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SENATE BILL 5447

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Shin, Roach, and Hobbs

Read first time 01/26/11. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to utility rates and charges for unoccupied mobile  
2 home lots in manufactured housing communities; and amending RCW  
3 35.23.535, 35.58.220, 35.67.020, 35.92.010, 35.92.020, 36.89.080,  
4 36.94.140, 54.24.080, and 57.08.081.

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

6 **Sec. 1.** RCW 35.23.535 and 1995 c 301 s 37 are each amended to read  
7 as follows:

8 No taxes shall be imposed for maintenance and operating charges of  
9 city owned water, light, power, or heating works or systems.

10 Rates shall be fixed by ordinance for supplying water, light,  
11 power, or heat for commercial, domestic, or irrigation purposes  
12 sufficient to pay for all operating and maintenance charges. No rates,  
13 charges, fees, or other costs may be charged to a mobile home lot in a  
14 manufactured housing community, as defined in RCW 59.20.030, while the  
15 lot is unoccupied unless the lot is receiving individually water,  
16 light, power, or heat services or the landlord voluntarily elects to  
17 continue the rates, charges, fees, or other costs during the period the  
18 lot is unoccupied. If the rates in force produce a greater amount than

1 is necessary to meet operating and maintenance charges, the rates may  
2 be reduced or the excess income may be transferred to the city's  
3 current expense fund.

4 Complete separate accounts for municipal utilities must be kept  
5 under the system and on forms prescribed by the state auditor.

6 The term "maintenance and operating charges," as used in this  
7 section includes all necessary repairs, replacement, interest on any  
8 debts incurred in acquiring, constructing, repairing and operating  
9 plants and departments and all depreciation charges. This term shall  
10 also include an annual charge equal to four percent on the cost of the  
11 plant or system, as determined by the state auditor to be paid into the  
12 current expense fund, except that where utility bonds have been or may  
13 hereafter be issued and are unpaid no payment shall be required into  
14 the current expense fund until such bonds are paid.

15 **Sec. 2.** RCW 35.58.220 and 1999 c 153 s 34 are each amended to read  
16 as follows:

17 (1) If a metropolitan municipal corporation shall be authorized to  
18 perform the function of metropolitan water supply, it shall have the  
19 following powers in addition to the general powers granted by this  
20 chapter:

21 ~~((1))~~ (a) To prepare a comprehensive plan for the development of  
22 sources of water supply, trunk supply mains and water treatment and  
23 storage facilities for the metropolitan area.

24 ~~((2))~~ (b) To acquire by purchase, condemnation, gift or grant and  
25 to lease, construct, add to, improve, replace, repair, maintain,  
26 operate and regulate the use of metropolitan facilities for water  
27 supply within or without the metropolitan area, including buildings,  
28 structures, water sheds, wells, springs, dams, settling basins,  
29 intakes, treatment plants, trunk supply mains and pumping stations,  
30 together with all lands, property, equipment and accessories necessary  
31 to enable the metropolitan municipal corporation to obtain and develop  
32 sources of water supply, treat and store water and deliver water  
33 through trunk supply mains. Water supply facilities which are owned by  
34 a city or special district may be acquired or used by the metropolitan  
35 municipal corporation only with the consent of the legislative body of  
36 the city or special district owning such facilities. Cities and  
37 special districts are hereby authorized to convey or lease such

1 facilities to metropolitan municipal corporations or to contract for  
2 their joint use on such terms as may be fixed by agreement between the  
3 legislative body of such city or special district and the metropolitan  
4 council, without submitting the matter to the voters of such city or  
5 special district.

6 ~~((3))~~ (c) To fix rates and charges for water supplied by the  
7 metropolitan municipal corporation.

8 ~~((4))~~ (d) To acquire by purchase, condemnation, gift or grant and  
9 to lease, construct, add to, improve, replace, repair, maintain,  
10 operate and regulate the use of facilities for the local distribution  
11 of water in portions of the metropolitan area not contained within any  
12 city, or water-sewer district that operates a water system, and, with  
13 the consent of the legislative body of any city or the water-sewer  
14 district, to exercise such powers within such city or water-sewer  
15 district and for such purpose to have all the powers conferred by law  
16 upon such city or water-sewer district with respect to such local  
17 distribution facilities. All costs of such local distribution  
18 facilities shall be paid for by the area served thereby.

