

SENATE BILL REPORT

SB 5069

As Reported By Senate Committee On:
Land Use & Planning, February 27, 2003

Title: An act relating to assumptions of water-sewer districts by cities and towns.

Brief Description: Modifying procedures for assumptions of water-sewer districts by cities or towns.

Sponsors: Senators Haugen, Mulliken, Kline, T. Sheldon, Swecker and Schmidt.

Brief History:

Committee Activity: Land Use & Planning: 1/30/03, 2/27/03 [DPS].

SENATE COMMITTEE ON LAND USE & PLANNING

Majority Report: That Substitute Senate Bill No. 5069 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mulliken, Chair; Kline, McCaslin, Morton and T. Sheldon.

Staff: Jennifer Arnold (786-7471)

Background: The assumption of water-sewer districts has been a source of dispute and litigation between the districts and cities in recent years. The primary points of contention have revolved around the services and costs associated with the operation of these districts, as well as the distribution of a district's assets and liabilities when an assumption occurs.

Under current law, a city may assume all or part of a water-sewer district that lies within the city's boundaries. If more than 60 percent of the district's area or assessed value lies within the city's boundaries, the city may assume up to the entire district by ordinance.

If less than 60 percent of the district's area and less than 60 percent of the district's value lies within the city boundaries, the city may assume at most the portion of the district that lies within that city's boundaries and the district residents must vote to approve whether the city is permitted to operate and maintain the entire district.

Summary of Substitute Bill: A new process is established for the assumption of a water-sewer district. In the event a city has adopted a resolution or ordinance to assume all or part of a water-sewer district, the city must then petition the district to begin the conveyance process to transfer the district's water system to the city.

Under the conveyance process, if the board of commissioners for the district decides that it is in the best interests of the district for a city to assume all or part of the district, the board submits the proposal to the district's consumers for a vote. If the consumers approve the conveyance by a majority vote, the board of commissioners for the district may then enter

into a contract wherein both the city and the district agree to the terms regarding the maintenance and repair of the water-sewer district.

The city, however, is not required to maintain and repair the district's water system, until all of the district's outstanding debt has been paid, with the exception of local improvement district bonds.

If the water-sewer district finds it to be in the best interests of the district to have water-sewer services provided by a cooperative, mutual association, or corporation, the board of commissioners for the water-sewer district can, by resolution, disincorporate the district. In the event the district is disincorporated, the property of the district is transferred to the association, cooperative, or corporation. The terms and conditions of the transfer are determined in a mutually agreed upon contract between the new association, cooperative, or corporation and the district. In consideration for acquiring the district property, the association, cooperative, or corporation pays all of the district's outstanding debt.

The local county government must hold a public hearing on the disincorporation of the water-sewer district to determine whether it is in the consumers' best interests. If found to be in their best interests, the matter is put to the registered voters of the district for their approval in a special election.

Any residual property, not disposed of in the disincorporation agreement, is sold and all proceeds go to school districts, after payment of any outstanding debt.

Substitute Bill Compared to Original Bill: There are no longer additional factors that the boundary review boards must consider in partial assumptions. The boards are no longer required to hire consultants, at the city's expense, to prepare reports incorporating those factors. The boards are not required to make final decisions as to the division of assets and liabilities. The city assuming the district is not required to install and maintain water consumption meters at the city's expense. If a city assumes a water-sewer district and subsequently imposes a business and occupation tax, it is not mandatory that the city pass an ordinance specifically imposing the tax and provide for a referendum procedure.

A new process for the assumption of a water-sewer district is established.

A process for the disincorporation of a water-sewer district is established.

It is clarified that the water-sewer district board of commissioners must initiate the conveyance process after a city or town has passed an ordinance or resolution indicating its desire to assume the water-sewer district.

Appropriation: None.

Fiscal Note: Requested on January 22, 2003.

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

Testimony For: The boundary review boards should act as mediators between the cities and counties, but the bill should not contain a requirement for a referendum procedure; rather,

local elected officials should make these decisions. The current assumption review process is unacceptable. There is a need to have objective third party mediators to resolve assumption disputes between the counties and cities and this role could be served by the boundary review boards. Further, this bill attempts to correct the boards' tendencies to consider only geo-political boundaries that are not necessarily applicable to utility districts which are dependent on various pressure zones and high points.

Testimony Against: The cities do not support the requirement of being financially responsible for the costs of consultants to be hired by the board. The bill is unnecessary because the statute as it currently exists addresses all the factors the boards should consider in reviewing proposed assumptions and in general, very few assumptions result in contentious disputes. The boundary review boards oppose the mandatory requirement to divide assets, as they believe it will increase their exposure to legal liability and increase costs to the counties.

Testified: Senator Haugen, prime sponsor (pro); Joe Danick, Hal Schlomann, WA Assn. of Sewer and Water Districts (pro); Tom Pehdon, Coal Creek Utility District (pro); Dave Williams, Assn. of WA Cities (con); Phil Watkins, Lakehaven Utility District (pro); Lloyd Warren, Bob Mack, City of Bellevue (concerns).