

E2SHB 3186 - S COMM AMD

By Committee on Water, Energy & Telecommunications

ADOPTED 03/04/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 36.61.010 and 1987 c 432 s 1 are each amended to read
4 as follows:

5 The legislature finds that the environmental, recreational, and
6 aesthetic values of many of the state's lakes are threatened by
7 eutrophication and other deterioration and that existing governmental
8 authorities are unable to adequately improve and maintain the quality
9 of the state's lakes.

10 The legislature intends that an ecosystem-based beach management
11 approach should be used to help promote the health of aquatic
12 ecosystems and that such a management approach be undertaken in a
13 manner that retains ecosystem values within the state. This management
14 approach should use long-term strategies that focus on reducing
15 nutrient inputs from human activities affecting the aquatic ecosystem,
16 such as decreasing nutrients into storm water sewers, decreasing
17 fertilizer application, promoting the proper disposal of pet waste,
18 promoting the use of vegetative borders, promoting the reduction of
19 nutrients from on-site septic systems where appropriate, and protecting
20 riparian areas. Organic debris, including vegetation, driftwood,
21 seaweed, kelp, and organisms, are extremely important to beach
22 ecosystems.

23 It is the purpose of this chapter to establish a governmental
24 mechanism by which property owners can embark on a program of lake or
25 beach improvement and maintenance for their and the general public's
26 benefit, health, and welfare. Public property, including state
27 property, shall be considered the same as private property in this
28 chapter, except liens for special assessments and liens for rates and
29 charges shall not extend to public property. Lake bottom property and
30 marine property below the line of the ordinary high water mark shall

1 not be considered to be benefited, shall not be subject to special
2 assessments or rates and charges, and shall not receive voting rights
3 under this chapter.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.61 RCW
5 to read as follows:

6 (1) Beach management districts may be created for the purpose of
7 controlling and removing aquatic plants or vegetation. These districts
8 must develop a plan for these activities, in consultation with
9 appropriate federal, state, and local agencies. The plan must include
10 an element addressing nutrient loading from land use activities in a
11 subbasin that is a tributary to the area targeted for management. The
12 plan must be consistent with the action agenda approved by the Puget
13 Sound partnership, where applicable.

14 (2) Plans for the control and removal of aquatic plants or
15 vegetation must, to the greatest extent possible, meet the following
16 requirements:

17 (a) Avoid or minimize the excess removal of living and nonliving
18 nontarget native vegetation and organisms;

19 (b) Avoid or minimize management activities that will result in
20 compacting beach sand, gravel, and substrate;

21 (c) Minimize adverse impacts to: (i) The project site when
22 disposing of excessive accumulations of vegetation; and (ii) other
23 areas of the beach or deep water environment; and

24 (d) Retain all natural habitat features on the beach, including
25 retaining trees, stumps, logs, and large rocks in their natural
26 location.

27 (3) Seaweed removal under this section may only occur on the shore
28 of a saltwater body that lies between the extreme low tide and the
29 ordinary high water mark, as those terms are defined in RCW 90.58.030.

30 (4) The control or removal of native aquatic plants or vegetation
31 shall be authorized in the following areas:

32 (a) Beaches or near shore areas located within at least one mile of
33 a ferry terminal that are in a county with a population of one million
34 or more residents; and

35 (b) Beaches or near shore areas in a city that meets the following:

36 (i) Is adjacent to Puget Sound;

37 (ii) Has at least eighty-five thousand residents;

- 1 (iii) Shares a common boundary with a neighboring county; and
- 2 (iv) Is in a county with a population of one million or more
- 3 residents.

4 **Sec. 3.** RCW 36.61.020 and 2000 c 184 s 5 are each amended to read
5 as follows:

6 Any county may create lake or beach management districts to finance
7 the improvement and maintenance of lakes or beaches located within or
8 partially within the boundaries of the county. All or a portion of a
9 lake or beach and the adjacent land areas may be included within one or
10 more lake or beach management districts. More than one lake or beach,
11 or portions of lakes or beaches, and the adjacent land areas may be
12 included in a single lake or beach management district.

13 Special assessments or rates and charges may be imposed on the
14 property included within a lake or beach management district to finance
15 lake or beach improvement and maintenance activities, including: (1)
16 (~~The control or removal of~~) Controlling or removing aquatic plants
17 and vegetation; (2) improving water quality; (3) (~~the control of~~)
18 controlling water levels; (4) treating and diverting storm water
19 (~~diversion and treatment~~); (5) controlling agricultural waste
20 (~~control~~); (6) studying lake or marine water quality problems and
21 solutions; (7) cleaning and maintaining ditches and streams entering
22 the lake or marine waters or leaving the lake; (~~and~~) (8) monitoring
23 air quality; and (9) the related administrative, engineering, legal,
24 and operational costs, including the costs of creating the lake or
25 beach management district.

26 Special assessments or rates and charges may be imposed annually on
27 all the land in a lake or beach management district for the duration of
28 the lake or beach management district without a related issuance of
29 lake or beach management district bonds or revenue bonds. Special
30 assessments also may be imposed in the manner of special assessments in
31 a local improvement district with each landowner being given the choice
32 of paying the entire special assessment in one payment, or to paying
33 installments, with lake or beach management district bonds being issued
34 to obtain moneys not derived by the initial full payment of the special
35 assessments, and the installments covering all of the costs related to
36 issuing, selling, and redeeming the lake or beach management district
37 bonds.