19 (2) No rates, charges, fees, or other costs may be charged to a  
20 mobile home lot in a manufactured housing community, as defined in RCW  
21 59.20.030, while the lot is unoccupied unless the lot is receiving  
22 individually water services or the landlord voluntarily elects to  
23 continue the rates, charges, fees, or other costs during the period the  
24 lot is unoccupied.

25 **Sec. 3.** RCW 35.67.020 and 2003 c 394 s 1 are each amended to read  
26 as follows:

27 (1) Every city and town may construct, condemn and purchase,  
28 acquire, add to, maintain, conduct, and operate systems of sewerage and  
29 systems and plants for refuse collection and disposal together with  
30 additions, extensions, and betterments thereto, within and without its  
31 limits. Every city and town has full jurisdiction and authority to  
32 manage, regulate, and control them and, except as provided in  
33 subsection (3) of this section, to fix, alter, regulate, and control  
34 the rates and charges for their use.

35 (2) Subject to subsection (3) of this section, the rates charged  
36 under this section must be uniform for the same class of customers or  
37 service and facilities furnished. In classifying customers served or

1 service and facilities furnished by such system of sewerage, the city  
2 or town legislative body may in its discretion consider any or all of  
3 the following factors:

4 (a) The difference in cost of service and facilities to the various  
5 customers;

6 (b) The location of the various customers within and without the  
7 city or town;

8 (c) The difference in cost of maintenance, operation, repair, and  
9 replacement of the various parts of the system;

10 (d) The different character of the service and facilities furnished  
11 various customers;

12 (e) The quantity and quality of the sewage delivered and the time  
13 of its delivery;

14 (f) The achievement of water conservation goals and the  
15 discouragement of wasteful water use practices;

16 (g) Capital contributions made to the system, including but not  
17 limited to, assessments;

18 (h) The nonprofit public benefit status, as defined in RCW  
19 24.03.490, of the land user; and

20 (i) Any other matters which present a reasonable difference as a  
21 ground for distinction.

22 (3)(a) The rate a city or town may charge under this section for  
23 storm or surface water sewer systems or the portion of the rate  
24 allocable to the storm or surface water sewer system of combined  
25 sanitary sewage and storm or surface water sewer systems shall be  
26 reduced by a minimum of ten percent for any new or remodeled commercial  
27 building that utilizes a permissive rainwater harvesting system.  
28 Rainwater harvesting systems shall be properly sized to utilize the  
29 available roof surface of the building. The jurisdiction shall  
30 consider rate reductions in excess of ten percent dependent upon the  
31 amount of rainwater harvested.

32 (b) No rates, charges, fees, or other costs may be charged to a  
33 mobile home lot in a manufactured housing community, as defined in RCW  
34 59.20.030, while the lot is unoccupied unless the lot is receiving  
35 individually storm or surface water sewer system or sanitary sewage  
36 system services or the landlord voluntarily elects to continue the  
37 rates, charges, fees, or other costs during the period the lot is  
38 unoccupied.

1 (4) Rates or charges for on-site inspection and maintenance  
2 services may not be imposed under this chapter on the development,  
3 construction, or reconstruction of property.

4 (5) A city or town may provide assistance to aid low-income persons  
5 in connection with services provided under this chapter.

6 (6) Under this chapter, after July 1, 1998, any requirements for  
7 pumping the septic tank of an on-site sewage system should be based,  
8 among other things, on actual measurement of accumulation of sludge and  
9 scum by a trained inspector, trained owner's agent, or trained owner.  
10 Training must occur in a program approved by the state board of health  
11 or by a local health officer.

12 (7) Before adopting on-site inspection and maintenance utility  
13 services, or incorporating residences into an on-site inspection and  
14 maintenance or sewer utility under this chapter, notification must be  
15 provided, prior to the applicable public hearing, to all residences  
16 within the proposed service area that have on-site systems permitted by  
17 the local health officer. The notice must clearly state that the  
18 residence is within the proposed service area and must provide  
19 information on estimated rates or charges that may be imposed for the  
20 service.

