
SENATE BILL 6266

State of Washington

56th Legislature

2000 Regular Session

By Senators Eide and Fraser

Read first time . Referred to Committee on .

1 AN ACT Relating to habitat protection; and amending RCW 35.67.010,
2 36.89.010, 36.89.030, 36.94.010, 36.94.020, 85.38.180, 86.15.010, and
3 86.15.100.

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

5 **Sec. 1.** RCW 35.67.010 and 1997 c 447 s 7 are each amended to read
6 as follows:

7 A "system of sewerage" means and may include any or all of the
8 following:

9 (1) Sanitary sewage collection, treatment, and/or disposal
10 facilities and services, on-site or off-site sanitary sewerage
11 facilities, inspection services and maintenance services for public or
12 private on-site systems, or any other means of sewage treatment and
13 disposal approved by the city;

14 (2) Combined sanitary sewage disposal and storm or surface water
15 sewers;

16 (3) Natural or constructed storm or surface water (~~sewers~~)
17 facilities;

18 (4) Outfalls for storm drainage or sanitary sewage and works,
19 plants, and facilities for storm drainage or sanitary sewage treatment

1 and disposal, and rights and interests in property relating to the
2 system, including the acquisition, protection, maintenance,
3 restoration, and rehabilitation of aquatic resources and fish habitat;

4 (5) Combined water and sewerage systems;

5 (6) Point and nonpoint water pollution monitoring programs that are
6 directly related to the sewerage facilities and programs operated by a
7 city or town;

8 (7) Public restroom and sanitary facilities; and

9 (8) Any combination of or part of any or all of such facilities.

10 The words "public utility" when used in this chapter has the same
11 meaning as the words "system of sewerage."

12 **Sec. 2.** RCW 36.89.010 and 1970 ex.s. c 30 s 1 are each amended to
13 read as follows:

14 The words "governmental agency" as used in this chapter mean the
15 United States of America, the state or any agency, subdivision, taxing
16 district or municipal or quasi municipal corporation thereof.

17 The word "highways" as used in this chapter means all public roads,
18 streets, expressways, parkways, scenic drives, bridges and other public
19 ways, including without limitation, traffic control facilities, special
20 lanes, turnouts or structures in, upon, over or under such public ways
21 for exclusive or nonexclusive use by public transit vehicles, and
22 landscaping, visual and sound buffers between such public ways and
23 adjacent properties.

24 The words "open space, park, recreation and community facilities"
25 as used in this chapter mean any public facility, improvement,
26 development, property or right or interest therein for public park,
27 recreational, green belt, arboretum, multi-purpose community center (as
28 defined in RCW 35.59.010), museum, zoo, aquarium, auditorium,
29 exhibition, athletic, historic, scenic, viewpoint, aesthetic,
30 ornamental or natural resource preservation purposes.

31 The words "public health and safety facilities" as used in this
32 chapter mean any public facility, improvement, development, property or
33 right or interest therein, made, constructed or acquired for the
34 purpose of protecting life from disease or injury, enforcing the
35 criminal and civil laws or protecting property from damage caused by
36 breach of law, including but not limited to public hospitals, health
37 laboratories, public health clinics or service centers, custodial,
38 correction or rehabilitation facilities, courtrooms, crime

1 laboratories, law enforcement equipment and facilities, training
2 facilities for specialized personnel, facilities for the collection,
3 storage, retrieval or communication of information, and mobile, support
4 or administrative facilities, all as necessary for the foregoing
5 purpose, or any combination of the facilities herein described.

6 The words "storm water control facilities" as used in this chapter
7 mean any facility, natural or constructed, improvement, development,
8 property or interest therein, made, constructed, maintained, restored,
9 rehabilitated, used, or acquired for the purpose of controlling, or
10 protecting life or property, as well as aquatic resources and fish
11 habitat, from, any storm, waste, flood or surplus waters wherever
12 located within the county, and shall include but not be limited to the
13 improvements and authority described in RCW 86.12.020 and chapters
14 86.13 and 86.15 RCW.