1 place for a public hearing on the formation of the proposed lake or
2 beach management district. The date for the public hearing shall be at
3 least thirty days and no more than ninety days after the adoption of
4 the resolution of intention unless an emergency exists.

5 Petitions shall be filed with the county legislative authority.
6 The county legislative authority shall determine the sufficiency of the
7 signatures, which shall be conclusive upon all persons. No person may
8 withdraw his or her name from a petition after it is filed. If the
9 county legislative authority determines a petition to be sufficient and
10 the proposed lake or beach management district appears to be in the
11 public interest and the financing of the lake or beach improvement or
12 maintenance activities is feasible, it shall adopt a resolution of
13 intention, setting forth all of the details required to be included
14 when a resolution of intention is initiated by the county legislative
15 authority.

16 **Sec. 6.** RCW 36.61.040 and 1994 c 264 s 9 are each amended to read
17 as follows:

18 Notice of the public hearing shall be published in at least two
19 consecutive issues of a newspaper of general circulation in the
20 proposed lake or beach management district, the date of the first
21 publication to be at least fifteen days prior to the date fixed for the
22 public hearing by the resolution of intention. Notice of the public
23 hearing shall also be given to the owner or reputed owner of any lot,
24 tract, parcel of land, or other property within the proposed lake or
25 beach management district by mailing the notice at least fifteen days
26 before the date fixed for the public hearing to the owner or reputed
27 owner of the property as shown on the tax rolls of the county assessor
28 at the address shown thereon. Notice of the public hearing shall also
29 be mailed to the departments of fish and wildlife, natural resources,
30 and ecology at least fifteen days before the date fixed for the public
31 hearing.

32 Notices of the public hearing shall: (1) Refer to the resolution
33 of intention; (2) designate the proposed lake or beach management
34 district by number; (3) set forth a proposed plan describing: (a) The
35 nature of the proposed lake or beach improvement or maintenance
36 activities; (b) the amount of special assessments or rates and charges
37 proposed to be raised by the lake or beach management district; (c) if

1 special assessments are proposed to be imposed, whether the special
2 assessments will be imposed annually for the duration of the lake or
3 beach management district, or the full special assessments will be
4 payable at one time, with the possibility of periodic installments
5 being paid and lake or beach management bonds being issued, or both;
6 (d) if rates and charges are proposed to be imposed, the annual amount
7 of revenue proposed to be collected and whether revenue bonds payable
8 from the rates and charges are proposed to be issued; and (e) the
9 proposed duration of the lake or beach management district; and (4)
10 indicate the date, time, and place of the public hearing designated in
11 the resolution of intention.

12 In the case of the notice sent to each owner or reputed owner by
13 mail, the notice shall set forth the estimated amount of the cost of
14 the lake or beach improvement or maintenance activities to be borne by
15 special assessment, or annual special assessments, or rates and charges
16 on the lot, tract, parcel of land, or other property owned by the owner
17 or reputed owner.

18 If the county legislative authority has designated a committee of
19 itself or an officer to hear complaints and make recommendations to the
20 full county legislative authority, as provided in RCW 36.61.060, the
21 notice shall also describe this additional step before the full county
22 legislative authority may adopt a resolution creating the lake or beach
23 management district.

24 **Sec. 7.** RCW 36.61.050 and 1994 c 264 s 10 are each amended to read
25 as follows:

26 The county legislative authority shall hold a public hearing on the
27 proposed lake or beach management district at the date, time, and place
28 designated in the resolution of intention.

29 At this hearing the county legislative authority shall hear
30 objections from any person affected by the formation of the lake or
31 beach management district. Representatives of the departments of fish
32 and wildlife, natural resources, and ecology shall be afforded
33 opportunities to make presentations on and comment on the proposal.
34 Members of the public shall be afforded an opportunity to comment on
35 the proposal. The county legislative authority must consider
36 recommendations provided to it by the departments of fish and wildlife,
37 natural resources, and ecology. The public hearing may be extended to

1 other times and dates declared at the public hearing. The county
2 legislative authority may make such changes in the boundaries of the
3 lake or beach management district or such modification in plans for the
4 proposed lake or beach improvement or maintenance activities as it
5 deems necessary. The county legislative authority may not change
6 boundaries of the lake or beach management district to include property
7 that was not included previously without first passing an amended
8 resolution of intention and giving new notice to the owners or reputed
9 owners of property newly included in the proposed lake or beach
10 management district in the manner and form and within the time provided
11 for the original notice. The county legislative authority shall not
12 alter the plans for the proposed lake or beach improvement or
13 maintenance activities to result in an increase in the amount of money
14 proposed to be raised, and shall not increase the amount of money
15 proposed to be raised, without first passing an amended resolution of
16 intention and giving new notice to property owners in the manner and
17 form and within the time provided for the original notice.

