not less than twice in a legal newspaper of general
25 circulation in the county. The notice shall describe the boundaries of
26 the proposed district, the purpose or purposes of the proposed
27 district, the estimated initial costs, indicate that the reports and
28 other materials prepared at the order of the county legislative
29 authority are available in the office of the clerk of the county
30 legislative authority for the study and review of any interested party,
31 and set the time, date, and place of the hearing.

32 NEW SECTION. **Sec. 8.** At the hearing, the county legislative
33 authority shall first provide for an explanation of the objectives of
34 the proposed district and the estimated initial costs thereof. The
35 county legislative authority shall permit any resident or property
36 owner of the proposed district to appear and be heard, and may permit
37 property owners in contiguous areas to include their property within

1 the proposed district in the event that they make their request for
2 inclusion in writing. The county legislative authority shall examine
3 all reports on the feasibility of the proposed district and its initial
4 costs and may, if they deem it necessary, recess the hearing for not
5 more than twenty days to obtain any additional information necessary to
6 arrive at the findings provided for in section 9 of this act.

7 NEW SECTION. **Sec. 9.** At the conclusion of a hearing, the board of
8 county commissioners shall make the following findings:

9 (1) Whether or not the district's objectives fit within the general
10 framework of the county's comprehensive plan and general planning
11 policies;

12 (2) The exact boundaries of the district: The board shall be
13 empowered to modify the boundaries as originally defined in the
14 petition initiating the proposed district: PROVIDED, That the
15 boundaries of the district may not be enlarged unless the property
16 owners within the area to be added consent to their inclusion in
17 writing; or unless the board gives the property owners of the area to
18 be added, written notice, mailed to their regular permanent residences
19 as shown on the latest records of the county auditor, five days prior
20 to a regular or continued hearing upon the formation of the proposed
21 district;

22 (3) A full definition or explanation of the nature of development
23 rights to be financed by the proposed district;

24 (4) Whether or not the objectives of the district are feasible;

25 (5) The number or name of the district.

26 If satisfactory findings cannot be made by the board, the petition
27 shall be dismissed, and no petition embracing the same area may be
28 accepted or heard for at least two years.

29 NEW SECTION. **Sec. 10.** (1) Upon making findings under the
30 provisions of section 9 of this act, the county legislative authority
31 shall, by resolution, order an election of the voters of the proposed
32 district to determine if the district shall be formed. The county
33 legislative authority shall in their resolution direct the county
34 auditor to set the election to be held at the next general election or
35 at a special election held for such purpose; describe the purposes of
36 the proposed district; set forth the estimated cost of any initial
37 expenses to be financed by the district should it be formed; describe

1 the method of financing the initial expenses described in the
2 resolution or petition; and order that notice of election be published
3 in a newspaper of general circulation in the county at least twice
4 prior to the election date.

5 (2) A proposition to form a district shall be submitted to the
6 voters of the proposed district. Upon approval by a majority of the
7 voters voting on the proposition, a district shall be established. The
8 proposition submitted to the voters by the county auditor on the ballot
9 shall be in substantially the following form:

10 FORMATION OF OPEN SPACE
11 PROTECTION DISTRICT

12 Shall an open space protection district be established for the area
13 described in a resolution of the legislative authority of
14 county, adopted on the day of 19. . . , to provide
15 financing for acquisition of development rights?

16 Yes No

17 NEW SECTION. **Sec. 11.** If the petition initiating the formation of
18 the proposed district proposes that the initial capital or operational
19 costs are to be financed by regular property tax levies as authorized
20 by section 16 of this act, or an annual excess levy, a proposition or
21 propositions for such purpose or purposes shall be submitted to the
22 voters of the proposed district at the same election. A proposition or
23 propositions for regular property tax levies as authorized by section
24 16 of this act, or an annual excess levy, may also be submitted to the
25 voters at any general or special election.

