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HOUSE BILL 2970

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State of Washington                      58th Legislature                      2004 Regular Session

By Representatives Clements, Chandler and Crouse

Read first time 01/26/2004. Referred to Committee on Local Government.

1            AN ACT Relating to rate-based user charges for municipal water,  
2 sewer, natural gas, and drainage services; and amending RCW 35.58.220,  
3 35.67.020, 35.92.020, 36.89.080, 36.94.140, 53.08.040, 57.08.005, and  
4 82.02.020.

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

6            **Sec. 1.** RCW 35.58.220 and 1999 c 153 s 34 are each amended to read  
7 as follows:

8            If a metropolitan municipal corporation shall be authorized to  
9 perform the function of metropolitan water supply, it shall have the  
10 following powers in addition to the general powers granted by this  
11 chapter:

12            (1) To prepare a comprehensive plan for the development of sources  
13 of water supply, trunk supply mains and water treatment and storage  
14 facilities for the metropolitan area.

15            (2) To acquire by purchase, condemnation, gift or grant and to  
16 lease, construct, add to, improve, replace, repair, maintain, operate  
17 and regulate the use of metropolitan facilities for water supply within  
18 or without the metropolitan area, including buildings, structures,  
19 water sheds, wells, springs, dams, settling basins, intakes, treatment

1 plants, trunk supply mains and pumping stations, together with all  
2 lands, property, equipment and accessories necessary to enable the  
3 metropolitan municipal corporation to obtain and develop sources of  
4 water supply, treat and store water and deliver water through trunk  
5 supply mains. Water supply facilities which are owned by a city or  
6 special district may be acquired or used by the metropolitan municipal  
7 corporation only with the consent of the legislative body of the city  
8 or special district owning such facilities. Cities and special  
9 districts are hereby authorized to convey or lease such facilities to  
10 metropolitan municipal corporations or to contract for their joint use  
11 on such terms as may be fixed by agreement between the legislative body  
12 of such city or special district and the metropolitan council, without  
13 submitting the matter to the voters of such city or special district.

14 (3) To fix rates and charges for water supplied by the metropolitan  
15 municipal corporation. Charges imposed under this section for capital  
16 costs must be recovered using rate-based user charges.

17 (4) To acquire by purchase, condemnation, gift or grant and to  
18 lease, construct, add to, improve, replace, repair, maintain, operate  
19 and regulate the use of facilities for the local distribution of water  
20 in portions of the metropolitan area not contained within any city, or  
21 water-sewer district that operates a water system, and, with the  
22 consent of the legislative body of any city or the water-sewer  
23 district, to exercise such powers within such city or water-sewer  
24 district and for such purpose to have all the powers conferred by law  
25 upon such city or water-sewer district with respect to such local  
26 distribution facilities. All costs of such local distribution  
27 facilities shall be paid for by the area served thereby.

28 **Sec. 2.** RCW 35.67.020 and 2003 c 394 s 1 are each amended to read  
29 as follows:

30 (1) Every city and town may construct, condemn and purchase,  
31 acquire, add to, maintain, conduct, and operate systems of sewerage and  
32 systems and plants for refuse collection and disposal together with  
33 additions, extensions, and betterments thereto, within and without its  
34 limits. Every city and town has full jurisdiction and authority to  
35 manage, regulate, and control them and, except as provided in  
36 subsection (3) of this section, to fix, alter, regulate, and control  
37 the rates and charges for their use.

1 (2) Subject to subsection (3) of this section, the rates charged  
2 under this section must be uniform for the same class of customers or  
3 service and facilities furnished. In classifying customers served or  
4 service and facilities furnished by such system of sewerage, the city  
5 or town legislative body may in its discretion consider any or all of  
6 the following factors:

7 (a) The difference in cost of service and facilities to the various  
8 customers;

9 (b) The location of the various customers within and without the  
10 city or town;

11 (c) The difference in cost of maintenance, operation, repair, and  
12 replacement of the various parts of the system;

13 (d) The different character of the service and facilities furnished  
14 various customers;

15 (e) The quantity and quality of the sewage delivered and the time  
16 of its delivery;

17 (f) The achievement of water conservation goals and the  
18 discouragement of wasteful water use practices;

19 (g) Capital contributions made to the system, including but not  
20 limited to, assessments;

21 (h) The nonprofit public benefit status, as defined in RCW  
22 24.03.490, of the land user; and

23 (i) Any other matters which present a reasonable difference as a  
24 ground for distinction.

