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HOUSE BILL 1527

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Mulliken, Miloscia, Scott, Doumit, Grant and Ericksen

Read first time 01/27/1999. Referred to Committee on Local Government.

1 AN ACT Relating to assumptions of water-sewer districts by cities  
2 and towns; adding new sections to chapter 35.13A RCW; creating a new  
3 section; and repealing RCW 35.13A.010, 35.13A.020, 35.13A.030,  
4 35.13A.0301, 35.13A.040, 35.13A.050, 35.13A.060, 35.13A.070,  
5 35.13A.080, 35.13A.100, 35.13A.110, and 35.13A.900.

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

7 NEW SECTION. **Sec. 1.** The definitions in this section apply  
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "City" means a city or town organized and operating under the  
10 provisions of Title 35 or 35A RCW.

11 (2) "District" means a water-sewer district organized and operating  
12 under the provisions of Title 57 RCW.

13 (3) "Property of a district" includes all property of every kind  
14 and nature belonging to a district, including real and personal  
15 property, franchises, contractual and other rights, taxes levied but  
16 not collected for the district for other than indebtedness, assets,  
17 water and water rights, water and sewer lines, capital facilities, and  
18 other facilities and equipment.

1 (4) "Management and operation of a district" includes: (a)  
2 Managing, controlling, maintaining, and operating a district, its  
3 property, and a waterworks or system of sewerage and drainage; (b)  
4 fixing, levying, and collecting district taxes, assessments, and other  
5 service charges and rates from owners and occupants of properties  
6 served by a district; (c) ensuring performance of a district's  
7 contractual and statutory obligations; and (d) performing acts  
8 otherwise necessary to furnish the inhabitants of a district with a  
9 supply of water and a system of sewers.

10 NEW SECTION. **Sec. 2.** (1) Proceedings under this chapter may be  
11 initiated in the following circumstances:

12 (a) If all the territory of a district is located within the  
13 corporate boundaries of a city, the legislative body of the city may  
14 adopt an ordinance declaring its intent to assume and acquire  
15 jurisdiction over the entirety of the district, including the property  
16 of the district and the management and operation of the district, and  
17 its intent to dissolve the district.

18 (b) If a portion of the territory of a district is located within  
19 the corporate boundaries of a city, the legislative body of the city  
20 may adopt an ordinance declaring its intent to assume and acquire  
21 jurisdiction over that portion of the property of the district and that  
22 portion of the management and operation of the district located within  
23 the city.

24 (c) If sixty percent or more of the territory of a district is  
25 located within the corporate boundaries of a city, and the city has  
26 obtained, through interlocal agreements, consent to assume from all  
27 other cities and counties located in whole or in part within the  
28 territory of the district, the legislative body of the city may adopt  
29 an ordinance declaring its intent to assume and acquire jurisdiction  
30 over the entirety of the district, including the property of the  
31 district and the management and operation of the district, and its  
32 intent to dissolve the district.

33 (d) If a city has previously assumed and acquired jurisdiction over  
34 a portion of the property and the management and operation of a  
35 district, the district may initiate proceedings to cause the city to  
36 assume the remainder of the property and the management and operation  
37 of the district. The legislative body of the district may initiate  
38 these assumption proceedings by adopting a resolution declaring its

1 intent to cause the city to assume and acquire jurisdiction over the  
2 entirety of the district, including the property of the district and  
3 the management and operation of the district, and its intent to  
4 dissolve the district.

5 (2) If there is a service agreement in effect under chapter 36.115  
6 RCW covering district territory, a city may not initiate an assumption  
7 under this chapter unless the governing bodies of all local  
8 governments, other than the district, that are parties to the service  
9 agreement consent to the assumption.

10 NEW SECTION. **Sec. 3.** (1) Actions taken under this chapter are  
11 subject to potential review by a boundary review board under chapter  
12 36.93 RCW or an annexation review board under RCW 35A.14.200.

13 (2) In a county with a boundary review board, the city or district  
14 shall submit its notice of intention to the boundary review board  
15 within one hundred eighty days after adoption of the assumption  
16 ordinance or resolution. In addition to the information required by  
17 RCW 36.93.130, the notice of intention shall include a copy of all  
18 required interlocal and consent agreements.