21 (8) A city or town shall not provide on-site sewage system  
22 inspection, pumping services, or other maintenance or repair services  
23 under this section using city or town employees unless the on-site  
24 system is connected by a publicly owned collection system to the city  
25 or town's sewerage system, and the on-site system represents the first  
26 step in the sewage disposal process. Nothing in this section shall  
27 affect the authority of state or local health officers to carry out  
28 their responsibilities under any other applicable law.

29 **Sec. 4.** RCW 35.92.010 and 2002 c 102 s 2 are each amended to read  
30 as follows:

31 A city or town may construct, condemn and purchase, purchase,  
32 acquire, add to, alter, maintain and operate waterworks, including fire  
33 hydrants as an integral utility service incorporated within general  
34 rates, within or without its limits, for the purpose of furnishing the  
35 city and its inhabitants, and any other persons, with an ample supply  
36 of water for all purposes, public and private, including water power  
37 and other power derived therefrom, with full power to regulate and

1 control the use, distribution, and price thereof: PROVIDED, That the  
2 rates charged must be uniform for the same class of customers or  
3 service. Such waterworks may include facilities for the generation of  
4 electricity as a by-product and such electricity may be used by the  
5 city or town or sold to an entity authorized by law to distribute  
6 electricity. Such electricity is a by-product when the electrical  
7 generation is subordinate to the primary purpose of water supply.

8 In classifying customers served or service furnished, the city or  
9 town governing body may in its discretion consider any or all of the  
10 following factors: The difference in cost of service to the various  
11 customers; location of the various customers within and without the  
12 city or town; the difference in cost of maintenance, operation, repair,  
13 and replacement of the various parts of the system; the different  
14 character of the service furnished various customers; the quantity and  
15 quality of the water furnished; the time of its use; the achievement of  
16 water conservation goals and the discouragement of wasteful water use  
17 practices; capital contributions made to the system including, but not  
18 limited to, assessments; and any other matters which present a  
19 reasonable difference as a ground for distinction. No rate shall be  
20 charged that is less than the cost of the water and service to the  
21 class of customers served. No rates, charges, fees, or other costs may  
22 be charged to a mobile home lot in a manufactured housing community, as  
23 defined in RCW 59.20.030, while the lot is unoccupied unless the lot is  
24 receiving individually water services or the landlord voluntarily  
25 elects to continue the rates, charges, fees, or other costs during the  
26 period the lot is unoccupied.

27 For such purposes any city or town may take, condemn and purchase,  
28 purchase, acquire, and retain water from any public or navigable lake  
29 or watercourse, surface or ground, and, by means of aqueducts or pipe  
30 lines, conduct it to the city or town; and it may erect and build dams  
31 or other works across or at the outlet of any lake or watercourse in  
32 this state for the purpose of storing and retaining water therein up to  
33 and above high water mark; and for all the purposes of erecting such  
34 aqueducts, pipe lines, dams, or waterworks or other necessary  
35 structures in storing and retaining water, or for any of the purposes  
36 provided for by this chapter, the city or town may occupy and use the  
37 beds and shores up to the high water mark of any such watercourse or  
38 lake, and acquire the right by purchase, or by condemnation and

1 purchase, or otherwise, to any water, water rights, easements or  
2 privileges named in this chapter, or necessary for any of said  
3 purposes, and the city or town may acquire by purchase or condemnation  
4 and purchase any properties or privileges necessary to be had to  
5 protect its water supply from pollution. Should private property be  
6 necessary for any such purposes or for storing water above high water  
7 mark, the city or town may condemn and purchase, or purchase and  
8 acquire such private property. For the purposes of waterworks which  
9 include facilities for the generation of electricity as a by-product,  
10 nothing in this section may be construed to authorize a city or town  
11 that does not own or operate an electric utility system to condemn  
12 electric generating, transmission, or distribution rights or facilities  
13 of entities authorized by law to distribute electricity, or to acquire  
14 such rights or facilities without the consent of the owner.

