
SENATE BILL 5839

State of Washington

61st Legislature

2009 Regular Session

By Senators Schoesler, Hatfield, and Shin

Read first time 02/04/09. Referred to Committee on Agriculture & Rural Economic Development.

1 AN ACT Relating to the administration of irrigation districts;
2 amending RCW 58.17.310, 82.02.090, 87.03.460, and 89.12.050; and adding
3 a new section to chapter 87.03 RCW.

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

5 **Sec. 1.** RCW 58.17.310 and 1990 c 194 s 1 are each amended to read
6 as follows:

7 (1) Whenever a city, town, or county receives an application for
8 the approval of a plat of a division that lies in whole or in part in
9 an irrigation district organized pursuant to chapter 87.03 RCW, the
10 responsible administrator shall give written notice of the application,
11 including a legal description of the short subdivision and a location
12 map, to the irrigation district. The irrigation district shall, after
13 receiving the notice, submit to the responsible administrator who
14 furnished the notice a statement with any information or conditions for
15 approval that the irrigation district deems to be necessary regarding
16 the proposed division's effect upon the structural integrity, including
17 lateral support, of the irrigation district facilities, other risk
18 exposures, and the safety of the public and irrigation district.

1 (2) In addition to any other requirements imposed by the provisions
2 of this chapter, the legislative authority of any city, town, or county
3 shall not approve a short plat or final plat, as defined in RCW
4 58.17.020, for any subdivision, short subdivision, lot, tract, parcel,
5 or site which lies in whole or in part in an irrigation district
6 organized pursuant to chapter 87.03 RCW unless there has been provided
7 an irrigation water right-of-way for each parcel of land in such
8 district. In addition, if the subdivision, short subdivision, lot,
9 tract, parcel, or site lies within land within the district classified
10 as irrigable, completed irrigation water distribution facilities for
11 such land may be required by the irrigation district by resolution,
12 bylaw, or rule of general applicability as a condition for approval of
13 the short plat or final plat by the legislative authority of the city,
14 town, or county. Rights-of-way shall be evidenced by the respective
15 plats submitted for final approval to the appropriate legislative
16 authority. In addition, if the subdivision, short subdivision, lot,
17 tract, parcel, or site to be platted is wholly or partially within an
18 irrigation district of two hundred thousand acres or more and has been
19 previously platted by the United States bureau of reclamation as a farm
20 unit in the district, the legislative authority shall not approve for
21 such land a short plat or final plat as defined in RCW 58.17.020
22 without the approval of the irrigation district and the administrator
23 or manager of the project of the bureau of reclamation, or its
24 successor agency, within which that district lies. Compliance with the
25 requirements of this section together with all other applicable
26 provisions of this chapter shall be a prerequisite, within the
27 expressed purpose of this chapter, to any sale, lease, or development
28 of land in this state.

29 **Sec. 2.** RCW 82.02.090 and 2008 c 42 s 1 are each amended to read
30 as follows:

31 Unless the context clearly requires otherwise, the following
32 definitions shall apply in RCW 82.02.050 through 82.02.090:

33 (1) "Development activity" means any construction or expansion of
34 a building, structure, or use, any change in use of a building or
35 structure, or any changes in the use of land, that creates additional
36 demand and need for public facilities. "Development activity" does not

1 include buildings or structures constructed by a regional transit
2 authority.

3 (2) "Development approval" means any written authorization from a
4 county, city, or town which authorizes the commencement of development
5 activity.

6 (3) "Impact fee" means a payment of money imposed upon development
7 as a condition of development approval to pay for public facilities
8 needed to serve new growth and development, and that is reasonably
9 related to the new development that creates additional demand and need
10 for public facilities, that is a proportionate share of the cost of the
11 public facilities, and that is used for facilities that reasonably
12 benefit the new development. "Impact fee" does not include a
13 reasonable permit or application fee.

14 (4) "Owner" means the owner of record of real property, although
15 when real property is being purchased under a real estate contract, the
16 purchaser shall be considered the owner of the real property if the
17 contract is recorded.

18 (5) "Proportionate share" means that portion of the cost of public
19 facility improvements that are reasonably related to the service
20 demands and needs of new development.

21 (6) "Project improvements" mean site improvements and facilities
22 that are planned and designed to provide service for a particular
23 development project and that are necessary for the use and convenience
24 of the occupants or users of the project, and are not system
25 improvements. No improvement or facility included in a capital
26 facilities plan approved by the governing body of the county, city, or
27 town shall be considered a project improvement.

28 (7) "Public facilities" means the following capital facilities
29 owned or operated by government entities: (a) Public streets and
30 roads; (b) publicly owned parks, open space, and recreation facilities;
31 (c) school facilities; (~~and~~) (d) public irrigation districts; and (e)
32 fire protection facilities in jurisdictions that are not part of a fire
33 district.

34 (8) "Service area" means a geographic area defined by a county,
35 city, town, or intergovernmental agreement in which a defined set of
36 public facilities provide service to development within the area.
37 Service areas shall be designated on the basis of sound planning or
38 engineering principles.

1 (9) "System improvements" mean public facilities that are included
2 in the capital facilities plan and are designed to provide service to
3 service areas within the community at large, in contrast to project
4 improvements.