25 (3) The rate a city or town may charge under this section for storm  
26 or surface water sewer systems or the portion of the rate allocable to  
27 the storm or surface water sewer system of combined sanitary sewage and  
28 storm or surface water sewer systems shall be reduced by a minimum of  
29 ten percent for any new or remodeled commercial building that utilizes  
30 a permissive rainwater harvesting system. Rainwater harvesting systems  
31 shall be properly sized to utilize the available roof surface of the  
32 building. The jurisdiction shall consider rate reductions in excess of  
33 ten percent dependent upon the amount of rainwater harvested.

34 (4) Rates or charges for on-site inspection and maintenance  
35 services may not be imposed under this chapter on the development,  
36 construction, or reconstruction of property.

37 (5) A city or town may provide assistance to aid low-income persons  
38 in connection with services provided under this chapter.

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

7 (7) Before adopting on-site inspection and maintenance utility  
8 services, or incorporating residences into an on-site inspection and  
9 maintenance or sewer utility under this chapter, notification must be  
10 provided, prior to the applicable public hearing, to all residences  
11 within the proposed service area that have on-site systems permitted by  
12 the local health officer. The notice must clearly state that the  
13 residence is within the proposed service area and must provide  
14 information on estimated rates or charges that may be imposed for the  
15 service.

16 (8) A city or town shall not provide on-site sewage system  
17 inspection, pumping services, or other maintenance or repair services  
18 under this section using city or town employees unless the on-site  
19 system is connected by a publicly owned collection system to the city  
20 or town's sewerage system, and the on-site system represents the first  
21 step in the sewage disposal process. Nothing in this section shall  
22 affect the authority of state or local health officers to carry out  
23 their responsibilities under any other applicable law.

24 (9) Capital costs for sewerage and refuse collection must be  
25 recovered using rate-based user charges.

26 **Sec. 3.** RCW 35.92.020 and 2003 c 394 s 2 are each amended to read  
27 as follows:

28 (1) A city or town may construct, condemn and purchase, purchase,  
29 acquire, add to, alter, maintain, and operate systems, plants, sites,  
30 or other facilities of sewerage as defined in RCW 35.67.010, or solid  
31 waste handling as defined by RCW 70.95.030. A city or town shall have  
32 full authority to manage, regulate, operate, control, and, except as  
33 provided in subsection (3) of this section, to fix the price of service  
34 and facilities of those systems, plants, sites, or other facilities  
35 within and without the limits of the city or town.

36 (2) Subject to subsection (3) of this section, the rates charged  
37 shall be uniform for the same class of customers or service and

1 facilities. In classifying customers served or service and facilities  
2 furnished by a system or systems of sewerage, the legislative authority  
3 of the city or town may in its discretion consider any or all of the  
4 following factors:

5 (a) The difference in cost of service and facilities to customers;  
6 (b) The location of customers within and without the city or town;  
7 (c) The difference in cost of maintenance, operation, repair, and  
8 replacement of the parts of the system;

9 (d) The different character of the service and facilities furnished  
10 to customers;

11 (e) The quantity and quality of the sewage delivered and the time  
12 of its delivery;

13 (f) Capital contributions made to the systems, plants, sites, or  
14 other facilities, including but not limited to, assessments;

15 (g) The nonprofit public benefit status, as defined in RCW  
16 24.03.490, of the land user; and

17 (h) Any other factors that present a reasonable difference as a  
18 ground for distinction.

19 (3) The rate a city or town may charge under this section for storm  
20 or surface water sewer systems or the portion of the rate allocable to  
21 the storm or surface water sewer system of combined sanitary sewage and  
22 storm or surface water sewer systems shall be reduced by a minimum of  
23 ten percent for any new or remodeled commercial building that utilizes  
24 a permissive rainwater harvesting system. Rainwater harvesting systems  
25 shall be properly sized to utilize the available roof surface of the  
26 building. The jurisdiction shall consider rate reductions in excess of  
27 ten percent dependent upon the amount of rainwater harvested. Capital  
28 costs for sewerage and solid waste handling must be recovered using  
29 rate-based user charges.

30 (4) Rates or charges for on-site inspection and maintenance  
31 services may not be imposed under this chapter on the development,  
32 construction, or reconstruction of property.

33 (5) A city or town may provide assistance to aid low-income persons  
34 in connection with services provided under this chapter.