18 **Sec. 8.** RCW 36.61.060 and 1985 c 398 s 10 are each amended to read
19 as follows:

20 A county legislative authority may adopt an ordinance providing for
21 a committee of itself, or an officer, to hold public hearings on the
22 proposed formation of a lake or beach management district and hear
23 objections to the proposed formation as provided in RCW 36.61.050. The
24 committee or officer shall make a recommendation to the full
25 legislative authority, which need not hold a public hearing on the
26 proposed creation of the lake or beach management district. The full
27 county legislative authority by resolution may approve or disapprove
28 the recommendation and submit the question of creating the lake or
29 beach management district to the property owners as provided in RCW
30 36.61.070 through 36.61.100.

31 **Sec. 9.** RCW 36.61.070 and 1987 c 432 s 5 are each amended to read
32 as follows:

33 After the public hearing, the county legislative authority may
34 adopt a resolution submitting the question of creating the lake or
35 beach management district to the owners of land within the proposed
36 lake or beach management district, including publicly owned land, if

1 the county legislative authority finds that it is in the public
2 interest to create the lake or beach management district and the
3 financing of the lake or beach improvement and maintenance activities
4 is feasible. The resolution shall also include: (1) A plan describing
5 the proposed lake or beach improvement and maintenance activities which
6 avoid adverse impacts on fish and wildlife and provide for appropriate
7 measures to protect and enhance fish and wildlife; (2) the number of
8 years the lake or beach management district will exist; (3) the amount
9 to be raised by special assessments or rates and charges; (4) if
10 special assessments are to be imposed, whether the special assessments
11 shall be imposed annually for the duration of the lake or beach
12 management district or only once with the possibility of installments
13 being imposed and lake or beach management bonds being issued, or both,
14 and, if both types of special assessments are proposed to be imposed,
15 the lake or beach improvement or maintenance activities proposed to be
16 financed by each type of special assessment; (5) if rates and charges
17 are to be imposed, a description of the rates and charges and the
18 possibility of revenue bonds being issued that are payable from the
19 rates and charges; and (6) the estimated special assessment or rate and
20 charge proposed to be imposed on each parcel included in the proposed
21 lake or beach management district.

22 No lake or beach management district may be created by a county
23 that includes territory located in another county without the approval
24 of the legislative authority of the other county.

25 **Sec. 10.** RCW 36.61.080 and 1987 c 432 s 6 are each amended to read
26 as follows:

27 (1) A ballot shall be mailed to each owner or reputed owner of any
28 lot, tract, parcel of land, or other property within the proposed lake
29 management district, including publicly owned land, which ballot shall
30 contain the following proposition:

31 "Shall lake management district No. . . . be formed?
32 Yes
33 No"

34 (2) A ballot shall be mailed to each owner or reputed owner of any
35 lot, tract, parcel of land, or other property within the proposed beach
36 management district, including publicly owned land, which ballot shall
37 contain the following proposition:

1
2 "Shall beach management district No. be formed?

3 Yes

4 No"

5
6 (3) In addition, the ballot shall contain appropriate spaces for
7 the signatures of the landowner or landowners, or officer authorized to
8 cast such a ballot. Each ballot shall include a description of the
9 property owner's property and the estimated special assessment, or rate
10 and charge, proposed to be imposed upon the property. A copy of the
11 instructions and the resolution submitting the question to the
12 landowners shall also be included.

13 **Sec. 11.** RCW 36.61.090 and 1987 c 432 s 7 are each amended to read
14 as follows:

15 The balloting shall be subject to the following conditions, which
16 shall be included in the instructions mailed with each ballot, as
17 provided in RCW 36.61.080: (1) All ballots must be signed by the owner
18 or reputed owner of property according to the assessor's tax rolls; (2)
19 each ballot must be returned to the county legislative authority not
20 later than (~~five o'clock~~) 5:00 p.m. of a specified day, which shall
21 be at least twenty but not more than thirty days after the ballots are
22 mailed; (3) each property owner shall mark his or her ballot for or
23 against the creation of the proposed lake or beach management district,
24 with the ballot weighted so that the property owner has one vote for
25 each dollar of estimated special assessment or rate and charge proposed
26 to be imposed on his or her property; and (4) the valid ballots shall
27 be tabulated and a simple majority of the votes cast shall determine
28 whether the proposed lake or beach management district shall be
29 approved or rejected.

30 **Sec. 12.** RCW 36.61.100 and 1987 c 432 s 8 are each amended to read
31 as follows:

32 If the proposal receives a simple majority vote in favor of
33 creating the lake or beach management district, the county legislative
34 authority shall adopt an ordinance creating the lake or beach
35 management district and may proceed with establishing the special
36 assessments or rates and charges, collecting the special assessments or
37 rates and charges, and performing the lake or beach improvement or
38 maintenance activities. If a proposed lake management district

1 includes more than one lake and its adjacent areas, the lake management
2 district may only be established if the proposal receives a simple
3 majority vote in favor of creating it by the voters on each lake and
4 its adjacent areas. The county legislative authority shall publish a
5 notice in a newspaper of general circulation in a lake or beach
6 management district indicating that such an ordinance has been adopted
7 within ten days of the adoption of the ordinance.

