

1 5512 AMH LG H2824.1

2 **SB 5512** - H COMM AMD **ADOPTED 4-18-91**
3 By Committee on Local Government

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 56.08 RCW
8 to read as follows:

9 It is unlawful and a misdemeanor to make, or cause to be made, or
10 to maintain any sewer connection with any sewer of any sewer district,
11 or with any sewer which is connected directly or indirectly with any
12 sewer of any sewer district without having permission from the sewer
13 district."

14 "**Sec. 2.** RCW 56.12.015 and 1990 c 259 s 23 are each amended to
15 read as follows:

16 If a three-member board of commissioners of any sewer district with
17 any number of customers determines by resolution (~~(and approves by~~
18 ~~unanimous vote of the board)~~) that it would be in the best interest of
19 the district to increase the number of commissioners from three to
20 five, or if the board of a sewer district with any number of customers
21 is presented with a petition signed by ten percent of the registered
22 voters resident within the district who voted in the last general
23 municipal election calling for an increase in the number of
24 commissioners of the district, the board shall submit a resolution to
25 the county auditor requesting that an election be held. Upon receipt
26 of the resolution, the county auditor shall call a special election to
27 be held within the sewer district in accordance with RCW 29.13.010 and

1 29.13.020, at which election a proposition in substantially the
2 following language shall be submitted to the voters:

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

5 Yes

6 No

7 If the proposition receives a majority approval at the election the
8 board of commissioners of the sewer district shall be increased to five
9 members. In any sewer district with more than ten thousand customers,
10 if a three-member board of commissioners determines by resolution and
11 approves by unanimous vote of the board that it would be in the best
12 interest of the district to increase the number of commissioners from
13 three to five, the number of commissioners shall be so increased,
14 without an election, unless within ninety days of adoption of that
15 resolution, a petition requesting an election and signed by at least
16 ten percent of the registered voters who voted in the last general
17 municipal election is filed with the board. If such a petition is
18 received, the board shall submit the resolution and the petition to the
19 county auditor, who shall call a special election in the manner
20 described in this section and in accordance with the provisions of RCW
21 29.13.010 and 29.13.020.

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

1 after the appointment, at which two commissioners shall be elected for
2 six-year terms."

3 "Sec. 3. RCW 56.20.030 and 1986 c 256 s 2 are each amended to read
4 as follows:

5 Whether the improvement is initiated by petition or resolution, the
6 board shall conduct a public hearing at the time and place designated
7 in the notice to property owners. At this hearing the board shall hear
8 objections from any person affected by the formation of the local
9 district and may make such changes in the boundaries of the district or
10 such modifications in plans for the proposed improvement as shall be
11 deemed necessary. The board may not change the boundaries of the
12 district to include property not previously included in it without
13 first passing a new resolution of intention and giving a new notice to
14 property owners in the manner and form and within the time provided in
15 this chapter for the original notice.

16 After the hearing and the expiration of the ten-day period for
17 filing written protests, the commissioners shall have jurisdiction to
18 overrule protests and proceed with any such improvement initiated by
19 petition or resolution. The jurisdiction of the commissioners to
20 proceed with any improvement initiated by resolution shall be divested:

21 (a) By protests filed with the secretary of the board ((before the
22 public hearing)) no later than ten days after the hearing, signed by
23 the owners, according to the records of the county auditor, of at least
24 forty percent of the area of land within the proposed local district or

25 (b) by the commissioners not adopting a resolution ordering the
26 improvement at a public hearing held not more than ninety days from the
27 day the resolution of intention was adopted, unless the commissioners
28 file with the county auditor a copy of the notice required by RCW

1 56.20.020, and in no event at a hearing held more than two years from
2 the day the resolution of intention was adopted.