35 (6) Under this chapter, after July 1, 1998, any requirements for  
36 pumping the septic tank of an on-site sewage system should be based,  
37 among other things, on actual measurement of accumulation of sludge and

1 scum by a trained inspector, trained owner's agent, or trained owner.  
2 Training must occur in a program approved by the state board of health  
3 or by a local health officer.

4 (7) Before adopting on-site inspection and maintenance utility  
5 services, or incorporating residences into an on-site inspection and  
6 maintenance or sewer utility under this chapter, notification must be  
7 provided, prior to the applicable public hearing, to all residences  
8 within the proposed service area that have on-site systems permitted by  
9 the local health officer. The notice must clearly state that the  
10 residence is within the proposed service area and must provide  
11 information on estimated rates or charges that may be imposed for the  
12 service.

13 (8) A city or town shall not provide on-site sewage system  
14 inspection, pumping services, or other maintenance or repair services  
15 under this section using city or town employees unless the on-site  
16 system is connected by a publicly owned collection system to the city  
17 or town's sewerage system, and the on-site system represents the first  
18 step in the sewage disposal process. Nothing in this section shall  
19 affect the authority of state or local health officers to carry out  
20 their responsibilities under any other applicable law.

21 **Sec. 4.** RCW 36.89.080 and 2003 c 394 s 3 are each amended to read  
22 as follows:

23 (1) Subject to subsections (2) and (3) of this section, any county  
24 legislative authority may provide by resolution for revenues by fixing  
25 rates and charges for the furnishing of service to those served or  
26 receiving benefits or to be served or to receive benefits from any  
27 storm water control facility or contributing to an increase of surface  
28 water runoff. In fixing rates and charges, the county legislative  
29 authority may in its discretion consider:

30 (a) Services furnished or to be furnished;

31 (b) Benefits received or to be received;

32 (c) The character and use of land or its water runoff  
33 characteristics;

34 (d) The nonprofit public benefit status, as defined in RCW  
35 24.03.490, of the land user;

36 (e) Income level of persons served or provided benefits under this  
37 chapter, including senior citizens and disabled persons; or

1 (f) Any other matters which present a reasonable difference as a  
2 ground for distinction.

3 (2) The rate a county may charge under this section for storm water  
4 control facilities shall be reduced by a minimum of ten percent for any  
5 new or remodeled commercial building that utilizes a permissive  
6 rainwater harvesting system. Rainwater harvesting systems shall be  
7 properly sized to utilize the available roof surface of the building.  
8 The jurisdiction shall consider rate reductions in excess of ten  
9 percent dependent upon the amount of rainwater harvested.

10 (3) Rates and charges authorized under this section may not be  
11 imposed on lands taxed as forest land under chapter 84.33 RCW or as  
12 timber land under chapter 84.34 RCW. Charges imposed under this  
13 section for capital costs must be recovered using rate-based user  
14 charges.

15 (4) The service charges and rates collected shall be deposited in  
16 a special fund or funds in the county treasury to be used only for the  
17 purpose of paying all or any part of the cost and expense of  
18 maintaining and operating storm water control facilities, all or any  
19 part of the cost and expense of planning, designing, establishing,  
20 acquiring, developing, constructing and improving any of such  
21 facilities, or to pay or secure the payment of all or any portion of  
22 any issue of general obligation or revenue bonds issued for such  
23 purpose.

24 **Sec. 5.** RCW 36.94.140 and 2003 c 394 s 4 are each amended to read  
25 as follows:

26 (1) Every county, in the operation of a system of sewerage and/or  
27 water, shall have full jurisdiction and authority to manage, regulate,  
28 and control it. Except as provided in subsection (3) of this section,  
29 every county shall have full jurisdiction and authority to fix, alter,  
30 regulate, and control the rates and charges for the service and  
31 facilities to those to whom such service and facilities are available,  
32 and to levy charges for connection to the system.

33 (2) The rates for availability of service and facilities, and  
34 connection charges so charged must be uniform for the same class of  
35 customers or service and facility. In classifying customers served,  
36 service furnished or made available by such system of sewerage and/or

1 water, or the connection charges, the county legislative authority may  
2 consider any or all of the following factors:

3 (a) The difference in cost of service to the various customers  
4 within or without the area;

5 (b) The difference in cost of maintenance, operation, repair and  
6 replacement of the various parts of the systems;

7 (c) The different character of the service and facilities furnished  
8 various customers;

9 (d) The quantity and quality of the sewage and/or water delivered  
10 and the time of its delivery;

11 (e) Capital contributions made to the system or systems, including,  
12 but not limited to, assessments;

13 (f) The cost of acquiring the system or portions of the system in  
14 making system improvements necessary for the public health and safety;

15 (g) The nonprofit public benefit status, as defined in RCW  
16 24.03.490, of the land user; and

17 (h) Any other matters which present a reasonable difference as a  
18 ground for distinction.