15 The word "county" as used in this chapter shall mean any county of
16 the state of Washington.

17 **Sec. 3.** RCW 36.89.030 and 1984 c 7 s 42 are each amended to read
18 as follows:

19 Counties are authorized to establish, acquire, develop, construct,
20 maintain, protect, restore, rehabilitate, and improve open space, park,
21 recreation, and community facilities, public health and safety
22 facilities, storm water control facilities, and highways or any of them
23 pursuant to the provisions of this chapter within and without the
24 cities and towns of the county and for such purposes have the power to
25 acquire lands, buildings and other facilities by gift, grant, purchase,
26 condemnation, lease, devise, and bequest, to construct, improve, or
27 maintain buildings, structures, and facilities necessary for such
28 purposes, and to use and develop for such purposes the air rights over
29 and the subsurface rights under any highway. The approval of the state
30 department of transportation shall be first secured for such use and
31 development of any state highway. For visual or sound buffer purposes
32 the county shall not acquire by condemnation less than an owner's
33 entire interest or right in the particular real property to be so
34 acquired if the owner objects to the taking of a lesser interest or
35 right.

36 **Sec. 4.** RCW 36.94.010 and 1997 c 447 s 10 are each amended to read
37 as follows:

1 As used in this chapter:

2 (1) A "system of sewerage" means and may include any or all of the
3 following:

4 (a) Sanitary sewage collection, treatment, and/or disposal
5 facilities and services, including without limitation on-site or off-
6 site sanitary sewerage facilities, inspection services and maintenance
7 services for private or public on-site systems, or any other means of
8 sewage treatment and disposal approved by the county;

9 (b) Combined sanitary sewage disposal and storm or surface water
10 drains and facilities;

11 (c) Natural or constructed storm or surface water drains, channels,
12 and facilities;

13 (d) Outfalls for storm drainage or sanitary sewage and works,
14 plants, and facilities for storm drainage or sanitary sewage treatment
15 and disposal, and rights and interests in property relating to the
16 system;

17 (e) Combined water and sewerage systems;

18 (f) Point and nonpoint water pollution monitoring programs that are
19 directly related to the sewerage facilities and programs operated by a
20 county;

21 (g) Public restroom and sanitary facilities;

22 (h) The facilities and services authorized in RCW 36.94.020; and

23 (i) Any combination of or part of any or all of such facilities.

24 (2) A "system of water" means and includes:

25 (a) A water distribution system, including dams, reservoirs,
26 aqueducts, aquifers and other ground water resources, plants, pumping
27 stations, transmission and lateral distribution lines and other
28 facilities for distribution of water;

29 (b) A combined water and sewerage system;

30 (c) Any combination of or any part of any or all of such
31 facilities.

32 (3) A "sewerage and/or water general plan" means a general plan for
33 a system of sewerage and/or water for the county which shall be an
34 element of the comprehensive plan established by the county pursuant to
35 RCW 36.70.350(6) and/or chapter 35.63 RCW, if there is such a
36 comprehensive plan.

37 (a) A sewerage general plan shall include the general location and
38 description of treatment and disposal facilities, trunk and interceptor
39 sewers, pumping stations, monitoring and control facilities, channels,

1 local service areas and a general description of the collection system
2 to serve those areas, a description of on-site sanitary sewerage system
3 inspection services and maintenance services, and other facilities and
4 services as may be required to provide a functional and implementable
5 plan, including preliminary engineering to assure feasibility. The
6 plan may also include a description of the regulations deemed
7 appropriate to carrying out surface drainage plans.

8 (b) A water general plan shall include the general location and
9 description of water resources to be utilized, wells, treatment
10 facilities, transmission lines, storage reservoirs, pumping stations,
11 and monitoring and control facilities as may be required to provide a
12 functional and implementable plan.

13 (c) Water and/or sewerage general plans shall include preliminary
14 engineering in adequate detail to assure technical feasibility and, to
15 the extent then known, shall further discuss the methods of
16 distributing the cost and expense of the system and shall indicate the
17 economic feasibility of plan implementation. The plans may also
18 specify local or lateral facilities and services. The sewerage and/or
19 water general plan does not mean the final engineering construction or
20 financing plans for the system.

21 (4) "Municipal corporation" means and includes any city, town,
22 metropolitan municipal corporation, any public utility district which
23 operates and maintains a sewer or water system, any sewer, water,
24 diking, or drainage district, any diking, drainage, and sewerage
25 improvement district, and any irrigation district.