8 The ballots shall be available for public inspection after they are
9 counted.

10 **Sec. 13.** RCW 36.61.110 and 1985 c 398 s 11 are each amended to
11 read as follows:

12 No lawsuit may be maintained challenging the jurisdiction or
13 authority of the county legislative authority to proceed with the lake
14 or beach improvement and maintenance activities and creating the lake
15 or beach management district or in any way challenging the validity of
16 the actions or decisions or any proceedings relating to the actions or
17 decisions unless the lawsuit is served and filed no later than forty
18 days after publication of a notice that the ordinance has been adopted
19 ordering the lake or beach improvement and maintenance activities and
20 creating the lake or beach management district. Written notice of the
21 appeal shall be filed with the county legislative authority and clerk
22 of the superior court in the county in which the property is situated.

23 **Sec. 14.** RCW 36.61.115 and 1987 c 432 s 9 are each amended to read
24 as follows:

25 A special assessment, or rate and charge, on any lot, tract, parcel
26 of land, or other property shall not be increased beyond one hundred
27 ten percent of the estimated special assessment, or rate and charge,
28 proposed to be imposed as provided in the resolution adopted in RCW
29 36.61.070, unless the creation of a lake or beach management district
30 is approved under another mailed ballot election that reflects the
31 weighted voting arising from such increases.

32 **Sec. 15.** RCW 36.61.120 and 1985 c 398 s 12 are each amended to
33 read as follows:

34 After a lake or beach management district is created, the county
35 shall prepare a proposed special assessment roll. A separate special

1 assessment roll shall be prepared for annual special assessments if
2 both annual special assessments and special assessments paid at one
3 time are imposed. The proposed special assessment roll shall list:
4 (1) Each separate lot, tract, parcel of land, or other property in the
5 lake or beach management district; (2) the acreage of such property,
6 and the number of feet of lake or beach frontage, if any; (3) the name
7 and address of the owner or reputed owner of each lot, tract, parcel of
8 land, or other property as shown on the tax rolls of the county
9 assessor; and (4) the special assessment proposed to be imposed on each
10 lot, tract, parcel of land, or other property, or the annual special
11 assessments proposed to be imposed on each lot, tract, parcel of land,
12 or other property.

13 At the time, date, and place fixed for a public hearing, the county
14 legislative authority shall act as a board of equalization and hear
15 objections to the special assessment roll, and at the times to which
16 the public hearing may be adjourned, the county legislative authority
17 may correct, revise, raise, lower, change, or modify the special
18 assessment roll or any part thereof, or set the proposed special
19 assessment roll aside and order a new proposed special assessment roll
20 to be prepared. The county legislative authority shall confirm and
21 approve a special assessment roll by adoption of a resolution.

22 If a proposed special assessment roll is amended to raise any
23 special assessment appearing thereon or to include omitted property, a
24 new public hearing shall be held. The new public hearing shall be
25 limited to considering the increased special assessments or omitted
26 property. Notices shall be sent to the owners or reputed owners of the
27 affected property in the same manner and form and within the time
28 provided for the original notice.

29 Objections to a proposed special assessment roll must be made in
30 writing, shall clearly state the grounds for objections, and shall be
31 filed with the governing body prior to the public hearing. Objections
32 to a special assessment or annual special assessments that are not made
33 as provided in this section shall be deemed waived and shall not be
34 considered by the governing body or a court on appeal.

35 **Sec. 16.** RCW 36.61.140 and 1985 c 398 s 14 are each amended to
36 read as follows:

37 Notice of the original public hearing on the proposed special

1 assessment roll, and any public hearing held as a result of raising
2 special assessments or including omitted property, shall be published
3 and mailed to the owner or reputed owner of the property as provided in
4 RCW 36.61.040 for the public hearing on the formation of the lake or
5 beach management district. However, the notice need only provide the
6 total amount to be collected by the special assessment roll and shall
7 state that: (1) A public hearing on the proposed special assessment
8 roll will be held, giving the time, date, and place of the public
9 hearing; (2) the proposed special assessment roll is available for
10 public perusal, giving the times and location where the proposed
11 special assessment roll is available for public perusal; (3) objections
12 to the proposed special assessment must be in writing, include clear
13 grounds for objections, and must be filed prior to the public hearing;
14 and (4) failure to so object shall be deemed to waive an objection.

15 Notices mailed to the owners or reputed owners shall additionally
16 indicate the amount of special assessment ascribed to the particular
17 lot, tract, parcel of land, or other property owned by the person so
18 notified.

19 **Sec. 17.** RCW 36.61.160 and 1987 c 432 s 10 are each amended to
20 read as follows:

21 Whenever special assessments are imposed, all property included
22 within a lake or beach management district shall be considered to be
23 the property specially benefited by the lake or beach improvement or
24 maintenance activities and shall be the property upon which special
25 assessments are imposed to pay the costs and expenses of the lake or
26 beach improvement or maintenance activities, or such part of the costs
27 and expenses as may be chargeable against the property specially
28 benefited. The special assessments shall be imposed on property in
29 accordance with the special benefits conferred on the property up to
30 but not in excess of the total costs and expenses of the lake or beach
31 improvement or maintenance activities as provided in the special
32 assessment roll.

