
HOUSE BILL 1897

State of Washington 61st Legislature 2009 Regular Session

By Representatives Simpson, Shea, Takko, and Miloscia

Read first time 02/02/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to assumption of water-sewer districts by cities;
2 and amending RCW 35.13A.020, 35.13A.030, and 35.13A.050.

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

4 **Sec. 1.** RCW 35.13A.020 and 1999 c 153 s 28 are each amended to
5 read as follows:

6 (1) Whenever all of the territory of a district is included within
7 the corporate boundaries of a city, the city legislative body may
8 ~~((adopt a resolution or ordinance to))~~ assume jurisdiction over all of
9 the district, subject to the process in subsection (2) of this section.

10 (2)(a) The owners of not less than ten percent of the territory of
11 the district may initiate the assumption by filing a petition for
12 assumption with the city clerk. The city clerk shall immediately serve
13 a copy of the petition upon the secretary of the district board of
14 commissioners. The petition must meet the requirements of RCW
15 35A.01.040, and must include an accurate legal description of the
16 district and a map of the district. The sufficiency of the petition
17 must be determined in accordance with RCW 35A.01.040. After receiving
18 a certificate of sufficiency from the county assessor pursuant to RCW
19 35A.01.040, the city clerk shall serve a copy of the certificate upon

1 the secretary of the district board of commissioners. Within thirty
2 days after the date of the certificate of sufficiency, the city council
3 shall determine by resolution whether to pursue further the assumption.
4 If the city council adopts a resolution to pursue further the
5 assumption, the city council and the district board of commissioners
6 shall select jointly, within thirty days after the date of the adoption
7 of the resolution, a consultant to prepare a feasibility study
8 regarding the assumption. If the city council and the district board
9 of commissioners fail to agree upon a consultant within the thirty-day
10 period, the city council shall select a representative from another
11 city, and the district board of commissioners shall select a
12 representative from another district. Within thirty days of selection
13 of both representatives, the representatives shall agree upon a
14 consultant. The scope of work for the feasibility study must include
15 all substantive and procedural topics or matters relating to the
16 assumption that are requested by either the city council or the
17 district board of commissioners, or both. The city council shall
18 approve a contract with the consultant for preparation of the
19 feasibility study, and shall pay for all costs and expenses of the
20 feasibility study, unless the district subsequently decides to pursue
21 the assumption, in which case the city and the district shall share
22 equally the costs and expenses of the feasibility study. Upon receipt
23 of the final feasibility study, the city shall serve a copy of such
24 study on the secretary of the district board of commissioners. Within
25 sixty days of receiving the final feasibility study, the city council
26 and the district board of commissioners each shall hold a public
27 hearing for purposes of discussing the proposed assumption and
28 receiving public comments on the proposed assumption. Notice for each
29 public hearing must be published in a local newspaper of general
30 circulation in the city or the district, as applicable, once each week
31 for two consecutive weeks prior to the public hearing, and must be
32 posted on the web site of the city or the district, as applicable, for
33 two consecutive weeks prior to the public hearing. After the public
34 hearings, the city council and the district board of commissioners
35 shall decide whether to pursue the assumption.

36 (b) If the city council and the district board of commissioners
37 both decide by resolution to pursue the assumption, the city council
38 and the district board of commissioners, through their designated

1 representatives, shall attempt to negotiate an agreement for the
2 assumption. The agreement must be consistent with this chapter. If
3 the city and the district representatives negotiate successfully an
4 assumption agreement, the city council shall approve the assumption
5 agreement by ordinance, and the district board of commissioners shall
6 approve the assumption agreement by resolution. The boundary review
7 board may not review and approve the assumption authorized by the
8 assumption agreement.

9 (c) The city council at any time may decide not to pursue the
10 assumption. If the city and the district are unable to agree upon the
11 terms and conditions of an assumption agreement within ninety days
12 after commencing negotiation, or if the city council desires to pursue
13 the assumption, the city may pursue further the assumption. The
14 boundary review board shall approve the assumption under chapter 36.93
15 RCW. If the boundary review board denies the assumption, the
16 assumption must be discontinued. If the boundary review board approves
17 the assumption, the city shall call for a special election in the
18 entire district under Title 29A RCW. If a majority of the qualified
19 electors of the entire district vote in favor of the assumption, it
20 must be approved. If the assumption is approved, the effective date is
21 January 1 of the next calendar year for an election held prior to June
22 1, or January 1 of the year after the next calendar year for an
23 election held after June 1.

24 (3) Upon the assumption, all real and personal property,
25 franchises, rights, assets, taxes levied but not collected for the
26 district for other than indebtedness, water, sewer, and drainage
27 facilities, and all other facilities and equipment of the district
28 shall become the property of the city subject to all financial,
29 statutory, or contractual obligations of the district for the security
30 or performance of which the property may have been pledged. The city,
31 in addition to its other powers, shall have the power to manage,
32 control, maintain, and operate the property, facilities and equipment
33 and to fix and collect service and other charges from owners and
34 occupants of properties so served by the city, subject, however, to any
35 outstanding indebtedness, bonded or otherwise, of the district payable
36 from taxes, assessments, or revenues of any kind or nature and to any
37 other contractual obligations of the district.