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

20 Following an appeal, if it is unsuccessful or if no appeal is made
21 under RCW 56.20.080, the commissioners may proceed with the improvement
22 and provide the general funds of the sewer district to be applied
23 thereto, adopt detailed plans of the utility local improvement district
24 and declare the estimated cost thereof, acquire all necessary land
25 therefor, pay all damages caused thereby, and commence in the name of
26 the sewer district such eminent domain proceedings and supplemental
27 assessment or reassessment proceedings to pay all eminent domain awards
28 as may be necessary to entitle the district to proceed with the work.
29 The board of sewer commissioners shall proceed with the work and file
30 with the county treasurer of each county in which the real property is

1 to be assessed its roll levying special assessments in the amount to be
2 paid by special assessment against the property situated within the
3 local improvement district in proportion to the special benefits to be
4 derived by the property therein from the improvement."

5 "Sec. 4. RCW 56.20.080 and 1971 ex.s. c 272 s 11 are each amended
6 to read as follows:

7 The decision of the sewer commission upon any objections made
8 within the time and in the manner herein prescribed, may be reviewed by
9 the superior court upon an appeal thereto taken in the following
10 manner. Such appeal shall be made by filing written notice of appeal
11 with the secretary of said sewer commission and with the clerk of the
12 superior court in the county in which the real property is situated
13 within ten days after publication of a notice that the resolution
14 confirming such assessment roll has been adopted, and such notice of
15 appeal shall describe the property and set forth the objections of such
16 appellant to such assessment. Within ten days from the filing of such
17 notice of appeal with the clerk of the superior court, the appellant
18 shall file with the clerk of said court, a transcript consisting of the
19 assessment roll and his or her objections thereto, together with the
20 resolution confirming such assessment roll and the record of the sewer
21 district commission with reference to said assessment, which
22 transcript, upon payment of the necessary fees therefor, shall be
23 furnished by such secretary of said sewer commission and by him or her
24 certified to contain full, true and correct copies of all matters and
25 proceedings required to be included in such transcript. Such fees shall
26 be the same as the fees payable to the county clerk for the preparation
27 and certification of transcripts on appeal to the supreme court or the
28 court of appeals in civil actions. At the time of the filing of the
29 notice of appeal with the clerk of the superior court a sufficient bond

1 in the penal sum of two hundred dollars, with sureties thereon as
2 provided by law for appeals in civil cases, shall be filed conditioned
3 to prosecute such appeal without delay, and if unsuccessful, to pay all
4 costs to which the sewer district is put by reason of such appeal. The
5 court may order the appellant upon application therefor, to execute and
6 file such additional bond or bonds as the necessity of the case may
7 require. Within three days after such transcript is filed in the
8 superior court, as aforesaid, the appellant shall give written notice
9 to the secretary of such sewer district, that such transcript is filed.
10 Said notice shall state a time, not less than three days from the
11 service thereof, when the appellant will call up the said cause for
12 hearing. The superior court shall, at said time or at such further
13 time as may be fixed by order of the court, hear and determine such
14 appeal without a jury, and such cause shall have preference over all
15 civil causes pending in said court, except proceedings under an act
16 relating to eminent domain in such sewer district and actions of
17 forcible entry and detainer. The judgment of the court shall confirm,
18 unless the court shall find from the evidence that such assessment is
19 either founded upon a fundamentally wrong basis or a decision of the
20 council or other legislative body thereon was arbitrary or capricious,
21 or both; in which event the judgment of the court shall correct, modify
22 or annul the assessment insofar as the same affects the property of the
23 appellant. A certified copy of the decision of the court shall be
24 filed with the officer who shall have the custody of the assessment
25 roll, and he or she shall modify and correct such assessment roll in
26 accordance with such decision. An appeal shall lie to the supreme
27 court or the court of appeals from the judgment of the superior court,
28 as in other cases, however, such appeal must be taken within fifteen
29 days after the date of the entry of the judgment of such superior
30 court, and the record and opening brief of the appellant in said cause

1 shall be filed in the supreme court or the court of appeals within
2 sixty days after the appeal shall have been taken by notice as provided
3 in this title. The time for filing such record and serving and filing
4 of briefs in this section prescribed may be extended by order of the
5 superior court, or by stipulation of the parties concerned. The
6 supreme court or the court of appeals on such appeal may correct,
7 change, modify, confirm or annul the assessment insofar as the same
8 affects the property of the appellant. A certified copy of the order
9 of the supreme court or the court of appeals upon such appeal shall be
10 filed with the officer having custody of such assessment roll, who
11 shall thereupon modify and correct such assessment roll in accordance
12 with such decision."