15 **Sec. 5.** RCW 35.92.020 and 2003 c 394 s 2 are each amended to read  
16 as follows:

17 (1) A city or town may construct, condemn and purchase, purchase,  
18 acquire, add to, alter, maintain, and operate systems, plants, sites,  
19 or other facilities of sewerage as defined in RCW 35.67.010, or solid  
20 waste handling as defined by RCW 70.95.030. A city or town shall have  
21 full authority to manage, regulate, operate, control, and, except as  
22 provided in subsection (3) of this section, to fix the price of service  
23 and facilities of those systems, plants, sites, or other facilities  
24 within and without the limits of the city or town.

25 (2) Subject to subsection (3) of this section, the rates charged  
26 shall be uniform for the same class of customers or service and  
27 facilities. In classifying customers served or service and facilities  
28 furnished by a system or systems of sewerage, the legislative authority  
29 of the city or town may in its discretion consider any or all of the  
30 following factors:

- 31 (a) The difference in cost of service and facilities to customers;  
32 (b) The location of customers within and without the city or town;  
33 (c) The difference in cost of maintenance, operation, repair, and  
34 replacement of the parts of the system;  
35 (d) The different character of the service and facilities furnished  
36 to customers;

1 (e) The quantity and quality of the sewage delivered and the time  
2 of its delivery;

3 (f) Capital contributions made to the systems, plants, sites, or  
4 other facilities, including but not limited to, assessments;

5 (g) The nonprofit public benefit status, as defined in RCW  
6 24.03.490, of the land user; and

7 (h) Any other factors that present a reasonable difference as a  
8 ground for distinction.

9 (3)(a) The rate a city or town may charge under this section for  
10 storm or surface water sewer systems or the portion of the rate  
11 allocable to the storm or surface water sewer system of combined  
12 sanitary sewage and storm or surface water sewer systems shall be  
13 reduced by a minimum of ten percent for any new or remodeled commercial  
14 building that utilizes a permissive rainwater harvesting system.  
15 Rainwater harvesting systems shall be properly sized to utilize the  
16 available roof surface of the building. The jurisdiction shall  
17 consider rate reductions in excess of ten percent dependent upon the  
18 amount of rainwater harvested.

19 (b) No rates, charges, fees, or other costs may be charged to a  
20 mobile home lot in a manufactured housing community, as defined in RCW  
21 59.20.030, while the lot is unoccupied unless the lot is receiving  
22 individually storm or surface water sewer system or sanitary sewage  
23 system services or the landlord voluntarily elects to continue the  
24 rates, charges, fees, or other costs during the period the lot is  
25 unoccupied.

26 (4) Rates or charges for on-site inspection and maintenance  
27 services may not be imposed under this chapter on the development,  
28 construction, or reconstruction of property.

29 (5) A city or town may provide assistance to aid low-income persons  
30 in connection with services provided under this chapter.

31 (6) Under this chapter, after July 1, 1998, any requirements for  
32 pumping the septic tank of an on-site sewage system should be based,  
33 among other things, on actual measurement of accumulation of sludge and  
34 scum by a trained inspector, trained owner's agent, or trained owner.  
35 Training must occur in a program approved by the state board of health  
36 or by a local health officer.

37 (7) Before adopting on-site inspection and maintenance utility  
38 services, or incorporating residences into an on-site inspection and



1 maintenance or sewer utility under this chapter, notification must be  
2 provided, prior to the applicable public hearing, to all residences  
3 within the proposed service area that have on-site systems permitted by  
4 the local health officer. The notice must clearly state that the  
5 residence is within the proposed service area and must provide  
6 information on estimated rates or charges that may be imposed for the  
7 service.

8 (8) A city or town shall not provide on-site sewage system  
9 inspection, pumping services, or other maintenance or repair services  
10 under this section using city or town employees unless the on-site  
11 system is connected by a publicly owned collection system to the city  
12 or town's sewerage system, and the on-site system represents the first  
13 step in the sewage disposal process. Nothing in this section shall  
14 affect the authority of state or local health officers to carry out  
15 their responsibilities under any other applicable law.