19 (3) When evaluating a proposed assumption and the objectives set  
20 forth in RCW 36.93.180, and in particular the objective set forth in  
21 RCW 36.93.180(3), the boundary review board shall consider: (a)  
22 Whether the district is a regional service provider; (b) whether the  
23 proposed assumption benefits the city and the territory assumed; and  
24 (c) whether the proposed assumption is conducive to the general welfare  
25 of the balance of the district, if any. Review shall otherwise be  
26 conducted in accordance with the provisions of chapter 36.93 RCW.

27 (4) In a county without a boundary review board, the city or  
28 district shall submit its assumption ordinance or resolution to the  
29 county's annexation review board pursuant to RCW 35A.14.200 within one  
30 hundred eighty days after adoption of the assumption ordinance or  
31 resolution. A copy of all required interlocal and consent agreements  
32 shall also be filed with the annexation review board.

33 (5) When evaluating a proposed assumption, the annexation review  
34 board, in addition to the factors set forth in RCW 35A.14.200, shall  
35 consider: (a) Whether the objectives set forth in RCW 36.93.180, and  
36 in particular the objective set forth in RCW 36.93.180(3), are met; (b)  
37 whether the district is a regional service provider; (c) whether the  
38 proposed assumption benefits the city and the territory assumed; and

1 (d) whether the proposed assumption is conducive to the general welfare  
2 of the balance of the district, if any. Review shall otherwise be  
3 conducted in accordance with the provisions of RCW 35A.14.200 and  
4 35A.14.210.

5 NEW SECTION. **Sec. 4.** (1) If the proposed assumption has received  
6 approval from the boundary review board or county annexation review  
7 board, the legislative body of the city or district initiating the  
8 assumption shall adopt a resolution calling for a ballot proposition to  
9 be submitted to the qualified voters of the district with regard to the  
10 proposed assumption. This ballot proposition shall not be submitted to  
11 the appropriate election officer for a period of one hundred twenty  
12 days to permit public comment and discussion.

13 (2) The ballot proposition for the assumption shall be submitted to  
14 the qualified voters of the entire district at the next general or  
15 special election occurring after submittal of the ballot proposition to  
16 the appropriate election officer. The ballot proposition and the  
17 notice of the assumption election shall describe with particularity the  
18 boundaries of the area proposed to be assumed by the city and require  
19 the voters to cast ballots which shall contain the words "for  
20 assumption" and "against assumption." If the proposed assumption is  
21 over the entirety of the district, including the property of the  
22 district and the management and operation of the district, the ballot  
23 proposition and the notice of the assumption election shall also call  
24 for the dissolution of the district. The notice shall be posted for at  
25 least two weeks prior to the date of the election in ten public places  
26 within the area proposed to be assumed by the city and published at  
27 least once a week for two weeks prior to the date of the election in a  
28 newspaper of general circulation within the limits of the territory  
29 proposed to be assumed. Such notice shall be in addition to notice  
30 required by general election law. The election shall otherwise be  
31 conducted in accordance with general election law. The cost of the  
32 election shall be borne by the initiator of the assumption.

33 (3) The proposition for or against assumption shall be deemed  
34 approved if a majority of the votes cast on that proposition are cast  
35 in favor of assumption. If a majority of the votes cast on that  
36 proposition are cast against assumption, all proceedings to assume  
37 shall cease, and no new assumption may be initiated for a period of  
38 four years from the date of the election.

1 (4) If the city initiates an assumption, and the city does not own  
2 a waterworks or system of sewers, or has not received approval for such  
3 in its charter or by election at the time it adopts its original  
4 ordinance to assume and acquire jurisdiction over all or a portion of  
5 the district, it shall include in its resolution calling for the ballot  
6 proposition on the proposed assumption a call for a second ballot  
7 proposition to be submitted to the qualified voters of the entire city  
8 in accordance with RCW 35.92.070. The second ballot proposition shall  
9 call for a vote to ratify or reject the city's original ordinance  
10 authorizing the acquisition of a waterworks or system of sewers by the  
11 proposed assumption. The second ballot proposition shall be submitted  
12 to the voters of the city at the same election that the first ballot  
13 proposition on the proposed assumption is submitted to the voters of  
14 the district. The cost of the election shall be borne by the city.  
15 The election shall otherwise be conducted in accordance with general  
16 election law.