13 "NEW SECTION. **Sec. 5.** A new section is added to chapter 57.08 RCW
14 to read as follows:

15 It is unlawful and a misdemeanor to make, or cause to be made, or
16 to maintain any sewer connection with any sewer of any water district,
17 or with any sewer which is connected directly or indirectly with any
18 sewer of any water district without having permission from the water
19 district."

20 **"Sec. 6.** RCW 57.12.015 and 1990 c 259 s 29 are each amended to
21 read as follows:

22 In the event a three-member board of commissioners of any water
23 district with any number of customers determines by resolution ((~~and~~
24 ~~approves by unanimous vote of the board~~)) that it would be in the best
25 interest of the district to increase the number of commissioners from
26 three to five, or in the event the board of a district with any number
27 of customers is presented with a petition signed by ten percent of the
28 registered voters resident within the district who voted in the last

1 general municipal election calling for an increase in the number of
2 commissioners of the district, the board shall submit a resolution to
3 the county auditor requesting that an election be held. Upon receipt
4 of the resolution, the county auditor shall call a special election to
5 be held within the water district in accordance with RCW 29.13.010 and
6 29.13.020, at which election a proposition in substantially the
7 following language shall be submitted to the voters:

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

11 Yes

12 No

13 If the proposition receives a majority approval at the election the
14 board of commissioners of the water district shall be increased to five
15 members. In any water district with more than ten thousand customers,
16 if a three-member board of commissioners determines by resolution and
17 approves by unanimous vote of the board that it would be in the best
18 interest of the district to increase the number of commissioners from
19 three to five, the number of commissioners shall be so increased,
20 without an election, unless within ninety days of adoption of that
21 resolution a petition requesting an election and signed by at least ten
22 percent of the registered voters who voted in the last general
23 municipal election is filed with the board. If such a petition is
24 received, the board shall submit the resolution and the petition to the
25 county auditor, who shall call a special election in the manner
26 described in this section and in accordance with the provisions of RCW
27 29.13.010 and 29.13.020.

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

9 "**Sec. 7.** RCW 57.16.060 and 1986 c 256 s 3 are each amended to read
10 as follows:

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

20 In case the board of water commissioners desires to initiate the
21 formation of a local improvement district or a utility local
22 improvement district by resolution, it shall first pass a resolution
23 declaring its intention to order such improvement, setting forth the
24 nature and territorial extent of such proposed improvement, designating
25 the number of the proposed local improvement district or utility local
26 improvement district, and describing the boundaries thereof, stating
27 the estimated cost and expense of the improvement and the proportionate
28 amount thereof which will be borne by the property within the proposed

1 district, and fixing a date, time, and place for a public hearing on
2 the formation of the proposed local district.

3 In case any such local improvement district or utility local
4 improvement district is initiated by petition, such petition shall set
5 forth the nature and territorial extent of the proposed improvement
6 requested to be ordered and the fact that the signers thereof are the
7 owners according to the records of the applicable county auditor of at
8 least fifty-one percent of the area of land within the limits of the
9 local improvement district or utility local improvement district to be
10 created. Upon the filing of such petition the board shall determine
11 whether the petition is sufficient, and the board's determination
12 thereof shall be conclusive upon all persons. No person may withdraw
13 his or her name from the petition after it has been filed with the
14 board of water commissioners. If the board finds the petition to be
15 sufficient, it shall proceed to adopt a resolution declaring its
16 intention to order the improvement petitioned for, setting forth the
17 nature and territorial extent of the improvement, designating the
18 number of the proposed local district and describing the boundaries
19 thereof, stating the estimated cost and expense of the improvement and
20 the proportionate amount thereof which will be borne by the property
21 within the proposed local district, and fixing a date, time, and place
22 for a public hearing on the formation of the proposed local district.