33 Special assessments may be measured by front footage, acreage, the
34 extent of improvements on the property, or any other factors that are
35 deemed to fairly reflect special benefits, including those authorized
36 under RCW 35.51.030. Special assessments may be calculated by using
37 more than one factor. Zones around the public improvement may be used

1 that reflect different levels of benefit in each zone that are measured
2 by a front footage, acreage, the extent of improvements, or other
3 factors.

4 Public property, including property owned by the state of
5 Washington, shall be subject to special assessments to the same extent
6 that private property is subject to the special assessments, except no
7 lien shall extend to public property.

8 **Sec. 18.** RCW 36.61.170 and 1985 c 398 s 17 are each amended to
9 read as follows:

10 The total annual special assessments may not exceed the estimated
11 cost of the lake or beach improvement or maintenance activities
12 proposed to be financed by such special assessments, as specified in
13 the resolution of intention. The total of special assessments imposed
14 in a lake or beach management district that are of the nature of
15 special assessments imposed in a local improvement district shall not
16 exceed one hundred fifty percent of the estimated total cost of the
17 lake or beach improvement or maintenance activities that are proposed
18 to be financed by the lake or beach management district as specified in
19 the resolution of intention. After a lake or beach management district
20 has been created, the resolution of intention may be amended to
21 increase the amount to be financed by the lake or beach management
22 district by using the same procedure in which a lake or beach
23 management district is created.

24 **Sec. 19.** RCW 36.61.190 and 1985 c 398 s 19 are each amended to
25 read as follows:

26 Special assessments and installments on any special assessment
27 shall be collected by the county treasurer.

28 The county treasurer shall publish a notice indicating that the
29 special assessment roll has been confirmed and that the special
30 assessments are to be collected. The notice shall indicate the
31 duration of the lake or beach management district and shall describe
32 whether the special assessments will be paid in annual payments for the
33 duration of the lake or beach management district, or whether the full
34 special assessments will be payable at one time, with the possibility
35 of periodic installments being paid and lake or beach management bonds
36 being issued, or both.

1 If the special assessments are to be payable at one time, the
2 notice additionally shall indicate that all or any portion of the
3 special assessments may be paid within thirty days from the date of
4 publication of the first notice without penalty or interest. This
5 notice shall be published in a newspaper of general circulation in the
6 lake or beach management district.

7 Within ten days of the first newspaper publication, the county
8 treasurer shall notify each owner or reputed owner of property whose
9 name appears on the special assessment roll, at the address shown on
10 the special assessment roll, for each item of property described on the
11 list: (1) Whether one special assessment payable at one time or
12 special assessments payable annually have been imposed; (2) the amount
13 of the property subject to the special assessment or annual special
14 assessments; and (3) the total amount of the special assessment due at
15 one time, or annual amount of special assessments due. If the special
16 assessment is due at one time, the notice shall also describe the
17 thirty-day period during which the special assessment may be paid
18 without penalty, interest, or cost.

19 **Sec. 20.** RCW 36.61.200 and 1985 c 398 s 20 are each amended to
20 read as follows:

21 If the special assessments are to be payable at one time, all or
22 any portion of any special assessment may be paid without interest,
23 penalty, or costs during this thirty-day period and placed into a
24 special fund to defray the costs of the lake or beach improvement or
25 maintenance activities. The remainder shall be paid in installments as
26 provided in a resolution adopted by the county legislative authority,
27 but the last installment shall be due at least two years before the
28 maximum term of the bonds issued to pay for the improvements or
29 maintenance. The installments shall include amounts sufficient to
30 redeem the bonds issued to pay for the lake or beach improvement and
31 maintenance activities. A twenty-day period shall be allowed after the
32 due date of any installment within which no interest, penalty, or costs
33 on the installment may be imposed.

34 The county shall establish by ordinance an amount of interest that
35 will be imposed on late special assessments imposed annually or at
36 once, and on installments of a special assessment. The ordinance shall
37 also specify the penalty, in addition to the interest, that will be

1 imposed on a late annual special assessment, special assessment, or
2 installment which shall not be less than five percent of the delinquent
3 special assessment or installment.

4 The owner of any lot, tract, parcel of land, or other property
5 charged with a special assessment may redeem it from all liability for
6 the unpaid amount of the installments by paying, to the county
7 treasurer, the remaining portion of the installments that is
8 attributable to principal on the lake or beach management district
9 bonds.

10 **Sec. 21.** RCW 36.61.220 and 1985 c 398 s 22 are each amended to
11 read as follows:

12 Within fifteen days after a county creates a lake or beach
13 management district, the county shall cause to be filed with the county
14 treasurer, a description of the lake or beach improvement and
15 maintenance activities proposed that the lake or beach management
16 district finances, the lake or beach management district number, and a
17 copy of the diagram or print showing the boundaries of the lake or
18 beach management district and preliminary special assessment roll or
19 abstract of same showing thereon the lots, tracts, parcels of land, and
20 other property that will be specially benefited thereby and the
21 estimated cost and expense of such lake or beach improvement and
22 maintenance activities to be borne by each lot, tract, parcel of land,
23 or other property. The treasurer shall immediately post the proposed
24 special assessment roll upon his or her index of special assessments
25 against the properties affected by the lake or beach improvement or
26 maintenance activities.