19 (3) The rate a county may charge under this section for storm or  
20 surface water sewer systems or the portion of the rate allocable to the  
21 storm or surface water sewer system of combined sanitary sewage and  
22 storm or surface water sewer systems shall be reduced by a minimum of  
23 ten percent for any new or remodeled commercial building that utilizes  
24 a permissive rainwater harvesting system. Rainwater harvesting systems  
25 shall be properly sized to utilize the available roof surface of the  
26 building. The jurisdiction shall consider rate reductions in excess of  
27 ten percent dependent upon the amount of rainwater harvested. Charges  
28 imposed under this section for capital costs must be recovered using  
29 rate-based user charges.

30 (4) A county may provide assistance to aid low-income persons in  
31 connection with services provided under this chapter.

32 (5) The service charges and rates shall produce revenues sufficient  
33 to take care of the costs of maintenance and operation, revenue bond  
34 and warrant interest and principal amortization requirements, and all  
35 other charges necessary for the efficient and proper operation of the  
36 system.



1       **Sec. 6.** RCW 53.08.040 and 1989 c 298 s 1 are each amended to read  
2 as follows:

3       A district may improve its lands by dredging, filling, bulkheading,  
4 providing waterways or otherwise developing such lands for industrial  
5 and commercial purposes. A district may also acquire, construct,  
6 install, improve, and operate sewer and water utilities to serve its  
7 own property and other property owners under terms, conditions, and  
8 rates to be fixed and approved by the port commission. A district may  
9 also acquire, by purchase, construction, lease, or in any other manner,  
10 and may maintain and operate other facilities for the control or  
11 elimination of air, water, or other pollution, including, but not  
12 limited to, facilities for the treatment and/or disposal of industrial  
13 wastes, and may make such facilities available to others under terms,  
14 conditions and rates to be fixed and approved by the port commission.  
15 Rates imposed under this section for capital costs must be recovered  
16 using rate-based user charges. Such conditions and rates shall be  
17 sufficient to reimburse the port for all costs, including reasonable  
18 amortization of capital outlays caused by or incidental to providing  
19 such other pollution control facilities: PROVIDED, That no part of  
20 such costs of providing any pollution control facility to others shall  
21 be paid out of any tax revenues of the port: AND PROVIDED FURTHER,  
22 That no port shall enter into an agreement or contract to provide sewer  
23 and/or water utilities or pollution control facilities if substantially  
24 similar utilities or facilities are available from another source (or  
25 sources) which is able and willing to provide such utilities or  
26 facilities on a reasonable and nondiscriminatory basis unless such  
27 other source (or sources) consents thereto.

28       In the event that a port elects to make such other pollution  
29 control facilities available to others, it shall do so by lease, lease  
30 purchase agreement, or other agreement binding such user to pay for the  
31 use of said facilities for the full term of the revenue bonds issued by  
32 the port for the acquisition of said facilities, and said payments  
33 shall at least fully reimburse the port for all principal and interest  
34 paid by it on said bonds and for all operating or other costs, if any,  
35 incurred by the port in connection with said facilities: PROVIDED,  
36 HOWEVER, That where there is more than one user of any such facilities,  
37 each user shall be responsible for its pro rata share of such costs and  
38 payment of principal and interest. Any port intending to provide

1 pollution control facilities to others shall first survey the port  
2 district to ascertain the potential users of such facilities and the  
3 extent of their needs. The port shall conduct a public hearing upon  
4 the proposal and shall give each potential user an opportunity to  
5 participate in the use of such facilities upon equal terms and  
6 conditions.