26 NEW SECTION. **Sec. 12.** In order for the annual excess tax levy
27 proposition to be approved, voters exceeding in number at least sixty
28 percent of the number of voters who cast ballots for the office of
29 county legislative authority within the district, or within the
30 proposed district, in the last preceding general election for that
31 office must cast ballots on the tax levy proposition, and of all the
32 votes cast at the election at least sixty percent must approve the
33 annual excess tax levy.

1 NEW SECTION. **Sec. 13.** If the formation of the district is
2 approved by the voters, the county legislative authority shall by
3 resolution declare the district to be formed and direct the county
4 treasurer to be the treasurer of the district. Expenditures of the
5 district shall be made upon warrants drawn by the county auditor
6 pursuant to vouchers approved by the governing body of the district.

7 NEW SECTION. **Sec. 14.** If the district is formed, there shall be
8 created in the office of the county treasurer a local open space
9 protection district fund with such accounts as the treasurer may find
10 convenient, or as the state auditor may direct, into which shall be
11 deposited all revenues received by the district from tax levies or from
12 gifts or donations. Such fund shall be designated "(name of county)
13 open space protection district No. . . . fund." Or "(name of
14 district) fund."

15 NEW SECTION. **Sec. 15.** A district shall have the power to levy
16 annual excess levies upon the property included within the district if
17 authorized at a special election called for the purpose in the manner
18 prescribed by section 2, Article VII of the Constitution and by RCW
19 84.52.052 for operating funds, capital outlay funds, and cumulative
20 reserve funds.

21 Any elections shall be held as provided in RCW 39.36.050.

22 NEW SECTION. **Sec. 16.** A district may impose regular property tax
23 levies in an amount equal to twenty-five cents or less per thousand
24 dollars of assessed value of property in the service area when
25 specifically authorized so to do by a majority of at least three-fifths
26 of the voters thereof approving a proposition authorizing the levies
27 submitted not more than twelve months prior to the date on which the
28 proposed initial levy is to be made and not more often than twice in
29 such twelve-month period, either at a special election or at the
30 regular election of the district, at which election the number of
31 voters voting "yes" on the proposition shall constitute three-fifths of
32 a number equal to forty percent of the number of voters voting in the
33 district at the last preceding general election when the number of
34 voters voting on the proposition does not exceed forty percent of the
35 number of voters voting in such taxing district in the last preceding
36 general election; or by a majority of at least three-fifths of the

1 voters thereof voting on the proposition if the number of voters voting
2 on the proposition exceeds forty per centum of the number of voters
3 voting in such taxing district in the last preceding general election.
4 A proposition authorizing such tax levies shall not be submitted by a
5 district more than twice in any twelve-month period. Ballot
6 propositions shall conform with RCW 29.30.111. If a district is
7 levying property taxes, which in combination with property taxes levied
8 by other taxing districts result in taxes in excess of the nine-dollar
9 and fifteen cents per thousand dollars of assessed valuation limitation
10 provided for in RCW 84.52.043, the district property tax levy shall be
11 reduced or eliminated before the property tax levies of other taxing
12 districts are reduced.

13 NEW SECTION. **Sec. 17.** The governing body of each district shall
14 annually compile a budget for each district in a form prescribed by the
15 state auditor for the ensuing calendar year which shall, to the extent
16 that anticipated income is actually realized, constitute the
17 appropriations for the district. The budget may include an amount to
18 accumulate a reserve for a stated capital purpose. In compiling the
19 budget, all available funds and anticipated income shall be taken into
20 consideration, including contributions or contractual payments from
21 school districts, cities, or towns, county or any other governmental
22 entity, gifts and donations, special tax levy, fees and charges, and
23 cumulative reserve funds.

24 NEW SECTION. **Sec. 18.** A district may reimburse the county for any
25 charge incurred by the county current expense fund which is properly an
26 expense of the district, including reasonable administrative costs not
27 to exceed two percent incurred by the offices of county treasurer and
28 the county auditor in providing accounting, clerical, or other services
29 for the benefit of the district. The county legislative authority may,
30 where a county purchasing department has been established, provide for
31 the purchase of all supplies and equipment for a district through the
32 department. The district may contract with the county to administer
33 purchasing.

