

HOUSE BILL REPORT

HB 1379

*As Passed House
March 14, 1991*

Title: An act relating to sewer and water districts.

Brief Description: Prohibiting connection of a sewer without approval of sewer district.

Sponsor(s): Representatives Cooper, Wood, Haugen and Zellinsky.

Brief History:

Reported by House Committee on:
Local Government, March 6, 1991, DP;
Passed House, March 14, 1991, 96-0.

**HOUSE COMMITTEE ON
LOCAL GOVERNMENT**

Majority Report: *Do pass.* Signed by 15 members: Representatives Haugen, Chair; Cooper, Vice Chair; Ferguson, Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Edmondson; Franklin; Horn; Nealey; Nelson; Rayburn; Roland; Wood; Wynne; and Zellinsky.

Staff: Bill Lynch (786-7092).

Background:

Unauthorized Sewer Hookups

It is unlawful to make or maintain a sewer connection with any sewer of a city or town, or with any sewer which is connected directly or indirectly with any sewer of a city or town, without permission from the city or town. Any unauthorized connection to a city sewer is punishable as a misdemeanor. No similar provision currently exists in law for unauthorized connections to sewers maintained by a sewer district or a water district.

Inconsistencies in Procedures to Form a LID/ULID by Resolution

When a sewer district forms a local improvement district or when a water district forms a utility local improvement

district by resolution, it must be done pursuant to the following procedure:

(1) It must pass a resolution declaring its intention to create the district. The resolution must describe the boundaries of the proposed district, estimate the cost of the improvement, and the proportion of the cost to be paid by the property in the district. The resolution must state when and where a public meeting will be held on the issue of forming the district.

(2) Notice concerning the formation of the district must be sent to every property owner within the proposed district. Notice must also be published at least twice in a newspaper of general circulation in the area. **The notice must state that all persons wanting to object to the formation of the district must file their written protests to the board no later than 10 days after the public hearing.** If owners of at least 40 percent of the area of land within the proposed district file written protests with the board, the board is divested of the power to proceed with the creation of the district. The notice must state that the actual assessments may vary from the assessment estimates.

(3) The board must conduct a public hearing to hear objections from people affected by the formation of the local district. The board may adjust the boundaries of the proposed district, but may not include any new property within the boundaries without passing a new resolution and providing notice to property owners.

(4) **After the hearing, the board may overrule protests and proceed with the improvement. The jurisdiction of the board to proceed with any improvement is divested if owners of at least 40 percent of the area of land within the proposed district file written protests with the board before the public hearing.** If the commissioners agree that the district should be formed, they must pass a resolution ordering its formation. The board must publish the resolution and include a notice stating that any lawsuit challenging the formation of the district must be filed within 30 days of the publication of the notice.

(5) Any appeal of the board's action is filed in superior court. The court either confirms, corrects, modifies, or annuls the assessment as it affects the property of the appellant. Any appeal of the superior court decision must be made in 15 days after the date of the entry of the judgment.

(6) If the appeal is either unsuccessful or no appeal is made, the board proceeds with the improvement. The board

must file the assessment roll with the county treasurer. The assessment roll is considered conclusive upon all things and upon all parties and cannot be contested once it is confirmed by the board.

(7) Before the assessments are approved, the board must give notice and hear any protests of the property owners. The board may correct, change, or modify the roll, or set aside the roll and order a new assessment. Appeals may be made to superior court.

There is an inconsistency in statute over when property owners must file protests to the board over the creation of the district. One section of law states that the protests must be filed no later than 10 days after the public hearing. Another section of law states that the protests must be filed with the board before the public hearing.

Standard for Judicial Review

The city local improvement district statutes provide a standard of review that a superior court must use when considering an appeal of a city council's decision concerning assessments. The court must confirm the decision unless it finds from the evidence that the assessment is founded upon a fundamentally wrong basis, or the decision was arbitrary or capricious, or both. There is no standard of review set forth in statute for a court to review an appeal of a water district or sewer district board's decision concerning assessments.

Summary of Bill: It is unlawful to make or maintain a sewer connection with any sewer of a sewer district or water district, or with any sewer which is connected directly or indirectly with any sewer of a sewer district or water district, without permission from the sewer or water district. Any unlawful connection to a sewer district or water district sewer is punishable as a misdemeanor.

Written protests concerning the formation of a local improvement/utility local improvement district must be filed with the board of a water district or sewer district no later than 10 days after the public hearing on formation of the local improvement district.

A standard of review is established for a court to use in reviewing an appeal of a sewer district or water district board's decision concerning assessments. The court must confirm the board's action unless it finds from the evidence that the assessment is either founded upon the fundamentally wrong basis, or a decision of the legislative body was arbitrary and capricious, or both.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Water and sewer districts should have the same powers as cities in regards to unauthorized hookups to a sewer. This will also remove an inconsistency in the law and provide greater protection to homeowners.

Testimony Against: None.

Witnesses: Jim Salatino, Washington Sewer Districts Association; and Joe Daniels, Washington State Association of Water/Wastewater Districts.