1 (~~(3)~~) (4) The city may by resolution or ordinance of its
2 legislative body, assume the obligation of paying such district
3 indebtedness and of levying and of collecting or causing to be
4 collected the district taxes, assessments, and utility rates and
5 charges of any kind or nature to pay and secure the payment of the
6 indebtedness, according to all of the terms, conditions and covenants
7 incident to the indebtedness, and shall assume and perform all other
8 outstanding contractual obligation of the district in accordance with
9 all of their terms, conditions, and covenants. An assumption shall not
10 be deemed to impair the obligation of any indebtedness or other
11 contractual obligation. During the period until the outstanding
12 indebtedness of the district has been discharged, the territory of the
13 district and the owners and occupants of property therein, shall
14 continue to be liable for its and their proportionate share of the
15 indebtedness, including any outstanding assessments levied within any
16 local improvement district or utility local improvement district
17 thereof. The city shall assume the obligation of causing the payment
18 of the district's indebtedness, collecting the district's taxes,
19 assessments, and charges, and observing and performing the other
20 district contractual obligations. The legislative body of the city
21 shall act as the officers of the district for the purpose of certifying
22 the amount of any property tax to be levied and collected therein, and
23 causing service and other charges and assessments to be collected from
24 the property or owners or occupants thereof, enforcing the collection
25 and performing all other acts necessary to ensure performance of the
26 district's contractual obligations in the same manner and by the same
27 means as if the territory of the district had not been included within
28 the boundaries of a city.

29 When a city assumes the obligation of paying the outstanding
30 indebtedness, and if property taxes or assessments have been levied and
31 service and other charges have accrued for this purpose but have not
32 been collected by the district prior to the assumption, the same when
33 collected shall belong and be paid to the city and be used by the city
34 so far as necessary for payment of the indebtedness of the district
35 existing and unpaid on the date the city assumes the indebtedness. Any
36 funds received by the city which have been collected for the purpose of
37 paying any bonded or other indebtedness of the district, shall be used
38 for the purpose for which they were collected and for no other purpose.

1 Any outstanding indebtedness shall be paid as provided in the terms,
2 conditions, and covenants of the indebtedness. All funds of the
3 district on deposit with the county treasurer at the time of title
4 transfer shall be used by the city solely for the benefit of the
5 assumed utility and shall not be transferred to or used for the benefit
6 of the city's general fund.

7 **Sec. 2.** RCW 35.13A.030 and 1999 c 153 s 29 are each amended to
8 read as follows:

9 Whenever a portion of a district equal to at least sixty percent of
10 the area or sixty percent of the assessed valuation of the real
11 property lying within such district, is included within the corporate
12 boundaries of a city, the city may assume by ordinance the full and
13 complete management and control of that portion of the entire district
14 not included within another city, (~~whereupon~~) subject to the
15 provisions and process of RCW 35.13A.020 (~~shall be operative~~); or the
16 city may proceed (~~directly under~~) according to the provisions and
17 process of RCW 35.13A.050.

18 **Sec. 3.** RCW 35.13A.050 and 1971 ex.s. c 95 s 5 are each amended to
19 read as follows:

20 When electing under RCW 35.13A.030 or 35.13A.040 to proceed under
21 this section, the city may assume(~~, by ordinance,~~) jurisdiction of
22 the district's responsibilities, property, facilities, and equipment
23 within the corporate limits of the city, subject to the provisions and
24 process of RCW 35.13A.020: PROVIDED, That the petition for assumption
25 is initiated by the owners of not less than ten percent of the
26 territory proposed for assumption. If on the effective date of such an
27 (~~ordinance~~) assumption the territory of the district included within
28 the city contains any facilities serving or designed to serve any
29 portion of the district outside the corporate limits of the city or if
30 the territory lying within the district and outside the city contains
31 any facilities serving or designed to serve territory included within
32 the city (which facilities are hereafter in this section called the
33 "serving facilities"), the city or district shall for the economically
34 useful life of any such serving facilities make available sufficient
35 capacity therein to serve the sewage or water requirements of such

1 territory, to the extent that such facilities were designed to serve
2 such territory at a rate charged to the municipality being served which
3 is reasonable to all parties.

4 In the event a city proceeds under this section, the district may
5 elect upon a favorable vote of a majority of all voters within the
6 district voting upon such propositions to require the city to assume
7 responsibility for the operation and maintenance of the district's
8 property, facilities and equipment throughout the entire district and
9 to pay the city a charge for such operation and maintenance which is
10 reasonable under all of the circumstances.

11 A city acquiring property, facilities and equipment under the
12 provisions of this section shall acquire such property, facilities and
13 equipment, and fix and collect service and other charges from owners
14 and occupants of properties served by the city, subject, to any
15 contractual obligations of the district which relate to the property,
16 facilities, or equipment so acquired by the city or which are secured
17 by taxes, assessments or revenues from the territory of the district
18 included within the city. In such cases, the property included within
19 the city and the owners and occupants thereof shall continue to be
20 liable for payment of its and their proportionate share of any
21 outstanding district indebtedness. The district and its officers shall
22 continue to levy taxes and assessments on and to collect service and
23 other charges from such property, or owners or occupants thereof, to
24 enforce such collections, and to perform all other acts necessary to
25 insure performance of the district's contractual obligations in the
26 same manner and by the same means as if the territory of the district
27 had not been included within the boundaries of a city.

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