17 (5) The proposition for or against the original ordinance  
18 authorizing the acquisition of a waterworks or system of sewers by the  
19 proposed assumption shall be approved if a majority of the votes cast  
20 on that proposition are cast in favor of ratifying the original  
21 ordinance. If a majority of the votes cast on that proposition are  
22 cast against the original ordinance, all proceedings to assume shall  
23 cease, and no new assumption may be initiated by the city for a period  
24 of four years from the date of the election.

25 NEW SECTION. **Sec. 5.** If voter approval has been received under  
26 this chapter to proceed with an assumption and acquisition of  
27 jurisdiction over all or a portion of the property of the district and  
28 the management and operation of the district, such assumption shall be  
29 effective, and title to the district's property shall pass to the city,  
30 on the later of December 31st or six months after the date final  
31 approval is obtained, and all appeals have been exhausted, including  
32 appeals under chapter 36.93 RCW or RCW 35A.14.200 and 35A.14.210. If  
33 a city assumes and acquires jurisdiction over all the property of the  
34 district and the management and operation of the district, the district  
35 shall be dissolved as of the effective date of the assumption.

36 NEW SECTION. **Sec. 6.** (1) A city and a district may enter into an  
37 agreement upon such terms as their respective legislative authorities

1 deem appropriate whereby the city agrees to assume and acquire  
2 jurisdiction over all or a portion of the property of the district and  
3 the management and operation of the district. No voter approval of  
4 such an assumption and acquisition is required.

5 (2) If the city agreeing to an assumption does not own a waterworks  
6 or system of sewers at the time, or has not received approval for such  
7 in its charter or by election, it shall adopt an ordinance to assume  
8 and acquire jurisdiction over all or a portion of the district and  
9 shall in its ordinance call for a ballot proposition to be submitted to  
10 the qualified voters of the entire city in accordance with RCW  
11 35.92.070. The agreement of a city and a district under this section  
12 shall not take effect unless this ballot proposition is approved by a  
13 majority of the votes cast on that proposition.

14 (3) The agreement of a city and a district under this section are  
15 subject to referendum for forty-five days after the agreement's  
16 effective date. Upon the filing of a timely and sufficient referendum  
17 petition with the board of commissioners of the district, signed by  
18 registered voters in number equal to not less than ten percent of the  
19 registered voters in the area to be assumed by the city who voted in  
20 the last general election, the question of assumption shall be  
21 submitted to the voters of such area for confirmation or rejection in  
22 the next general election if one is to be held within one hundred  
23 eighty days from the date of filing of the referendum petition, or at  
24 a special election to be called for that purpose in accordance with RCW  
25 29.13.010 and 29.13.020. The election shall otherwise be conducted in  
26 accordance with the provisions of section 4 of this act.

27 NEW SECTION. **Sec. 7.** If a city has assumed and acquired  
28 jurisdiction over a portion of the property and the management and  
29 operation of a district, and the territory of the district included  
30 within the city contains facilities serving or designed to serve any  
31 portion of the district outside the corporate limits of the city, or if  
32 the territory lying within the district and outside the city contains  
33 facilities serving or designed to serve territory included within the  
34 city, the city or district shall for the economically useful life of  
35 the facilities make available sufficient capacity to serve the sewage  
36 or water requirements of such territory, to the extent that the  
37 facilities were designed to serve such territory at a rate charged to  
38 the municipality being served which is reasonable to all parties.

NEW SECTION.

**Sec. 8.**

(1) If a city has assumed and acquired jurisdiction over all the property and the management and operation of a district, the city shall assume and perform all outstanding contractual obligations of the district in accordance with the terms, conditions, and covenants incident to the outstanding contracts. No assumption shall impair the obligation of any indebtedness or other contractual obligation of the district.

(2) If a city has assumed and acquired jurisdiction over all the property and the management and operation of a district, such property is acquired subject to any financial, statutory, or contractual obligations, the security or performance of which such property may have been pledged. The city, in addition to its other powers, shall have the power to manage, control, maintain, and operate the district's property. The city shall have the power to fix and collect service charges and other charges from owners and occupants of properties served by the district, subject to any outstanding contractual obligations of the district and indebtedness of the district payable from taxes, assessments, or other revenues.