27 **Sec. 22.** RCW 36.61.230 and 1985 c 398 s 23 are each amended to
28 read as follows:

29 The special assessment or annual special assessments imposed upon
30 the respective lots, tracts, parcels of land, and other property in the
31 special assessment roll or annual special assessment roll confirmed by
32 resolution of the county legislative authority for the purpose of
33 paying the cost and expense in whole or in part of any lake or beach
34 improvement or maintenance activities shall be a lien upon the property
35 assessed from the time the special assessment roll is placed in the
36 hands of the county treasurer for collection, but as between the

1 grantor and grantee, or vendor and vendee of any real property, when
2 there is no express agreement as to payment of the special assessments
3 against the real property, the lien of such special assessments shall
4 attach thirty days after the filing of the diagram or print and the
5 estimated cost and expense of such lake or beach improvement or
6 maintenance activities to be borne by each lot, tract, parcel of land,
7 or other property, as provided in RCW 36.61.220. Interest and penalty
8 shall be included in and shall be a part of the special assessment
9 lien. No lien shall extend to public property subjected to special
10 assessments.

11 The special assessment lien shall be paramount and superior to any
12 other lien or encumbrance theretofore or thereafter created except a
13 lien for general taxes.

14 **Sec. 23.** RCW 36.61.260 and 2000 c 184 s 6 are each amended to read
15 as follows:

16 (1) Counties may issue lake or beach management district bonds in
17 accordance with this section. Lake or beach management district bonds
18 may be issued to obtain money sufficient to cover that portion of the
19 special assessments that are not paid within the thirty-day period
20 provided in RCW 36.61.190.

21 Whenever lake or beach management district bonds are proposed to be
22 issued, the county legislative authority shall create a special fund or
23 funds for the lake or beach management district from which all or a
24 portion of the costs of the lake or beach improvement and maintenance
25 activities shall be paid. Lake or beach management district bonds
26 shall not be issued in excess of the costs and expenses of the lake or
27 beach improvement and maintenance activities and shall not be issued
28 prior to twenty days after the thirty days allowed for the payment of
29 special assessments without interest or penalties.

30 Lake or beach management district bonds shall be exclusively
31 payable from the special fund or funds and from a guaranty fund that
32 the county may have created out of a portion of proceeds from the sale
33 of the lake or beach management district bonds.

34 (2) Lake or beach management district bonds shall not constitute a
35 general indebtedness of the county issuing the bond nor an obligation,
36 general or special, of the state. The owner of any lake or beach
37 management district bond shall not have any claim for the payment

1 thereof against the county that issues the bonds except for payment
2 from the special assessments made for the lake or beach improvement or
3 maintenance activities for which the lake or beach management district
4 bond was issued and from a lake or beach management district guaranty
5 fund that may have been created. The county shall not be liable to the
6 owner of any lake or beach management district bond for any loss to the
7 lake or beach management district guaranty fund occurring in the lawful
8 operation of the fund. The owner of a lake or beach management
9 district bond shall not have any claim against the state arising from
10 the lake or beach management district bond, special assessments, or
11 guaranty fund. Tax revenues shall not be used to secure or guarantee
12 the payment of the principal of or interest on lake or beach management
13 district bonds.

14 The substance of the limitations included in this subsection shall
15 be plainly printed, written, engraved, or reproduced on: (a) Each lake
16 or beach management district bond that is a physical instrument; (b)
17 the official notice of sale; and (c) each official statement associated
18 with the lake or beach management district bonds.

19 (3) If the county fails to make any principal or interest payments
20 on any lake or beach management district bond or to promptly collect
21 any special assessment securing the bonds when due, the owner of the
22 lake or beach management district bond may obtain a writ of mandamus
23 from any court of competent jurisdiction requiring the county to
24 collect the special assessments, foreclose on the related lien, and
25 make payments out of the special fund or guaranty fund if one exists.
26 Any number of owners of lake or beach management districts may join as
27 plaintiffs.

28 (4) A county may create a lake or beach management district bond
29 guaranty fund for each issue of lake or beach management district
30 bonds. The guaranty fund shall only exist for the life of the lake or
31 beach management district bonds with which it is associated. A portion
32 of the bond proceeds may be placed into a guaranty fund. Unused moneys
33 remaining in the guaranty fund during the last two years of the
34 installments shall be used to proportionally reduce the required level
35 of installments and shall be transferred into the special fund into
36 which installment payments are placed.

37 (5) Lake or beach management district bonds shall be issued and

1 sold in accordance with chapter 39.46 RCW. The authority to create a
2 special fund or funds shall include the authority to create accounts
3 within a fund.