26 (5) A "private utility" means and includes all utilities, both
27 public and private, which provide sewerage and/or water service and
28 which are not municipal corporations within the definition of this
29 chapter. The ownership of a private utility may be in a corporation,
30 nonprofit or for profit, in a cooperative association, in a mutual
31 organization, or in individuals.

32 (6) "Board" means one or more boards of county commissioners and/or
33 the legislative authority of a home rule charter county.

34 **Sec. 5.** RCW 36.94.020 and 1997 c 447 s 11 are each amended to read
35 as follows:

36 The construction, operation, ~~((and))~~ maintenance, restoration, and
37 rehabilitation of a system of sewerage and/or water is a county
38 purpose. Subject to the provisions of this chapter, every county has

1 the power, individually or in conjunction with another county or
2 counties to adopt, provide for, accept, establish, condemn, purchase,
3 construct, add to, operate, ((and)) maintain, restore, and rehabilitate
4 a system or systems of sanitary and storm sewers, including outfalls,
5 interceptors, plans, and facilities and services necessary for sewerage
6 treatment and disposal, and/or system or systems of water supply within
7 all or a portion of the county. However, counties shall not have power
8 to condemn sewerage and/or water systems of any municipal corporation
9 or private utility.

10 Such county or counties shall have the authority to control,
11 regulate, operate, and manage such system or systems and to provide
12 funds therefor by general obligation bonds, revenue bonds, local
13 improvement district bonds, utility local improvement district or local
14 improvement district assessments, and in any other lawful fiscal
15 manner. Rates or charges for on-site inspection and maintenance
16 services may not be imposed under this chapter on the development,
17 construction, or reconstruction of property.

18 Under this chapter, after July 1, 1998, any requirements for
19 pumping the septic tank of an on-site sewage system should be based,
20 among other things, on actual measurement of accumulation of sludge and
21 scum by a trained inspector, trained owner's agent, or trained owner.
22 Training must occur in a program approved by the state board of health
23 or by a local health officer.

24 Before adopting on-site inspection and maintenance utility
25 services, or incorporating residences into an on-site inspection and
26 maintenance or sewer utility under this chapter, notification must be
27 provided, prior to the applicable public hearing, to all residences
28 within the proposed service area that have on-site systems permitted by
29 the local health officer. The notice must clearly state that the
30 residence is within the proposed service area and must provide
31 information on estimated rates or charges that may be imposed for the
32 service.

33 A county shall not provide on-site sewage system inspection,
34 pumping services, or other maintenance or repair services under this
35 section using county employees unless the on-site system is connected
36 by a publicly owned collection system to the county's sewerage system,
37 and the on-site system represents the first step in the sewage disposal
38 process. Nothing in this section shall affect the authority of a state

1 or local health officer to carry out their responsibilities under any
2 other applicable law.

3 A county may, as part of a system of sewerage established under
4 this chapter, provide for, finance, and operate any of the facilities
5 and services and may exercise the powers expressly authorized for
6 county storm water, flood control, pollution prevention, and drainage
7 services and activities under chapters 36.89, 86.12, 86.13, and 86.15
8 RCW. A county also may provide for, finance, and operate the
9 facilities and services and may exercise any of the powers authorized
10 for aquifer protection areas under chapter 36.36 RCW; for lake
11 management districts under chapter 36.61 RCW; for diking districts, and
12 diking, drainage, and sewerage improvement districts under chapters
13 85.05, 85.08, 85.15, 85.16, and 85.18 RCW; and for shellfish protection
14 districts under chapter 90.72 RCW. Additionally, as part of a system
15 of storm, surface water, sewerage, or water facilities, a county may
16 provide for the acquisition, protection, maintenance, restoration, and
17 rehabilitation of aquatic resources and fish habitat. However, if a
18 county by reference to any of those statutes assumes as part of its
19 system of sewerage any powers granted to such areas or districts and
20 not otherwise available to a county under this chapter, then (1) the
21 procedures and restrictions applicable to those areas or districts
22 apply to the county's exercise of those powers, and (2) the county may
23 not simultaneously impose rates and charges under this chapter and
24 under the statutes authorizing such areas or districts for
25 substantially the same facilities and services, but must instead impose
26 uniform rates and charges consistent with RCW 36.94.140. By agreement
27 with such an area or district that is not part of a county's system of
28 sewerage, a county may operate that area's or district's services or
29 facilities, but a county may not dissolve any existing area or district
30 except in accordance with any applicable provisions of the statute
31 under which that area or district was created.

