

# HOUSE BILL REPORT

## HB 1239

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**As Reported by House Committee On:**  
Local Government

**Title:** An act relating to the powers of water-sewer districts.

**Brief Description:** Concerning the powers of water-sewer districts.

**Sponsors:** Representatives Takko and Crouse.

**Brief History:**

**Committee Activity:**

Local Government: 1/29/13, 1/31/13 [DPS].

**Brief Summary of Substitute Bill**

- Grants water-sewer districts the authority to exercise powers that cities and towns have pertaining to design, construction, inspection, and final approval of facilities that are critical infrastructure for the functions of water works and systems of sewerage and drainage.
- Specifies that the granted powers may be utilized by water-sewer districts to the same extent as cities and counties exercise them with respect to their own critical infrastructure.
- Specifies that "critical infrastructure" constitutes facilities that have as their exclusive purpose, the functions necessary to water works and systems of sewerage and drainage.

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### HOUSE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Takko, Chair; Fitzgibbon, Vice Chair; Kochmar, Assistant Ranking Minority Member; Liias, Springer and Upthegrove.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Taylor, Ranking Minority Member; Buys.

**Staff:** Ethan Moreno (786-7386).

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*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.*

## **Background:**

### Water-Sewer Districts.

Water-sewer districts have specifically enumerated powers in statute, including the authority to purchase, construct, maintain, and supply water works to furnish water to inhabitants within and outside of the district. Water-sewer districts are also authorized to develop and operate systems of sewers and drainage, and may create facilities, systems, and programs for the collection, interception, treatment, disposal, and pollution control of wastewater. Water-sewer districts may exercise any of the powers granted to cities and counties with respect to the acquisition, construction, maintenance, operation of, and fixing rates and charges for water works and systems of sewerage and drainage.

### Cities, Towns, and Counties.

Cities and towns are granted broad powers with respect to municipal utilities. For example, cities and towns may establish, construct, maintain systems of sewers, drains, and water supplies within and outside of their corporate limits. In exercising these powers, cities and towns have extensive powers to control, regulate, manage, and establish service prices related to these systems.

Similarly, counties may adopt, provide for, accept, establish, condemn, purchase, construct, add to, operate, and maintain sanitary and storm sewer systems and water supply systems within all or a portion of a county. In exercising these powers, counties may control, regulate, operate, and manage these systems.

Cities, towns, and counties, as general purpose local governments, also have general building and permitting authority for projects located within their jurisdiction.

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## **Summary of Substitute Bill:**

Water-sewer districts are granted the authority to exercise the same power granted to cities and towns with respect to the design, construction, inspection, and final approval of facilities that are critical infrastructure for the functions of water works and systems of sewerage and drainage. This power may be exercised to the same extent as cities and counties exercise as to their own critical infrastructure. "Critical infrastructure" constitutes facilities that have as their exclusive purpose, the functions necessary to water works and systems of sewerage and drainage.

## **Substitute Bill Compared to Original Bill:**

A provision in the original bill granting water-sewer districts the authority to "exclusively" exercise the same power as cities and towns with respect to the design, construction, inspection, and approval of facilities that are critical infrastructure for the functions of water works and systems of sewerage and drainage is deleted. A provision in the original bill granting water-sewer districts the same power as cities and towns with respect to permitting critical infrastructure facilities is deleted. Water-sewer districts are authorized to exercise "final approval" authority, rather than "approval" authority for specified critical

infrastructure. A final modification specifies that the proposed authority for water-sewer districts is to be exercised to the same extent as comparable authority exercised by cities and counties for their "critical infrastructure" rather than their "infrastructure."

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The point of this bill is to eliminate redundancies in inspections of water and sewer facilities: water-sewer districts perform inspections of their facilities and then the counties and cities perform the inspections again. This is an efficiency bill that will save money.

In addition to attempting to save money, this bill is an attempt to eliminate duplication and redundancy in the inspection, design, and final approval phase of critical infrastructure projects of water-sewer districts by allowing districts to utilize the same powers of counties and cities. Cities have expressed concerns about the bill and a proposed amendment to narrow its scope and address those concerns has been drafted.

Water-sewer district facilities must be approved by appropriate agencies and must be consistent with local comprehensive plans. Allowing duplicative inspections to occur requires districts to pay for two inspections. The general counsel of the City of Covington incorrectly believes that the city will be liable for failures of water-sewer district facilities. This bill will clarify powers that water-sewer districts have to provide water and sewer services and facilities.

Utilities take their responsibilities seriously, including hiring appropriate experts for projects. Water-sewer districts have every intention to meet requirements, and applicable codes are followed. Water-sewer districts also make sure that inspections by qualified persons occur. Utilities follow topography, not political boundaries: water-sewer districts don't want five separate jurisdictional standards for a pumping station in one district. This bill will alleviate cities from certain requirements.

(With concerns) Futurewise supports the bill's intent of eliminating unnecessary and duplicative reviews and inspections, but the solution offered in the bill is too broad and may have unintended consequences that dramatically alter the relationship between special purpose districts and cities and counties. Special purpose districts are not obligated to follow all requirements that cities and counties must follow, including the Growth Management Act. Futurewise supports the proposed amendment and the various ideas expressed by cities.

(Opposed) In contrast to cities and counties, water-sewer districts are commonly small organizations with less internal expertise. Redundancy isn't always a bad thing, as some water-sewer district projects have far-reaching and cumulative environmental impacts, and should be reviewed with a second set of eyes. Water-sewer districts do a fine job with their responsibilities, but inspection responsibilities should stay with cities and counties that have or can retain appropriate expertise. The current system is working; leave it alone.

Cities have concerns about the breadth of the language, as the language is much broader than the problem it seeks to address. Cities need the authority to inspect projects to ensure that the projects meet the needs and standards of their jurisdiction. Cities have authorities and interests that reflect their more global responsibilities. Cities are concerned about changing the relationship with water-sewer districts and setting a precedent with other special purpose districts. Large, multi-jurisdictional projects could be problematic without city input and authority. The proposed amendment is still broad and grants new powers to water-sewer districts. If duplicative inspections are the concern, cities could work with the bill's proponents to address that issue. A local, interlocal agreement-based solution in which the district completes the final inspection and subsequently submits it to the city might be an appropriate way to address concerns of water-sewer districts.

**Persons Testifying:** (In support) Representative Takko, prime sponsor; Joe Daniels, Washington Association of Water and Sewer Districts; and Ron Speer and Laurie Fulton, Soos Creek Water and Sewer District.

(With concerns) April Putney, Futurewise.

(Opposed) Arthur West; Carl Schroeder, Association of Washington Cities; Doug Levy, Cities of Renton, Kent, and Issaquah; and Briahna Taylor, City of Covington.

**Persons Signed In To Testify But Not Testifying:** None.