16 **Sec. 6.** RCW 36.89.080 and 2003 c 394 s 3 are each amended to read  
17 as follows:

18 (1) Subject to subsections (2) and (3) of this section, any county  
19 legislative authority may provide by resolution for revenues by fixing  
20 rates and charges for the furnishing of service to those served or  
21 receiving benefits or to be served or to receive benefits from any  
22 storm water control facility or contributing to an increase of surface  
23 water runoff. In fixing rates and charges, the county legislative  
24 authority may in its discretion consider:

25 (a) Services furnished or to be furnished;

26 (b) Benefits received or to be received;

27 (c) The character and use of land or its water runoff  
28 characteristics;

29 (d) The nonprofit public benefit status, as defined in RCW  
30 24.03.490, of the land user;

31 (e) Income level of persons served or provided benefits under this  
32 chapter, including senior citizens and (~~disabled~~) persons with  
33 disabilities; or

34 (f) Any other matters which present a reasonable difference as a  
35 ground for distinction.

36 (2) The rate a county may charge under this section for storm water  
37 control facilities shall be reduced by a minimum of ten percent for any

1 new or remodeled commercial building that utilizes a permissive  
2 rainwater harvesting system. Rainwater harvesting systems shall be  
3 properly sized to utilize the available roof surface of the building.  
4 The jurisdiction shall consider rate reductions in excess of ten  
5 percent dependent upon the amount of rainwater harvested.

6 (3) Rates and charges authorized under this section may not be  
7 imposed on lands taxed as forest land under chapter 84.33 RCW or as  
8 timber land under chapter 84.34 RCW.

9 (4) No rates, charges, fees, or other costs may be charged to a  
10 mobile home lot in a manufactured housing community, as defined in RCW  
11 59.20.030, while the lot is unoccupied unless the lot is receiving  
12 individually storm water control facility services or the landlord  
13 voluntarily elects to continue the rates, charges, fees, or other costs  
14 during the period the lot is unoccupied.

15 (5) The service charges and rates collected shall be deposited in  
16 a special fund or funds in the county treasury to be used only for the  
17 purpose of paying all or any part of the cost and expense of  
18 maintaining and operating storm water control facilities, all or any  
19 part of the cost and expense of planning, designing, establishing,  
20 acquiring, developing, constructing and improving any of such  
21 facilities, or to pay or secure the payment of all or any portion of  
22 any issue of general obligation or revenue bonds issued for such  
23 purpose.

24 **Sec. 7.** RCW 36.94.140 and 2005 c 324 s 2 are each amended to read  
25 as follows:

26 (1) Every county, in the operation of a system of sewerage and/or  
27 water, shall have full jurisdiction and authority to manage, regulate,  
28 and control it. Except as provided in subsection (3) of this section,  
29 every county shall have full jurisdiction and authority to fix, alter,  
30 regulate, and control the rates and charges for the service and  
31 facilities to those to whom such service and facilities are available,  
32 and to levy charges for connection to the system.

33 (2) The rates for availability of service and facilities, and  
34 connection charges so charged must be uniform for the same class of  
35 customers or service and facility. In classifying customers served,  
36 service furnished or made available by such system of sewerage and/or

1 water, or the connection charges, the county legislative authority may  
2 consider any or all of the following factors:

3 (a) The difference in cost of service to the various customers  
4 within or without the area;

5 (b) The difference in cost of maintenance, operation, repair and  
6 replacement of the various parts of the systems;

7 (c) The different character of the service and facilities furnished  
8 various customers;

9 (d) The quantity and quality of the sewage and/or water delivered  
10 and the time of its delivery;

11 (e) Capital contributions made to the system or systems, including,  
12 but not limited to, assessments;

13 (f) The cost of acquiring the system or portions of the system in  
14 making system improvements necessary for the public health and safety;

15 (g) The nonprofit public benefit status, as defined in RCW  
16 24.03.490, of the land user; and

17 (h) Any other matters which present a reasonable difference as a  
18 ground for distinction.