4 **Sec. 24.** RCW 36.61.270 and 1987 c 432 s 11 are each amended to
5 read as follows:

6 Whenever rates and charges are to be imposed in a lake or beach
7 management district, the county legislative authority shall prepare a
8 roll of rates and charges that includes those matters required to be
9 included in a special assessment roll and shall hold a public hearing
10 on the proposed roll of rates and charges as provided under RCW
11 36.61.120 through 36.61.150 for a special assessment roll. The county
12 legislative authority shall have full jurisdiction and authority to
13 fix, alter, regulate, and control the rates and charges imposed by a
14 lake or beach management district and may classify the rates or charges
15 by any reasonable factor or factors, including benefit, use, front
16 footage, acreage, the extent of improvements on the property, the type
17 of improvements on the property, uses to which the property is put,
18 service to be provided, and any other reasonable factor or factors.
19 The flexibility to establish rates and charges includes the authority
20 to reduce rates and charges on property owned by low-income persons.

21 Except as provided in this section, the collection of rates and
22 charges, lien status of unpaid rates and charges, and method of
23 foreclosing on such liens shall be subject to the provisions of chapter
24 36.94 RCW. Public property, including state property, shall be subject
25 to the rates and charges to the same extent that private property is
26 subject to them, except that liens may not be foreclosed on the public
27 property, and the procedure for imposing such rates and charges on
28 state property shall conform with the procedure provided for in chapter
29 79.44 RCW concerning the imposition of special assessments upon state
30 property. The total amount of rates and charges cannot exceed the cost
31 of lake or beach improvement or maintenance activities proposed to be
32 financed by such rates and charges, as specified in the resolution of
33 intention. Revenue bonds exclusively payable from the rates and
34 charges may be issued by the county under chapter 39.46 RCW.

35 **Sec. 25.** RCW 36.94.020 and 1997 c 447 s 11 are each amended to
36 read as follows:

1 The construction, operation, and maintenance of a system of
2 sewerage and/or water is a county purpose. Subject to the provisions
3 of this chapter, every county has the power, individually or in
4 conjunction with another county or counties to adopt, provide for,
5 accept, establish, condemn, purchase, construct, add to, operate, and
6 maintain a system or systems of sanitary and storm sewers, including
7 outfalls, interceptors, plans, and facilities and services necessary
8 for sewerage treatment and disposal, and/or system or systems of water
9 supply within all or a portion of the county. However, counties shall
10 not have power to condemn sewerage and/or water systems of any
11 municipal corporation or private utility.

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

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

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

35 A county shall not provide on-site sewage system inspection,
36 pumping services, or other maintenance or repair services under this
37 section using county employees unless the on-site system is connected
38 by a publicly owned collection system to the county's sewerage system,

1 and the on-site system represents the first step in the sewage disposal
2 process. Nothing in this section shall affect the authority of a state
3 or local health officer to carry out their responsibilities under any
4 other applicable law.

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

31 **Sec. 26.** RCW 39.34.190 and 2003 c 327 s 2 are each amended to read
32 as follows:

33 (1) The legislative authority of a city or county and the governing
34 body of any special purpose district enumerated in subsection (2) of
35 this section may authorize up to ten percent of its water-related
36 revenues to be expended in the implementation of watershed management
37 plan projects or activities that are in addition to the county's,

1 city's, or district's existing water-related services or activities.
2 Such limitation on expenditures shall not apply (~~to additional~~
3 ~~revenues for watershed plan implementation that are authorized by voter~~
4 ~~approval under section 5 of this act or~~) to water-related revenues of
5 a public utility district organized according to Title 54 RCW. Water-
6 related revenues include rates, charges, and fees for the provision of
7 services relating to water supply, treatment, distribution, and
8 management generally, and those general revenues of the local
9 government that are expended for water management purposes. A local
10 government may not expend for this purpose any revenues that were
11 authorized by voter approval for other specified purposes or that are
12 specifically dedicated to the repayment of municipal bonds or other
13 debt instruments.

14 (2) The following special purpose districts may exercise the
15 authority provided by this section:

16 (a) Water districts, sewer districts, and water-sewer districts
17 organized under Title 57 RCW;

18 (b) Public utility districts organized under Title 54 RCW;

19 (c) Irrigation, reclamation, conservation, and similar districts
20 organized under Titles 87 and 89 RCW;

21 (d) Port districts organized under Title 53 RCW;

22 (e) Diking, drainage, and similar districts organized under Title
23 85 RCW;

24 (f) Flood control and similar districts organized under Title 86
25 RCW;

26 (g) Lake or beach management districts organized under chapter
27 36.61 RCW;

28 (h) Aquifer protection areas organized under chapter 36.36 RCW; and

29 (i) Shellfish protection districts organized under chapter 90.72
30 RCW.

31 (3) The authority for expenditure of local government revenues
32 provided by this section shall be applicable broadly to the
33 implementation of watershed management plans addressing water supply,
34 water transmission, water quality treatment or protection, or any other
35 water-related purposes. Such plans include but are not limited to
36 plans developed under the following authorities:

37 (a) Watershed plans developed under chapter 90.82 RCW;

38 (b) Salmon recovery plans developed under chapter 77.85 RCW;

1 (c) Watershed management elements of comprehensive land use plans
2 developed under the growth management act, chapter 36.70A RCW;

3 (d) Watershed management elements of shoreline master programs
4 developed under the shoreline management act, chapter 90.58 RCW;

5 (e) Nonpoint pollution action plans developed under the Puget Sound
6 water quality management planning authorities of chapter 90.71 RCW and
7 chapter 400-12 WAC;

8 (f) Other comprehensive management plans addressing watershed
9 health at a WRIA level or sub-WRIA basin drainage level;

10 (g) Coordinated water system plans under chapter 70.116 RCW and
11 similar regional plans for water supply; and

12 (h) Any combination of the foregoing plans in an integrated
13 watershed management plan.

