
Community & Economic Development & Trade Committee

HB 2577

Brief Description: Creating community facilities districts.

Sponsors: Representatives Sullivan, Chase and Kenney.

Brief Summary of Bill

- Authorizes the establishment of community facilities districts and sets out requirements and authorities related to their formation, governance, powers, and finances.

Hearing Date: 1/14/10

Staff: Meg Van Schoorl (786-7105).

Background:

Local improvement districts: Cities and towns are authorized to form local improvement districts (LIDs) for the purpose of constructing, reconstructing, or repairing a wide range of publicly owned structures, facilities, and infrastructure, including: specified types of public buildings; community facilities for recreation, entertainment, and cultural activities; bridges and trestles; dikes and embankments; parks and playgrounds; street lighting systems; infrastructure for public transportation systems; and water and sewer system infrastructure. The costs of creating a local improvement district are financed, in whole or in part, through special assessments on property that is specially benefited by the improvement.

Impact fees: Counties, cities, and towns that plan under the major provisions of the Growth Management Act (GMA) are authorized to impose impact fees on development activity as part of the financing of public facilities. Impact fees are payments of money required of developers as a condition of development approval. Local governments must ensure that such fees are used only for system improvements that are reasonably related to the impact of the development on the use

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of public facilities and that the fees do not exceed a proportionate share of the cost of system improvements made necessary by the development. The types of "public facilities" which may receive funding from impact fees are limited to specified types of capital facilities owned or operated by government entities: public streets and roads; publicly owned parks, open space, and recreation facilities; school facilities; and fire protection facilities in jurisdictions that are not part of a fire district.

Benefit charges: Fire protection districts are created to provide fire prevention, fire suppression and emergency medical services within a district's boundaries. The districts finance their activities and facilities by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. A benefit charge is a charge imposed upon a property owner based upon the measurable benefits to be received. Benefit charges are not based on the value of real property, but are linked to other factors such as insurance savings, water sources, or the distance from fire service facilities.

Summary of Bill:

Part I -- General Provisions: Findings, Intent, and Definitions.

Findings and Intent: Substantial population and employment growth in the next 20 years will require new housing, employment sites, community facilities, and supporting infrastructure. Most areas have insufficient community facilities and infrastructure to support this growth and current public financing options are also inadequate. A flexible financing mechanism called a community facilities district (CFD) should be available to counties, cities and towns in order to facilitate voluntary landowner financing of facilities and infrastructure.

Definitions. A "CFD" is defined as a municipal corporation, an independent taxing authority, and a taxing district created by a petition approved by the legislative authority of a county, city or town in which the district is located. A district created according to this chapter may include land in one or more cities, towns or counties. Definitions are also provided for "board of supervisors," "legislative authority," "local improvement district," "petition" and "amended petition," and "value of the taxable property."

Part II -- Community Facilities District Formation: Authorization, Petition and Hearing Process.

The establishment of CFDs is authorized. Formation includes the following steps:

Petition. A petition executed by 100 percent of all owners of private property located within district boundaries must be presented to the legislative authority of each jurisdiction within the proposed CFD boundaries. The petition must include a designation of the CFD boundaries, a general explanation of the CFD objective and plan, a list of petitioners willing to serve on the board of supervisors, and certain declarations, assertions, and obligations. The petitioners must certify that they want to voluntarily submit their land to the CFD's authority and must request that their property be subject to authorized assessments, fees, charges and excess levies. The petition may include a proposed assessment along with required information on the proposed rate and the affected properties and owners. The petition must be filed with the county auditor of each county in which property is included in the CFD boundary. Responsibilities, requirements,

and a timeline for lead auditor review, petition amendment, certification of sufficiency, and transmittal to each legislative authority is outlined.