19 (3)(a) The rate a county may charge under this section for storm or  
20 surface water sewer systems or the portion of the rate allocable to the  
21 storm or surface water sewer system of combined sanitary sewage and  
22 storm or surface water sewer systems shall be reduced by a minimum of  
23 ten percent for any new or remodeled commercial building that utilizes  
24 a permissive rainwater harvesting system. Rainwater harvesting systems  
25 shall be properly sized to utilize the available roof surface of the  
26 building. The jurisdiction shall consider rate reductions in excess of  
27 ten percent dependent upon the amount of rainwater harvested.

28 (b) No rates, charges, fees, or other costs may be charged to a  
29 mobile home lot in a manufactured housing community, as defined in RCW  
30 59.20.030, while the lot is unoccupied unless the lot is receiving  
31 individually storm or surface water sewer system or sanitary sewage  
32 system services or the landlord voluntarily elects to continue the  
33 rates, charges, fees, or other costs during the period the lot is  
34 unoccupied.

35 (4) A county may provide assistance to aid low-income persons in  
36 connection with services provided under this chapter.

37 (5) The service charges and rates shall produce revenues sufficient  
38 to take care of the costs of maintenance and operation, revenue bond

1 and warrant interest and principal amortization requirements, and all  
2 other charges necessary for the efficient and proper operation of the  
3 system.

4 (6) A connection charge under this section for service to a  
5 manufactured housing community, as defined in RCW 59.20.030, applies to  
6 an individual lot within that community only if the system of water or  
7 sewerage provides and maintains the connection.

8 **Sec. 8.** RCW 54.24.080 and 1995 c 140 s 3 are each amended to read  
9 as follows:

10 (1) The commission of each district which shall have revenue  
11 obligations outstanding shall have the power and shall be required to  
12 establish, maintain, and collect rates or charges for electric energy  
13 and water and other services, facilities, and commodities sold,  
14 furnished, or supplied by the district. The rates and charges shall be  
15 fair and, except as authorized by RCW 74.38.070 and by subsections (2)  
16 and (3) of this section, nondiscriminatory, and shall be adequate to  
17 provide revenues sufficient for the payment of the principal of and  
18 interest on such revenue obligations for which the payment has not  
19 otherwise been provided and all payments which the district is  
20 obligated to set aside in any special fund or funds created for such  
21 purpose, and for the proper operation and maintenance of the public  
22 utility and all necessary repairs, replacements, and renewals thereof.

23 (2) The commission of a district may waive connection charges for  
24 properties purchased by low-income persons from organizations exempt  
25 from tax under section 501(c)(3) of the federal internal revenue code  
26 as amended prior to the July 23, 1995. Waivers of connection charges  
27 for the same class of electric or gas utility service must be uniformly  
28 applied to all qualified property. Nothing in this subsection (2)  
29 authorizes the impairment of a contract.

30 (3) In establishing rates or charges for water service,  
31 commissioners may in their discretion consider the achievement of water  
32 conservation goals and the discouragement of wasteful water use  
33 practices.

34 (4) No rates, charges, fees, or other costs may be charged to a  
35 mobile home lot in a manufactured housing community, as defined in RCW  
36 59.20.030, while the lot is unoccupied unless the lot is receiving

1 individually electric energy or water services or the landlord  
2 voluntarily elects to continue the rates, charges, fees, or other costs  
3 during the period the lot is unoccupied.

4 **Sec. 9.** RCW 57.08.081 and 2003 c 394 s 6 are each amended to read  
5 as follows:

6 (1) Subject to RCW 57.08.005(~~((6))~~)(7), the commissioners of any  
7 district shall provide for revenues by fixing rates and charges for  
8 furnishing sewer and drainage service and facilities to those to whom  
9 service is available or for providing water, such rates and charges to  
10 be fixed as deemed necessary by the commissioners, so that uniform  
11 charges will be made for the same class of customer or service and  
12 facility. Rates and charges may be combined for the furnishing of more  
13 than one type of sewer or drainage service and facilities.