14 (4) The authority provided by this section to expend revenues for
15 watershed management plan implementation shall be construed broadly to
16 include, but not be limited to:

17 (a) The coordination and oversight of plan implementation,
18 including funding a watershed management partnership for this purpose;

19 (b) Technical support, monitoring, and data collection and
20 analysis;

21 (c) The design, development, construction, and operation of
22 projects included in the plan; and

23 (d) Conducting activities and programs included as elements in the
24 plan.

25 **Sec. 27.** RCW 86.09.151 and 1986 c 278 s 52 are each amended to
26 read as follows:

27 (1) Said flood control districts shall have full authority to carry
28 out the objects of their creation and to that end are authorized to
29 acquire, purchase, hold, lease, manage, improve, repair, occupy, and
30 sell real and personal property or any interest therein, either inside
31 or outside the boundaries of the district, to enter into and perform
32 any and all necessary contracts, to appoint and employ the necessary
33 officers, agents and employees, to sue and be sued, to exercise the
34 right of eminent domain, to levy and enforce the collection of special
35 assessments and in the manner herein provided against the lands within
36 the district, for district revenues, and to do any and all lawful acts
37 required and expedient to carry out the purpose of this chapter.

1 (2) In addition to the powers conferred in this chapter and those
2 in chapter 85.38 RCW, flood control districts may engage in activities
3 authorized under RCW 36.61.020 for lake or beach management districts
4 using procedures granted in this chapter and in chapter 85.38 RCW.

5 **Sec. 28.** RCW 35.21.403 and 1985 c 398 s 27 are each amended to
6 read as follows:

7 Any city or town may establish lake and beach management districts
8 within its boundaries as provided in chapter 36.61 RCW. When a city or
9 town establishes a lake or beach management district pursuant to
10 chapter 36.61 RCW, the term "county legislative authority" shall be
11 deemed to mean the city or town governing body, the term "county" shall
12 be deemed to mean the city or town, and the term "county treasurer"
13 shall be deemed to mean the city or town treasurer or other fiscal
14 officer.

15 NEW SECTION. **Sec. 29.** A new section is added to chapter 43.21A
16 RCW to read as follows:

17 (1) The department shall, within available funds, provide technical
18 assistance to community groups and county and city legislative
19 authorities requesting assistance with the development of beach
20 management programs. The department shall work with the departments of
21 fish and wildlife, natural resources, and the Puget Sound partnership
22 in coordinating agency assistance to community groups and county and
23 city legislative authorities.

24 (2) The department shall coordinate with relevant state agencies
25 and marine resources committees established in the area of beach
26 management districts to provide technical assistance to beach
27 management districts.

28 (3) The department shall, within available funds, coordinate with
29 relevant state agencies to provide technical assistance to beach
30 management districts so that beach management districts are able to
31 ensure that proposed beach improvement and maintenance plans and
32 activities of these districts are consistent with applicable federal,
33 state, and local laws, and federal, state, and local resource
34 management plans including, but not limited to:

35 (a) Shoreline master programs;

36 (b) Development regulations adopted to protect critical areas;

- 1 (c) State and federally identified habitat conservation plans and
- 2 species recovery plans;
- 3 (d) State marine species management plans; and
- 4 (e) Shoreline and nearshore protection and restoration plans.
- 5 (4) The department, in consultation with the Puget Sound
- 6 partnership, shall monitor and assess the results of the removal of
- 7 native aquatic plants and vegetation in areas designated in section
- 8 2(4) of this act, and provide recommendations regarding areas for
- 9 future designations.

10 NEW SECTION. **Sec. 30.** If specific funding for the purposes of
11 this act, referencing this act by bill or chapter number, is not
12 provided by June 30, 2008, in the omnibus appropriations act, this act
13 is null and void."

E2SHB 3186 - S COMM AMD
By Committee on Water, Energy & Telecommunications

ADOPTED 03/04/2008

14 On page 1, line 1 of the title, after "districts;" strike the
15 remainder of the title and insert "amending RCW 36.61.010, 36.61.020,
16 36.61.025, 36.61.030, 36.61.040, 36.61.050, 36.61.060, 36.61.070,
17 36.61.080, 36.61.090, 36.61.100, 36.61.110, 36.61.115, 36.61.120,
18 36.61.140, 36.61.160, 36.61.170, 36.61.190, 36.61.200, 36.61.220,
19 36.61.230, 36.61.260, 36.61.270, 36.94.020, 39.34.190, 86.09.151, and
20 35.21.403; adding a new section to chapter 36.61 RCW; adding a new
21 section to chapter 43.21A RCW; and creating a new section."

EFFECT: Requires the Department of Ecology and the Puget Sound
partnership to monitor the removal of native vegetation on beaches near
Dumas Bay and Fauntleroy Cove, and to provide recommendations for
future area designations.

--- END ---