7 **Sec. 7.** RCW 57.08.005 and 2003 c 394 s 5 are each amended to read  
8 as follows:

9 A district shall have the following powers:

10 (1) To acquire by purchase or condemnation, or both, all lands,  
11 property and property rights, and all water and water rights, both  
12 within and without the district, necessary for its purposes. The right  
13 of eminent domain shall be exercised in the same manner and by the same  
14 procedure as provided for cities and towns, insofar as consistent with  
15 this title, except that all assessment or reassessment rolls to be  
16 prepared and filed by eminent domain commissioners or commissioners  
17 appointed by the court shall be prepared and filed by the district, and  
18 the duties devolving upon the city treasurer are imposed upon the  
19 county treasurer;

20 (2) To lease real or personal property necessary for its purposes  
21 for a term of years for which that leased property may reasonably be  
22 needed;

23 (3) To construct, condemn and purchase, add to, maintain, and  
24 supply waterworks to furnish the district and inhabitants thereof and  
25 any other persons, both within and without the district, with an ample  
26 supply of water for all uses and purposes public and private with full  
27 authority to regulate and control the use, content, distribution, and  
28 price thereof in such a manner as is not in conflict with general law  
29 and may construct, acquire, or own buildings and other necessary  
30 district facilities. Where a customer connected to the district's  
31 system uses the water on an intermittent or transient basis, a district  
32 may charge for providing water service to such a customer, regardless  
33 of the amount of water, if any, used by the customer. District  
34 waterworks may include facilities which result in combined water supply  
35 and electric generation, if the electricity generated thereby is a  
36 byproduct of the water supply system. That electricity may be used by  
37 the district or sold to any entity authorized by law to use or

1 distribute electricity. Electricity is deemed a byproduct when the  
2 electrical generation is subordinate to the primary purpose of water  
3 supply. For such purposes, a district may take, condemn and purchase,  
4 acquire, and retain water from any public or navigable lake, river or  
5 watercourse, or any underflowing water, and by means of aqueducts or  
6 pipeline conduct the same throughout the district and any city or town  
7 therein and carry it along and upon public highways, roads, and  
8 streets, within and without such district. For the purpose of  
9 constructing or laying aqueducts or pipelines, dams, or waterworks or  
10 other necessary structures in storing and retaining water or for any  
11 other lawful purpose such district may occupy the beds and shores up to  
12 the high water mark of any such lake, river, or other watercourse, and  
13 may acquire by purchase or condemnation such property or property  
14 rights or privileges as may be necessary to protect its water supply  
15 from pollution. For the purposes of waterworks which include  
16 facilities for the generation of electricity as a byproduct, nothing in  
17 this section may be construed to authorize a district to condemn  
18 electric generating, transmission, or distribution rights or facilities  
19 of entities authorized by law to distribute electricity, or to acquire  
20 such rights or facilities without the consent of the owner;

21 (4) To purchase and take water from any municipal corporation,  
22 private person, or entity. A district contiguous to Canada may  
23 contract with a Canadian corporation for the purchase of water and for  
24 the construction, purchase, maintenance, and supply of waterworks to  
25 furnish the district and inhabitants thereof and residents of Canada  
26 with an ample supply of water under the terms approved by the board of  
27 commissioners;

28 (5) To construct, condemn and purchase, add to, maintain, and  
29 operate systems of sewers for the purpose of furnishing the district,  
30 the inhabitants thereof, and persons outside the district with an  
31 adequate system of sewers for all uses and purposes, public and  
32 private, including but not limited to on-site sewage disposal  
33 facilities, approved septic tanks or approved septic tank systems, on-  
34 site sanitary sewerage systems, inspection services and maintenance  
35 services for private and public on-site systems, point and nonpoint  
36 water pollution monitoring programs that are directly related to the  
37 sewerage facilities and programs operated by a district, other  
38 facilities, programs, and systems for the collection, interception,

1 treatment, and disposal of wastewater, and for the control of pollution  
2 from wastewater with full authority to regulate the use and operation  
3 thereof and the service rates to be charged. Under this chapter, after  
4 July 1, 1998, any requirements for pumping the septic tank of an on-  
5 site sewage system should be based, among other things, on actual  
6 measurement of accumulation of sludge and scum by a trained inspector,  
7 trained owner's agent, or trained owner. Training must occur in a  
8 program approved by the state board of health or by a local health  
9 officer. Sewage facilities may include facilities which result in  
10 combined sewage disposal or treatment and electric generation, except  
11 that the electricity generated thereby is a byproduct of the system of  
12 sewers. Such electricity may be used by the district or sold to any  
13 entity authorized by law to distribute electricity. Electricity is  
14 deemed a byproduct when the electrical generation is subordinate to the  
15 primary purpose of sewage disposal or treatment. For such purposes a  
16 district may conduct sewage throughout the district and throughout  
17 other political subdivisions within the district, and construct and lay  
18 sewer pipe along and upon public highways, roads, and streets, within  
19 and without the district, and condemn and purchase or acquire land and  
20 rights of way necessary for such sewer pipe. A district may erect  
21 sewage treatment plants within or without the district, and may  
22 acquire, by purchase or condemnation, properties or privileges  
23 necessary to be had to protect any lakes, rivers, or watercourses and  
24 also other areas of land from pollution from its sewers or its sewage  
25 treatment plant. For the purposes of sewage facilities which include  
26 facilities that result in combined sewage disposal or treatment and  
27 electric generation where the electric generation is a byproduct,  
28 nothing in this section may be construed to authorize a district to  
29 condemn electric generating, transmission, or distribution rights or  
30 facilities of entities authorized by law to distribute electricity, or  
31 to acquire such rights or facilities without the consent of the owners;