23 Notice of the adoption of the resolution of intention, whether the
24 resolution was adopted on the initiative of the board or pursuant to a
25 petition of the property owners, shall be published in at least two
26 consecutive issues of a newspaper of general circulation in the
27 proposed local district, the date of the first publication to be at
28 least fifteen days prior to the date fixed by such resolution for
29 hearing before the board of water commissioners. Notice of the
30 adoption of the resolution of intention shall also be given each owner

1 or reputed owner of any lot, tract, parcel of land, or other property
2 within the proposed improvement district by mailing the notice at least
3 fifteen days before the date fixed for the public hearing to the owner
4 or reputed owner of the property as shown on the tax rolls of the
5 county treasurer of the county in which the real property is located at
6 the address shown thereon. Whenever such notices are mailed, the water
7 commissioners shall maintain a list of such reputed property owners,
8 which list shall be kept on file at a location within the water
9 district and shall be made available for public perusal. The notices
10 shall refer to the resolution of intention and designate the proposed
11 improvement district by number. The notices shall also set forth the
12 nature of the proposed improvement, the total estimated cost, the
13 proportion of total cost to be borne by assessments, the date, time,
14 and place of the hearing before the board of water commissioners. In
15 the case of improvements initiated by resolution, the notice shall
16 also: (1) State that all persons desiring to object to the formation of
17 the proposed district must file their written protests with the
18 secretary of the board of water commissioners no later than ten days
19 after the public hearing; (2) state that if owners of at least forty
20 percent of the area of land within the proposed district file written
21 protests with the secretary of the board, the power of the water
22 commissioners to proceed with the creation of the proposed district
23 shall be divested; (3) provide the name and address of the secretary of
24 the board; and (4) state the hours and location within the water
25 district where the names of the property owners within the proposed
26 district are kept available for public perusal. In the case of the
27 notice given each owner or reputed owner by mail, the notice shall set
28 forth the estimated amount of the cost and expense of such improvement
29 to be borne by the particular lot, tract, parcel of land, or other
30 property.

1 Whether the improvement is initiated by petition or resolution, the
2 board shall conduct a public hearing at the time and place designated
3 in the notice to property owners. At this hearing the board shall hear
4 objections from any person affected by the formation of the local
5 district and may make such changes in the boundaries of the district or
6 such modifications in the plans for the proposed improvement as shall
7 be deemed necessary. The board may not change the boundaries of the
8 district to include property not previously included in it without
9 first passing a new resolution of intention and giving a new notice to
10 property owners in the manner and form and within the time provided in
11 this chapter for the original notice.

12 After the hearing and the expiration of the ten-day period for
13 filing written protests, the commissioners shall have jurisdiction to
14 overrule protests and proceed with any such improvement initiated by
15 petition or resolution. The jurisdiction of the commissioners to
16 proceed with any improvement initiated by resolution shall be divested
17 by protests filed with the secretary of the board (~~before the public~~
18 ~~hearing~~) no later than ten days after the hearing, signed by the
19 owners, according to the records of the applicable county auditor, of
20 at least forty percent of the area of land within the proposed local
21 district.

22 If the commissioners find that the district should be formed, they
23 shall by resolution form the district and order the improvement. After
24 execution of the resolution forming the district, the secretary of the
25 board of commissioners shall publish, in a legal publication that
26 serves the area subject to the district, a notice setting forth that a
27 resolution has been passed forming the district and that a lawsuit
28 challenging the jurisdiction or authority of the water district to
29 proceed with the improvement and creating the district must be filed,
30 and notice to the water district served, within thirty days of the

1 publication of the notice. The notice shall set forth the nature of
2 the appeal. Property owners bringing the appeal shall follow the
3 procedures as set forth under appeal under RCW 57.16.090. Whenever a
4 resolution forming a district has been adopted, the formation is
5 conclusive in all things upon all parties, and cannot be contested or
6 questioned in any manner in any proceeding whatsoever by any person not
7 commencing a lawsuit in the manner and within the time provided in this
8 section, except for lawsuits made under RCW 57.16.090.