Public Hearing, Notice, Appeals. Twenty to 40 days after a petition is certified as sufficient by the lead auditor, there must be a public hearing in each affected jurisdiction. Hearing requirements related to notice, petition consideration, timelines, resolutions, and appeals are provided. In order to approve a petition, the legislative authority of each jurisdiction included within the CFD boundaries must determine that the petitioners will benefit from the CFD and that the CFD formation will be conducive to public health, safety and welfare.

Part III -- Community Facilities District Board of Supervisors.

Appointments, meetings and records. A CFD must be independently governed by a Board of Supervisors (Board) appointed through majority vote of the legislative authority. Specific appointment procedures for CFDs with one jurisdiction and those with more than one jurisdiction within a CFD boundary are provided. Board member positions are allocated for specified numbers of legislative authority members and eligible petitioners. Provisions are included for terms, vacancies, quorums, expenses, and chair designation. Board meetings are subject to the Open Public Meetings Act and records are subject to the Public Records Act.

Part IV -- Community Facilities District Powers.

General Powers. A CFD has all the usual powers of a corporation for public purposes and also other powers specifically conferred by statute. All CFD actions must be consistent with the terms and conditions of the petition or amended petition.

Specific Powers. A CFD may: acquire, purchase, hold, lease, finance, manage, occupy, construct, and sell real and personal property, facilities, or interests; enter into and perform contracts; and levy, assess, and enforce collection of assessments, fees, charges and excess levies against the property owned by petitioners. Additional powers and limitations are provided.

Part V -- Community Facilities District Finances.

Finance Authorities. A CFD is authorized to:

- Finance the cost of the purchase, finance, lease, sublease, construction, expansion, improvement or rehabilitation of any facility with an estimated life of five years or more, and directly associated planning and design work; sanitary sewage systems; drainage and flood control systems; water systems; highways, streets, roadways and parking facilities; areas for pedestrian and non-motor vehicle use; pedestrian malls, parks, recreational facilities and open space facilities; landscaping; public buildings, public safety facilities, and community facilities; natural gas, electrical energy and communication transmission and distribution facilities; lighting systems; traffic control systems; mass transportation system facilities; library, education and cultural facilities; and other similar facilities and improvements.
- Construct, finance, lease, invest, or fund any of the activities authorized in this chapter in connection with community facilities within or outside its boundaries. A CFD may also fund activities undertaken by another municipal or quasi-municipal corporation.
- Form a local improvement district.

- Levy an ad valorem property tax in excess of the one percent limitation upon property within the district for a one year period when authorized by CFD voters.
- Provide for the retirement of voter-approved general obligation and revenue bonds by levying bond retirement ad valorem property tax levies in excess of the one percent limitation when authorized by CFD voters.
- Incur general indebtedness for capital purposes and issue general obligation bonds.
- Accept money or property donated to it.
- Fix and impose, by resolution, on owners of property within the CFD, a benefit charge on personal property, real property, and improvements that are proportionate to the benefits provided. Requirements for proportioning, establishing, collecting and otherwise administering the benefit charge are provided.
- Impose special assessments on privately owned real property to finance the activities of the CFD. Requirements related to the system of assessment, terms, hearing and appeal processes, notices, and collection are provided.

No bonds issued by the CFD are obligations of any city, town, county, the state or other political subdivision other than the CFD, unless the legislative authority of another entity expressly authorizes otherwise.

Roles and responsibilities of jurisdictions and the CFD related to levying and collecting taxes, deposit and disbursement of CFD revenues, and payment of CFD costs are provided.

Part VI -- Impact Fees.

A CFD may not be required to pay impact fees. A CFD Board is authorized to develop programs to jointly fund from public and private sources reasonable and necessary improvements to mitigate impacts that are a direct result of planned growth and development within the CFD's boundaries. Requirements for the process of developing, adopting, and administering these funding programs are included.

Part VII -- Miscellaneous Provisions.

Assessments, fees, charges, and excess levies on the property voluntarily submitted to the authority of the CFD are a lien on the property and are superior to any other lien or encumbrance except a lien for general taxes.

Codification instructions and a severability clause are provided.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.