32 (6)(a) To construct, condemn and purchase, add to, maintain, and  
33 operate systems of drainage for the benefit and use of the district,  
34 the inhabitants thereof, and persons outside the district with an  
35 adequate system of drainage, including but not limited to facilities  
36 and systems for the collection, interception, treatment, and disposal  
37 of storm or surface waters, and for the protection, preservation, and  
38 rehabilitation of surface and underground waters, and drainage

1 facilities for public highways, streets, and roads, with full authority  
2 to regulate the use and operation thereof and, except as provided in  
3 (b) of this subsection, the service rates to be charged.

4 (b) The rate a district may charge under this section for storm or  
5 surface water sewer systems or the portion of the rate allocable to the  
6 storm or surface water sewer system of combined sanitary sewage and  
7 storm or surface water sewer systems shall be reduced by a minimum of  
8 ten percent for any new or remodeled commercial building that utilizes  
9 a permissive rainwater harvesting system. Rainwater harvesting systems  
10 shall be properly sized to utilize the available roof surface of the  
11 building. The jurisdiction shall consider rate reductions in excess of  
12 ten percent dependent upon the amount of rainwater harvested.

13 (c) Drainage facilities may include natural systems. Drainage  
14 facilities may include facilities which result in combined drainage  
15 facilities and electric generation, except that the electricity  
16 generated thereby is a byproduct of the drainage system. Such  
17 electricity may be used by the district or sold to any entity  
18 authorized by law to distribute electricity. Electricity is deemed a  
19 byproduct when the electrical generation is subordinate to the primary  
20 purpose of drainage collection, disposal, and treatment. For such  
21 purposes, a district may conduct storm or surface water throughout the  
22 district and throughout other political subdivisions within the  
23 district, construct and lay drainage pipe and culverts along and upon  
24 public highways, roads, and streets, within and without the district,  
25 and condemn and purchase or acquire land and rights of way necessary  
26 for such drainage systems. A district may provide or erect facilities  
27 and improvements for the treatment and disposal of storm or surface  
28 water within or without the district, and may acquire, by purchase or  
29 condemnation, properties or privileges necessary to be had to protect  
30 any lakes, rivers, or watercourses and also other areas of land from  
31 pollution from storm or surface waters. For the purposes of drainage  
32 facilities which include facilities that also generate electricity as  
33 a byproduct, nothing in this section may be construed to authorize a  
34 district to condemn electric generating, transmission, or distribution  
35 rights or facilities of entities authorized by law to distribute  
36 electricity, or to acquire such rights or facilities without the  
37 consent of the owners;

1 (7) To construct, condemn, acquire, and own buildings and other  
2 necessary district facilities;

3 (8) To compel all property owners within the district located  
4 within an area served by the district's system of sewers to connect  
5 their private drain and sewer systems with the district's system under  
6 such penalty as the commissioners shall prescribe by resolution. The  
7 district may for such purpose enter upon private property and connect  
8 the private drains or sewers with the district system and the cost  
9 thereof shall be charged against the property owner and shall be a lien  
10 upon property served;

11 (9) Where a district contains within its borders, abuts, or is  
12 located adjacent to any lake, stream, ground water as defined by RCW  
13 90.44.035, or other waterway within the state of Washington, to provide  
14 for the reduction, minimization, or elimination of pollutants from  
15 those waters in accordance with the district's comprehensive plan, and  
16 to issue general obligation bonds, revenue bonds, local improvement  
17 district bonds, or utility local improvement bonds for the purpose of  
18 paying all or any part of the cost of reducing, minimizing, or  
19 eliminating the pollutants from these waters;