5 **Sec. 3.** RCW 87.03.460 and 2007 c 469 s 13 are each amended to read
6 as follows:

7 In addition to their reasonable expenses in accordance with chapter
8 42.24 RCW, the directors shall each receive (~~(an amount for attending~~
9 ~~meetings and while performing other services for the district. The~~
10 ~~amount shall be fixed by resolution and entered in the minutes of the~~
11 ~~proceedings of the board. It shall not exceed~~) ninety dollars for
12 each day or portion thereof spent by a director for such actual
13 attendance at official meetings of the district, or in performance of
14 other official services or duties on behalf of the district. The total
15 amount of such additional compensation received by a director may not
16 exceed eight thousand six hundred forty dollars in a calendar year.
17 The board shall fix the compensation of the secretary and all other
18 employees.

19 Any director may waive all or any portion of his or her
20 compensation payable under this section as to any month or months
21 during his or her term of office, by a written waiver filed with the
22 secretary as provided in this section. The waiver, to be effective,
23 must be filed any time after the director's election and prior to the
24 date on which the compensation would otherwise be paid. The waiver
25 shall specify the month or period of months for which it is made.

26 The dollar thresholds established in this section must be adjusted
27 for inflation by the office of financial management every five years,
28 beginning July 1, 2008, based upon changes in the consumer price index
29 during that time period. "Consumer price index" means, for any
30 calendar year, that year's annual average consumer price index, for
31 Washington state, for wage earners and clerical workers, all items,
32 compiled by the bureau of labor and statistics, United States
33 department of labor. If the bureau of labor and statistics develops
34 more than one consumer price index for areas within the state, the
35 index covering the greatest number of people, covering areas
36 exclusively within the boundaries of the state, and including all items
37 shall be used for the adjustments for inflation in this section. The

1 office of financial management must calculate the new dollar threshold
2 and transmit it to the office of the code reviser for publication in
3 the Washington State Register at least one month before the new dollar
4 threshold is to take effect.

5 A person holding office as commissioner for two or more special
6 purpose districts shall receive only that per diem compensation
7 authorized for one of his or her commissioner positions as compensation
8 for attending an official meeting or conducting official services or
9 duties while representing more than one of his or her districts.
10 However, such commissioner may receive additional per diem compensation
11 if approved by resolution of all boards of the affected commissions.

12 **Sec. 4.** RCW 89.12.050 and 1963 c 3 s 2 are each amended to read as
13 follows:

14 (1) A district may enter into repayment and other contracts with
15 the United States under the terms of the federal reclamation laws in
16 matters relating to federal reclamation projects, and may with respect
17 to lands within its boundaries include in the contract, among others,
18 an agreement that:

19 ~~((+1))~~ (a) The district will not deliver water by means of the
20 project works provided by the United States to or for excess lands not
21 eligible therefor under applicable federal law.

22 ~~((+2))~~ (b) As a condition to receiving water by means of the
23 project works, each excess landowner in the district, unless his excess
24 lands are otherwise eligible to receive water under applicable federal
25 law, shall be required to execute a recordable contract covering all of
26 his excess lands within the district.

27 ~~((+3))~~ (c) All excess lands within the district not eligible to
28 receive water by means of the project works shall be subject to
29 assessment in the same manner and to the same extent as lands eligible
30 to receive water, subject to such provisions as the secretary may
31 prescribe for postponement in payment of all or part of the assessment
32 but not beyond a date five years from the time water would have become
33 available for such lands had they been eligible therefor.

34 ~~((+4))~~ (d) The secretary is authorized to amend any existing
35 contract, deed, or other document to conform to the provisions of
36 applicable federal law as it now exists. Any such amendment may be
37 filed for record under RCW 89.12.080.

1 (2) A district may enter into a contract with the United States for
2 the transfer of operations and maintenance of the works of a federal
3 reclamation project, but the contract does not impute to the district
4 negligence for design or construction defects or deficiencies of the
5 transferred works.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 87.03 RCW
7 to read as follows:

8 An irrigation district may enter into any contract or agreement
9 with or form a separate legal entity with the United States, or any
10 state, municipality, public utility district, irrigation district, or
11 any department of those entities, or with any joint operating agency,
12 cooperative, mutual, consumer-owned utility, or with any investor-owned
13 utility or with an association or legal entity composed of any such
14 entities or utilities, for the purchase and sale of electric power,
15 development, and/or ownership of electric power generation and/or
16 transmission facilities including, but not limited to, electric power
17 generated by wind. The contract or agreement may include the purchase
18 of capability of the project to produce electricity or transmit it, in
19 addition to the actual output of the projects. The contract or
20 agreement may provide that the irrigation district must make the
21 payments required by the contract or agreement whether or not a project
22 is completed, operative, or operating, and notwithstanding the
23 suspension, interruption, interference, reduction, or curtailment of
24 the output or use of a project or the use, power, and energy contracted
25 for or agreed to. The contract or agreement may also provide that
26 payments under the contract or agreement are not subject to reduction,
27 whether by offset or otherwise, and shall not be conditioned upon the
28 performance or nonperformance of any party or entity under the contract
29 or agreement.

--- END ---