14 (2) In classifying customers of such water, sewer, or drainage  
15 system, the board of commissioners may in its discretion consider any  
16 or all of the following factors: The difference in cost to various  
17 customers; the location of the various customers within and without the  
18 district; the difference in cost of maintenance, operation, repair, and  
19 replacement of the various parts of the system; the different character  
20 of the service furnished various customers; the quantity and quality of  
21 the service and facility furnished; the time of its use; the  
22 achievement of water conservation goals and the discouragement of  
23 wasteful practices; capital contributions made to the system including  
24 but not limited to assessments; and any other matters which present a  
25 reasonable difference as a ground for distinction. Rates shall be  
26 established as deemed proper by the commissioners and as fixed by  
27 resolution and shall produce revenues sufficient to take care of the  
28 costs of maintenance and operation, revenue bond and warrant interest  
29 and principal amortization requirements, and all other charges  
30 necessary for efficient and proper operation of the system. No rates,  
31 charges, fees, or other costs may be charged to a mobile home lot in a  
32 manufactured housing community, as defined in RCW 59.20.030, while the  
33 lot is unoccupied unless the lot is receiving individually water,  
34 sewer, or drainage system services or the landlord voluntarily elects  
35 to continue the rates, charges, fees, or other costs during the period  
36 the lot is unoccupied. Prior to furnishing services, a district may

1 require a deposit to guarantee payment for services. However, failure  
2 to require a deposit does not affect the validity of any lien  
3 authorized by this section.

4 (3) The commissioners shall enforce collection of connection  
5 charges, and rates and charges for water supplied against property  
6 owners connecting with the system or receiving such water, and for  
7 sewer and drainage services charged against property to which and its  
8 owners to whom the service is available, such charges being deemed  
9 charges against the property served, by addition of penalties of not  
10 more than ten percent thereof in case of failure to pay the charges at  
11 times fixed by resolution. The commissioners may provide by resolution  
12 that where either connection charges or rates and charges for services  
13 supplied are delinquent for any specified period of time, the district  
14 shall certify the delinquencies to the auditor of the county in which  
15 the real property is located, and the charges and any penalties added  
16 thereto and interest thereon at the rate of not more than the prime  
17 lending rate of the district's bank plus four percentage points per  
18 year shall be a lien against the property upon which the service was  
19 received, subject only to the lien for general taxes.

20 (4) The district may, at any time after the connection charges or  
21 rates and charges for services supplied or available and penalties are  
22 delinquent for a period of sixty days, bring suit in foreclosure by  
23 civil action in the superior court of the county in which the real  
24 property is located. The court may allow, in addition to the costs and  
25 disbursements provided by statute, attorneys' fees, title search and  
26 report costs, and expenses as it adjudges reasonable. The action shall  
27 be in rem, and may be brought in the name of the district against an  
28 individual or against all of those who are delinquent in one action.  
29 The laws and rules of the court shall control as in other civil  
30 actions.

31 (5) In addition to the right to foreclose provided in this section,  
32 the district may also cut off all or part of the service after charges  
33 for water or sewer service supplied or available are delinquent for a  
34 period of thirty days.

35 (6) A district may determine how to apply partial payments on past  
36 due accounts.

37 (7) A district may provide a real property owner or the owner's  
38 designee with duplicate bills for service to tenants, or may notify an

1 owner or the owner's designee that a tenant's service account is  
2 delinquent. However, if an owner or the owner's designee notifies the  
3 district in writing that a property served by the district is a rental  
4 property, asks to be notified of a tenant's delinquency, and has  
5 provided, in writing, a complete and accurate mailing address, the  
6 district shall notify the owner or the owner's designee of a tenant's  
7 delinquency at the same time and in the same manner the district  
8 notifies the tenant of the tenant's delinquency or by mail. When a  
9 district provides a real property owner or the owner's designee with  
10 duplicates of tenant utility service bills or notice that a tenant's  
11 utility account is delinquent, the district shall notify the tenant  
12 that it is providing the duplicate bills or delinquency notice to the  
13 owner or the owner's designee. After January 1, 1999, if a district  
14 fails to notify the owner of a tenant's delinquency after receiving a  
15 written request to do so and after receiving the other information  
16 required by this subsection (7), the district shall have no lien  
17 against the premises for the tenant's delinquent and unpaid charges.

--- END ---