32 **Sec. 6.** RCW 85.38.180 and 1991 c 349 s 17 are each amended to read
33 as follows:

34 A special district may:

35 (1) Engage in flood control activities, and investigate, plan,
36 construct, acquire, repair, maintain, and operate improvements, works,
37 projects, programs, and facilities necessary to prevent inundation or
38 flooding from rivers, streams, tidal waters or other waters. Such

1 natural or constructed facilities include dikes, levees, dams, banks,
2 revetments, channels, canals, ((and)) ditches, other ((works))
3 facilities and water bodies, appliances, machinery, and equipment.

4 (2) Engage in drainage control, storm water control, and surface
5 water control activities, and investigate, plan, construct, acquire,
6 repair, maintain, and operate improvements, works, projects, and
7 facilities necessary to control, protect, manage, and treat storm
8 water, surface water, and flood water. Such natural or constructed
9 facilities include drains, ditches, canals, other water bodies,
10 nonsanitary sewers, pumps, and other ((works)) facilities, appliances,
11 machinery, and equipment.

12 (3) Engage in lake or river restoration, aquatic plant control, and
13 water quality enhancement activities, including providing for the
14 acquisition, protection, maintenance, restoration, and rehabilitation
15 of aquatic resources and fish habitat.

16 (4) Take actions necessary to protect life and property from
17 inundation or flow of flood waters, storm waters, or surface waters.

18 (5) Acquire, purchase, condemn by power of eminent domain pursuant
19 to chapters 8.08 and 8.25 RCW, or lease, in its own name, necessary
20 property, property rights, facilities, and equipment.

21 (6) Sell or exchange surplus property, property rights, facilities,
22 and equipment.

23 (7) Accept funds and property by loan, grant, gift, or otherwise
24 from the United States, the state of Washington, or any other public or
25 private source.

26 (8) Hire staff, employees, or services, or use voluntary labor.

27 (9) Sue and be sued.

28 (10) Cooperate with or join the United States, the state of
29 Washington, or any other public or private entity or person for
30 district purposes.

31 (11) Enter into contracts.

32 (12) Exercise any of the usual powers of a corporation for public
33 purposes.

34 **Sec. 7.** RCW 86.15.010 and 1983 c 315 s 11 are each amended to read
35 as follows:

36 The definitions set forth in this section apply through this
37 chapter.

38 (1) "Board" means the county legislative authority.

1 (2) "Flood control improvement" means any works, projects,
2 programs, or (~~either~~) facilities necessary for the control of flood
3 waters within the county or any zone or zones.

4 (3) "Flood waters" and "storm waters" means any storm waste or
5 surplus waters, including surface water, wherever located within the
6 county or a zone or zones where such waters endanger public highways,
7 streams and water courses, harbors, life, or property.

8 (4) "Participating zones" means two or more zones found to benefit
9 from a single flood control improvement or storm water control
10 improvement.

11 (5) "Storm water control improvement" means any works, projects,
12 programs, or (~~either~~) facilities, both natural or constructed,
13 necessary to control, protect, manage, and treat storm water within the
14 county or any zone or zones.

15 (6) "Supervisors" means the board of supervisors, or governing
16 body, of a zone.

17 (7) "Zones" means flood control zone districts which are quasi
18 municipal corporations of the state of Washington created by this
19 chapter.

20 **Sec. 8.** RCW 86.15.100 and 1983 c 315 s 14 are each amended to read
21 as follows:

22 The supervisors may authorize the construction, extension,
23 enlargement, repair, maintenance, provision, or acquisition of
24 necessary flood control or storm water control improvements within the
25 zone or any participating zones. The improvements may include, but
26 shall not be limited to the extension, enlargement, repair,
27 maintenance, construction, or acquisition of dikes and levees, drain
28 and drainage systems, dams and reservoirs, or other flood control or
29 storm water control improvements; widening, straightening, or
30 relocating of stream or water courses; and the acquisition, extension,
31 enlargement, repair, maintenance, or construction of any works
32 necessary for the protection, restoration, and rehabilitation of
33 aquatic resources, fish habitat, stream and water courses, channels,
34 harbors, life, and property.

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