34 NEW SECTION. **Sec. 19.** (1) A district may include any
35 unincorporated area in the state, and when any part of the proposed
36 district lies within the corporate limits of any city or town the

1 petition shall be accompanied by a certified copy of a resolution of
2 the governing body of the city or town, approving inclusion of the
3 district within the corporate limits of the city or town.

4 (2) After a district has been organized, an additional area may be
5 added by the same procedure as is provided in this chapter for the
6 organization of a district, and all voters within both the organized
7 district and the proposed additional area shall vote upon the
8 proposition for enlargement.

9 **Sec. 20.** RCW 36.96.010 and 1979 ex.s. c 5 s 1 are each amended to
10 read as follows:

11 As used in this chapter, unless the context requires otherwise:

12 (1) "Special purpose district" means every municipal and quasi-
13 municipal corporation other than counties, cities, and towns. Such
14 special purpose districts shall include, but are not limited to, water
15 districts, fire protection districts, port districts, public utility
16 districts, county park and recreation service areas, open space
17 protection districts, flood control zone districts, diking districts,
18 drainage improvement districts, and solid waste collection districts,
19 but shall not include industrial development districts created by port
20 districts, and shall not include local improvement districts, utility
21 local improvement districts, and road improvement districts;

22 (2) "Governing authority" means the commission, council, or other
23 body which directs the affairs of a special purpose district;

24 (3) "Inactive" means that a special purpose district, other than a
25 public utility district, is characterized by either of the following
26 criteria:

27 (a) Has not carried out any of the special purposes or functions
28 for which it was formed within the preceding consecutive five-year
29 period; or

30 (b) No election has been held for the purpose of electing a member
31 of the governing body within the preceding consecutive seven-year
32 period or, in those instances where members of the governing body are
33 appointed and not elected, where no member of the governing body has
34 been appointed within the preceding seven-year period.

35 A public utility district is inactive when it is characterized by both
36 criteria (a) and (b) of this subsection.

1 **Sec. 21.** RCW 84.52.052 and 1993 c 284 s 4 are each amended to read
2 as follows:

3 The limitations imposed by RCW 84.52.050 through 84.52.056, and RCW
4 84.52.043 shall not prevent the levy of additional taxes by any taxing
5 district except school districts in which a larger levy is necessary in
6 order to prevent the impairment of the obligation of contracts. As
7 used in this section, the term "taxing district" means any county,
8 metropolitan park district, park and recreation service area, open
9 space protection district, park and recreation district, sewer
10 district, water district, solid waste disposal district, public
11 facilities district, flood control zone district, county rail district,
12 service district, public hospital district, road district, rural county
13 library district, island library district, rural partial-county library
14 district, intercounty rural library district, fire protection district,
15 cemetery district, city, town, transportation benefit district,
16 emergency medical service district with a population density of less
17 than one thousand per square mile, or cultural arts, stadium, and
18 convention district.

19 Any such taxing district may levy taxes at a rate in excess of the
20 rate specified in RCW 84.52.050 through 84.52.056 and 84.52.043, or
21 84.55.010 through 84.55.050, when authorized so to do by the voters of
22 such taxing district in the manner set forth in Article VII, section
23 2(a) of the Constitution of this state, as amended by Amendment 64 and
24 as thereafter amended, at a special or general election to be held in
25 the year in which the levy is made.

26 A special election may be called and the time therefor fixed by the
27 county legislative authority, or council, board of commissioners, or
28 other governing body of any such taxing district, by giving notice
29 thereof by publication in the manner provided by law for giving notices
30 of general elections, at which special election the proposition
31 authorizing such excess levy shall be submitted in such form as to
32 enable the voters favoring the proposition to vote "yes" and those
33 opposed thereto to vote "no."

34 NEW SECTION. **Sec. 22.** Sections 3 through 19 of this act shall
35 constitute a new chapter in Title 36 RCW.

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