9 Following an appeal, if it is unsuccessful or if no appeal is made
10 under RCW 57.16.090, the commissioners may proceed with the improvement
11 and provide the general funds of the water district to be applied
12 thereto, adopt detailed plans of the local improvement district or
13 utility local improvement district and declare the estimated cost
14 thereof, acquire all necessary land therefor, pay all damages caused
15 thereby, and commence in the name of the water district such eminent
16 domain proceedings as may be necessary to entitle the district to
17 proceed with the work. The board shall thereupon proceed with the work
18 and file with the county treasurer of the county in which the real
19 property is located its roll levying special assessments in the amount
20 to be paid by special assessment against the property situated within
21 the improvement district in proportion to the special benefits to be
22 derived by the property therein from the improvement."

23 "**Sec. 8.** RCW 57.16.090 and 1988 c 202 s 53 are each amended to
24 read as follows:

25 The decision of the water district commission upon any objections
26 made within the time and in the manner herein prescribed, may be
27 reviewed by the superior court upon an appeal thereto taken in the
28 following manner. Such appeal shall be made by filing written notice
29 of appeal with the secretary of said water district commission and with

1 the clerk of the superior court in the county in which the real
2 property is situated within ten days after publication of a notice that
3 the resolution confirming such assessment roll has been adopted, and
4 such notice of appeal shall describe the property and set forth the
5 objections of such appellant to such assessment; and within ten days
6 from the filing of such notice of appeal with the clerk of the superior
7 court, the appellant shall file with the clerk of the court, a
8 transcript consisting of the assessment roll and the appellant's
9 objections thereto, together with the resolution confirming such
10 assessment roll and the record of the water district commission with
11 reference to the assessment, which transcript, upon payment of the
12 necessary fees therefor, shall be furnished by the secretary of the
13 water district commission certified by the secretary to contain full,
14 true and correct copies of all matters and proceedings required to be
15 included in such transcript. Such fees shall be the same as the fees
16 payable to the county clerk for the preparation and certification of
17 transcripts on appeal to the supreme court or the court of appeals in
18 civil actions. At the time of the filing of the notice of appeal with
19 the clerk of the superior court a sufficient bond in the penal sum of
20 two hundred dollars, with at least two sureties, to be approved by the
21 judge of said court, conditioned to prosecute such appeal without
22 delay, and if unsuccessful to pay all costs to which the water district
23 is put by reason of such appeal. The court may order the appellant
24 upon application therefor, to execute and file such additional bond or
25 bonds as the necessity of the case may require. Within three days
26 after such transcript is filed in the superior court, the appellant
27 shall give written notice to the secretary of such water district, that
28 such transcript is filed. The notice shall state a time, not less than
29 three days from the service thereof, when the appellant will call up
30 the cause for hearing; and the superior court shall, at said time or at

1 such further time as may be fixed by order of the court, hear and
2 determine such appeal without a jury; and such cause shall have
3 preference over all civil causes pending in the court, except
4 proceedings under an act relating to eminent domain and actions of
5 forcible entry and detainer. The judgment of the court shall confirm,
6 unless the court shall find from the evidence that such assessment is
7 either founded upon the fundamentally wrong basis or a decision of the
8 council or other legislative body thereon was arbitrary or capricious,
9 or both; in which event the judgment of the court shall correct, modify
10 or annul the assessment insofar as the same affects the property of the
11 appellant. A certified copy of the decision of the court shall be
12 filed with the officer who shall have custody of the assessment roll,
13 who shall modify and correct such assessment roll in accordance with
14 such decision. Appellate review of the judgment of the superior court
15 may be sought as in other civil cases. However, the review must be
16 sought within fifteen days after the date of the entry of the judgment
17 of such superior court. A certified copy of the order of the supreme
18 court or the court of appeals upon such appeal shall be filed with the
19 officer having custody of such assessment roll, who shall thereupon
20 modify and correct such assessment roll in accordance with such
21 decision."

22 **SB 5512** - H COMM AMD
23 By Committee on Local Government

24
25 On page 1, line 1 of the title, after "districts;" strike the
26 remainder of the title and insert "amending RCW 56.12.015, 56.20.030,
27 56.20.080, 57.12.015, 57.16.060, and 57.16.090; adding a new section to
28 chapter 56.08 RCW; adding a new section to chapter 57.08 RCW; and
29 prescribing penalties."