20 (10) Subject to subsection (6) of this section, to fix rates and  
21 charges for water, sewer, and drain service supplied and to charge  
22 property owners seeking to connect to the district's systems, as a  
23 condition to granting the right to so connect, (~~((in addition to))~~) the  
24 actual cost of the connection(~~(, such reasonable connection charge as~~  
25 ~~the board of commissioners shall determine to be proper in order that~~  
26 ~~those property owners shall bear their equitable share of the cost of~~  
27 ~~the system. For the purposes of calculating a connection charge, the~~  
28 ~~board of commissioners shall determine the pro rata share of the cost~~  
29 ~~of existing facilities and facilities planned for construction within~~  
30 ~~the next ten years and contained in an adopted comprehensive plan and~~  
31 ~~other costs borne by the district which are directly attributable to~~  
32 ~~the improvements required by property owners seeking to connect to the~~  
33 ~~system)). The cost of existing facilities shall not include those~~  
34 ~~portions of the system which have been donated or which have been paid~~  
35 ~~for by grants. The connection charge may include interest charges~~  
36 ~~applied from the date of construction of the system until the~~  
37 ~~connection, or for a period not to exceed ten years, whichever is~~  
38 ~~shorter, at a rate commensurate with the rate of interest applicable to~~

1 the district at the time of construction or major rehabilitation of the  
2 system, or at the time of installation of the lines to which the  
3 property owner is seeking to connect. A district may permit payment of  
4 the cost of connection and the reasonable connection charge to be paid  
5 with interest in installments over a period not exceeding fifteen  
6 years. The county treasurer may charge and collect a fee of three  
7 dollars for each year for the treasurer's services. Those fees shall  
8 be a charge to be included as part of each annual installment, and  
9 shall be credited to the county current expense fund by the county  
10 treasurer. Revenues from connection charges excluding permit fees are  
11 to be considered payments in aid of construction as defined by  
12 department of revenue rule. Rates or charges for on-site inspection  
13 and maintenance services may not be imposed under this chapter on the  
14 development, construction, or reconstruction of property.

15 Before adopting on-site inspection and maintenance utility  
16 services, or incorporating residences into an on-site inspection and  
17 maintenance or sewer utility under this chapter, notification must be  
18 provided, prior to the applicable public hearing, to all residences  
19 within the proposed service area that have on-site systems permitted by  
20 the local health officer. The notice must clearly state that the  
21 residence is within the proposed service area and must provide  
22 information on estimated rates or charges that may be imposed for the  
23 service.

24 A water-sewer district shall not provide on-site sewage system  
25 inspection, pumping services, or other maintenance or repair services  
26 under this section using water-sewer district employees unless the on-  
27 site system is connected by a publicly owned collection system to the  
28 water-sewer district's sewerage system, and the on-site system  
29 represents the first step in the sewage disposal process.

30 Except as otherwise provided in RCW 90.03.525, any public entity  
31 and public property, including the state of Washington and state  
32 property, shall be subject to rates and charges for sewer, water, storm  
33 water control, drainage, and street lighting facilities to the same  
34 extent private persons and private property are subject to those rates  
35 and charges that are imposed by districts. In setting those rates and  
36 charges, consideration may be made of in-kind services, such as stream  
37 improvements or donation of property;

1 (11) To contract with individuals, associations and corporations,  
2 the state of Washington, and the United States;

3 (12) To employ such persons as are needed to carry out the  
4 district's purposes and fix salaries and any bond requirements for  
5 those employees;

6 (13) To contract for the provision of engineering, legal, and other  
7 professional services as in the board of commissioner's discretion is  
8 necessary in carrying out their duties;

9 (14) To sue and be sued;

10 (15) To loan and borrow funds and to issue bonds and instruments  
11 evidencing indebtedness under chapter 57.20 RCW and other applicable  
12 laws;

13 (16) To transfer funds, real or personal property, property  
14 interests, or services subject to RCW 57.08.015;

15 (17) To levy taxes in accordance with this chapter and chapters  
16 57.04 and 57.20 RCW;

17 (18) To provide for making local improvements and to levy and  
18 collect special assessments on property benefitted thereby, and for  
19 paying for the same or any portion thereof in accordance with chapter  
20 57.16 RCW;

21 (19) To establish street lighting systems under RCW 57.08.060;

22 (20) To exercise such other powers as are granted to water-sewer  
23 districts by this title or other applicable laws; and

24 (21) To exercise any of the powers granted to cities and counties  
25 with respect to the acquisition, construction, maintenance, operation  
26 of, and fixing rates and charges for waterworks and systems of sewerage  
27 and drainage.

