

# SENATE BILL REPORT

## ESSB 6286

---

---

As Passed Senate, February 9, 2010

**Title:** An act relating to the liability and powers of cities, diking districts, and flood control zone districts.

**Brief Description:** Concerning the liability and powers of cities, diking districts, and flood control zone districts.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Kline, Haugen, Tom, Keiser, Kauffman and McDermott).

**Brief History:**

**Committee Activity:** Judiciary: 1/19/10, 1/27/10 [DPS].

Passed Senate: 2/09/10, 48-0.

---

### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6286 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell, Gordon, Kohl-Welles and Roach.

**Staff:** Kim Johnson (786-7472)

**Background:** Flood control zone districts are quasi-municipal corporations created for the limited purpose of undertaking, operating, and maintaining flood control or storm water control projects. Flood control zone districts are created by the legislative body of a county or by petition of at least 25 percent of the electors within a proposed zone and are an independent taxing authority and a taxing district. Generally, the legislative body of a county serves as the district's supervisors and the county engineer as the administrator. Flood control zone districts with more than 2,000 residents are authorized to elect supervisors. There are currently at least nine flood control zone districts in Washington.

Diking districts are taxing districts and oversight bodies which create, maintain, and manage specific areas that include significant drainage or dike infrastructures. Among other things, a diking district has the authority to straighten, widen, and deepen waterways considered a flood threat. Diking districts may construct dikes, drains, ditches, and other infrastructure to reduce flood risk.

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Under current law, counties are immune from liability for any noncontractual acts or omissions relating to the improvement, protection, regulation, and control for flood prevention and navigation purposes of any river or its tributaries.

Covered volunteer emergency workers are volunteers who are registered with a local emergency management organization or Washington State Military Department and are granted immunity from liability for their work during an emergency.

**Summary of Engrossed Substitute Bill:** Flood control zone districts, diking districts, and cities are provided immunity from liability for any noncontractual acts or omissions relating to the improvement, protection, regulation, and control for flood prevention and navigation purposes of any river or its tributaries.

A flood control zone district may use covered volunteer emergency workers during an emergency.

A flood control zone district may provide grant funds to political subdivisions of the state that are located within the boundaries of the zone, so long as the use of the funds are within the flood control zone district's authorized purposes.

**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 on Original Bill:** PRO: King County is in support of the legislation. The immunity given to counties is for noncontractual acts or omissions, and is limited to flood control work done on rivers and tributaries. Storm water flooding is not covered by this statute, nor is contractual liability. In 1993 the county adopted a flood hazard reduction plan that identified \$300 million worth of needed capital improvements. In 2007 the flood control zone district was formed and taxes were implemented to support the needed improvements. The governing body of the district is the county council, which means there is significant oversight. We see this bill as recognizing that the flood control activities the county used to perform have now been transferred to the district, and therefore the same immunity should be provided for our work as well. It is appropriate to include cities. The cities already enjoy immunity in the context of emergencies. Under the law of necessity it is the city's position that we are likely already immune for the work we do to protect against floods. If you make everyone else immune it leaves the cities standing by themselves instead of with the other parties. This bill also clarifies the district's authority to use volunteers during emergencies, and to provide grant moneys to the cities and counties for local flood control projects.

**Persons Testifying:** PRO: Dan Heid, City of Auburn; Joseph Rochelle, King County; Rod Kaseguma, King County Flood Control Zone District; Tom Brubaker, City of Kent.