(3) If a city has assumed and acquired jurisdiction over all the property and the management and operation of a district, the city shall assume the obligation of paying any district indebtedness. The city shall levy and collect, or cause to be collected, such district taxes, assessments, and utility rates and charges necessary to pay and secure the payment of the district's indebtedness in accordance with the terms, conditions, and covenants incident to the indebtedness. Until the outstanding indebtedness of the district has been discharged, the territory of the district and the owners and occupants of property within the district shall continue to be liable for their proportionate shares of the indebtedness, including any outstanding assessments levied within any local improvement district or utility local improvement district.

(4) The legislative body of the city shall act as the officers of the district for the purpose of certifying the amount of any taxes, assessments, and utility rates and charges to be levied and collected from property or owners and occupants of property within the district. The legislative body of the city shall enforce collection of taxes, assessments, and utility rates and charges levied and shall perform all other acts necessary to ensure performance of the district's contractual obligations in the same manner and by the same means as if

1 the territory and property of the district had not been assumed by the  
2 city.

3 (5) Any funds received by the city, collected for the purpose of  
4 paying any bond or other indebtedness of the district, shall be used  
5 for the purpose for which they were collected and for no other purpose.  
6 Any outstanding indebtedness of the district shall be paid as provided  
7 in the bond covenants. All funds of the district on deposit with the  
8 county treasurer at the time of title transfer shall be used by the  
9 city solely for the benefit of the utility and shall not be transferred  
10 to or used for the benefit of the city's general fund.

11 (6) If a city has assumed and acquired jurisdiction over a portion  
12 of the property and the management and operation of a district, such  
13 property shall be acquired subject to all financial, statutory, or  
14 contractual obligations of the district for the security or performance  
15 of which the property may have been pledged. In those circumstances,  
16 the property included within the city and the owners and occupants  
17 thereof shall continue to be liable for payment of their proportionate  
18 shares of any outstanding district indebtedness. The district and its  
19 officers shall continue to levy taxes and assessments on and to collect  
20 service and other charges from such property, or owners or occupants  
21 thereof, to enforce such collections and to perform all other acts  
22 necessary to ensure performance of the district's contractual  
23 obligations in the same manner and by the same means as if the  
24 territory and property of the district had not been assumed by the  
25 city. No such partial assumption shall impair the obligation of any  
26 indebtedness or other contractual obligation of the district.

27 NEW SECTION. **Sec. 9.** This act applies to any assumption of all or  
28 part of a district by a city that has not received approval by a  
29 boundary review board or the superior court under chapter 36.93 RCW or  
30 the superior court under RCW 35.13A.080, as of July 1, 1999.

31 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
32 each repealed:

- 33 (1) RCW 35.13A.010 and 1998 c 326 s 1 & 1971 ex.s. c 95 s 1;
- 34 (2) RCW 35.13A.020 and 1998 c 326 s 2 & 1971 ex.s. c 95 s 2;
- 35 (3) RCW 35.13A.030 and 1971 ex.s. c 95 s 3;
- 36 (4) RCW 35.13A.0301 and 1998 c 326 s 3;
- 37 (5) RCW 35.13A.040 and 1971 ex.s. c 95 s 4;



- 1 (6) RCW 35.13A.050 and 1971 ex.s. c 95 s 5;
- 2 (7) RCW 35.13A.060 and 1971 ex.s. c 95 s 6;
- 3 (8) RCW 35.13A.070 and 1997 c 426 s 2 & 1971 ex.s. c 95 s 7;
- 4 (9) RCW 35.13A.080 and 1997 c 426 s 3 & 1971 ex.s. c 95 s 8;
- 5 (10) RCW 35.13A.100 and 1994 c 292 s 5;
- 6 (11) RCW 35.13A.110 and 1997 c 426 s 1; and
- 7 (12) RCW 35.13A.900 and 1971 ex.s. c 95 s 12.

8 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act are added  
9 to chapter 35.13A RCW.

10 NEW SECTION. **Sec. 12.** If any provision of this act or its  
11 application to any person or circumstance is held invalid, the  
12 remainder of the act or the application of the provision to other  
13 persons or circumstances is not affected.

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