28 **Sec. 8.** RCW 82.02.020 and 1997 c 452 s 21 are each amended to read  
29 as follows:

30 Except only as expressly provided in chapters 67.28 and 82.14 RCW,  
31 the state preempts the field of imposing taxes upon retail sales of  
32 tangible personal property, the use of tangible personal property,  
33 parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances,  
34 and cigarettes, and no county, town, or other municipal subdivision  
35 shall have the right to impose taxes of that nature. Except as  
36 provided in RCW 82.02.050 through 82.02.090, no county, city, town, or  
37 other municipal corporation shall impose any tax, fee, or charge,



1 either direct or indirect, on the construction or reconstruction of  
2 residential buildings, commercial buildings, industrial buildings, or  
3 on any other building or building space or appurtenance thereto, or on  
4 the development, subdivision, classification, or reclassification of  
5 land. However, this section does not preclude dedications of land or  
6 easements within the proposed development or plat which the county,  
7 city, town, or other municipal corporation can demonstrate are  
8 reasonably necessary as a direct result of the proposed development or  
9 plat to which the dedication of land or easement is to apply.

10 This section does not prohibit voluntary agreements with counties,  
11 cities, towns, or other municipal corporations that allow a payment in  
12 lieu of a dedication of land or to mitigate a direct impact that has  
13 been identified as a consequence of a proposed development,  
14 subdivision, or plat. A local government shall not use such voluntary  
15 agreements for local off-site transportation improvements within the  
16 geographic boundaries of the area or areas covered by an adopted  
17 transportation program authorized by chapter 39.92 RCW. Any such  
18 voluntary agreement is subject to the following provisions:

19 (1) The payment shall be held in a reserve account and may only be  
20 expended to fund a capital improvement agreed upon by the parties to  
21 mitigate the identified, direct impact;

22 (2) The payment shall be expended in all cases within five years of  
23 collection; and

24 (3) Any payment not so expended shall be refunded with interest at  
25 the rate applied to judgments to the property owners of record at the  
26 time of the refund; however, if the payment is not expended within five  
27 years due to delay attributable to the developer, the payment shall be  
28 refunded without interest.

29 No county, city, town, or other municipal corporation shall require  
30 any payment as part of such a voluntary agreement which the county,  
31 city, town, or other municipal corporation cannot establish is  
32 reasonably necessary as a direct result of the proposed development or  
33 plat.

34 Nothing in this section prohibits cities, towns, counties, or other  
35 municipal corporations from collecting reasonable fees from an  
36 applicant for a permit or other governmental approval to cover the cost  
37 to the city, town, county, or other municipal corporation of processing

1 applications, inspecting and reviewing plans, or preparing detailed  
2 statements required by chapter 43.21C RCW.

3 This section does not limit the existing authority of any county,  
4 city, town, or other municipal corporation to impose special  
5 assessments on property specifically benefitted thereby in the manner  
6 prescribed by law.

7 Nothing in this section prohibits counties, cities, or towns from  
8 imposing or permits counties, cities, or towns to impose water, sewer,  
9 natural gas, drainage utility, and drainage system charges(~~(+~~  
10 ~~PROVIDED, That no such charge shall exceed the proportionate share of~~  
11 ~~such utility or system's capital costs which the county, city, or town~~  
12 ~~can demonstrate are attributable to the property being charged:~~  
13 ~~PROVIDED FURTHER, That these provisions shall not be interpreted to~~  
14 ~~expand or contract any existing authority of counties, cities, or towns~~  
15 ~~to impose such charges)), however, utility or system capital costs must  
16 be recovered using rate-based user charges, unless alternate charges  
17 are authorized by law.~~

18 Nothing in this section prohibits a transportation benefit district  
19 from imposing fees or charges authorized in RCW 36.73.120 nor prohibits  
20 the legislative authority of a county, city, or town from approving the  
21 imposition of such fees within a transportation benefit district.

22 Nothing in this section prohibits counties, cities, or towns from  
23 imposing transportation impact fees authorized pursuant to chapter  
24 39.92 RCW.

25 Nothing in this section prohibits counties, cities, or towns from  
26 requiring property owners to provide relocation assistance to tenants  
27 under RCW 59.18.440 and 59.18.450.

28 This section does not apply to special purpose districts formed and  
29 acting pursuant to Titles 54, 57, or 87 RCW, nor is the authority  
30 conferred by these titles affected.

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