

SENATE BILL REPORT

ESHB 1886

As Reported by Senate Committee On:
Government Operations & Elections, March 26, 2009

Title: An act relating to flood control districts.

Brief Description: Concerning flood control districts.

Sponsors: House Committee on Local Government & Housing (originally sponsored by Representative Takko).

Brief History: Passed House: 3/11/09, 97-0.

Committee Activity: Government Operations & Elections: 3/26/09 [DP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach, Ranking Minority Member; Benton, McDermott, Pridemore and Swecker.

Staff: Edward Redmond (786-7471)

Background: Flood control districts (district) provide for the control of a watershed or tidal area. The territory of a district may encompass all or part of one or more counties. A district has a number of duties, including the planning, construction, and maintenance of dams, dikes, and other infrastructure necessary for flood control. The district must also cooperate with state and federal agencies to reduce flood risk.

The district is government by a board consisting of three members who serve staggered six-year terms. Each board also has a secretary, who may be either a board member or voter from the district. By November 1 of each year the secretary must (1) estimate the fundraising needs for the subsequent year, based upon a budget furnished by the board; and (2) submit this information to the county authority. Once the county legislative authority has approved the board's budget, the secretary must prepare an assessment roll listing all lands shown on the base assessment map.

A district may contract for construction, services, or materials. Payments may be made in monthly installments and a board may determine the installment amount. Contracts for construction, services, or materials must be awarded through a public bidding process. The

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board must run a public announcement in a newspaper for at least two weeks before opening the bidding process. Bidders must include a certified check with bids as a guarantee of compliance.

The board must award the contract to the lowest and best responsible bidder. The board, however, has authority to reject any or all bids. In this case, it must re-advertise for bids following the same public bidding procedure. If the board again fails to receive a satisfactory bid, it may then proceed to construct by force account.

The board must designate a location for its office within the boundaries of the district, if possible. If no place is available within the district, the office may be located in the county encompassing most of the district territory (county). A board must meet certain conditions in order to change its office location such as obtaining consent from the county legislative authority and posting public notice near its current office and its proposed new office at least ten days prior to relocating.

A district may annex contiguous territory using any of the following methods: (1) petition and election. A petition must be signed by at least ten property owners in the proposed annexation area and filed with the board; (2) resolution and election – a resolution requesting the annexation must be adopted by the board; and (3) direct petition. Annexation occurs if the owners of the majority of territory in the proposed annexation area sign a petition requesting annexation and the board approves.

If the board approves the request under methods (1) or (2), an election must be held to put the question to voters. A majority of voters must approve a ballot proposition favoring annexation in order for it to take effect.

Summary of Bill: Provisions regarding the membership, powers, and duties of the board are amended. The board must elect a member to service as vice-chair. The board may either select a member to serve as secretary or may appoint and employ a secretary. The annual deadline for a secretary to submit a budget forecast to a county legislative authority is changed from November 1 to December 1.

Districts may enter into installment contracts for maintenance services. For all contracts except materials, the district must withhold 5 percent of each payment until the contract is complete. A public bidding process is required for maintenance contracts.

The district must receive a minimum of three formal bids for projects costing at least \$50,000. This requirement does not apply in cases where three bidders are not available or where the contract is less than \$5,000. In all cases, however, a district may (1) use volunteer labor and equipment, providing reimbursement for actual expenses; or (2) enter an interlocal agreement for construction or maintenance.

Provisions regarding a contractor's bond with the state are amended. The minimum contract value for a person to enter a bond with the state is increased from \$1,000 to \$5,000. Contracts for materials are removed from these provisions and contracts for maintenance are added. The United States and the state of Washington, including counties and cities within the state, are exempt from these provisions.

A new annexation method for contiguous territory is added. A district must (1) adopt a resolution; (2) publish notice in a newspaper; (3) hold a public hearing; and (4) recommend the annexation to the county legislative authority. The county legislative authority must then hold a public hearing on the proposal. After the hearing, the county legislative authority may either reject the proposal or approve or modify the proposal and adopt it by ordinance. Territory is considered contiguous to the district if it is bounded by the same river, lake, or other body of water that bounds the district territory.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: There are a lot of provisions in the flood control statute that are outdated. The changes made in this bill address these outdated provisions. An amendment may be needed to address the monetary gap in new section 3.

Persons Testifying: PRO: Representative Takko, prime sponsor.