

HOUSE BILL REPORT

ESB 6031

As Passed House - Amended:
March 7, 2014

Title: An act relating to lake and beach management districts.

Brief Description: Concerning lake and beach management districts.

Sponsors: Senator Sheldon.

Brief History:

Committee Activity:

Local Government: 2/19/14, 2/26/14 [DPA];

Finance: 2/28/14 [DPA(FIN w/o LG)].

Floor Activity:

Passed House - Amended: 3/7/14, 74-24.

Brief Summary of Engrossed Bill
(As Amended by House)

- Authorizes lake management districts and beach management districts to be created for the purpose of financing the acquisition of real property or property rights within or outside of a district.
- Grants counties specific powers related to the acquisition of real property or property rights within or outside of a lake management district or beach management district.
- Conditions the acquisition of real property or property rights upon written approval by a majority of the property owners of the lake or beach management district and county compliance with specified land use planning, geographic, and population criteria.
- Establishes a dissolution process for lake and beach management districts.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 6 members: Representatives Takko, Chair; Gregerson, Vice Chair; Farrell, Fitzgibbon, Pike and Springer.

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.

Minority Report: Do not pass. Signed by 3 members: Representatives Overstreet, Ranking Minority Member; Kochmar, Assistant Ranking Minority Member; Taylor.

Staff: Ethan Moreno (786-7386).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Finance and without amendment by Committee on Local Government. Signed by 8 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Fitzgibbon, Lytton, Reykdal, Springer and Wilcox.

Minority Report: Do not pass. Signed by 2 members: Representatives Condotta and Vick.

Staff: Kelly Leonard (786-7147).

Background:

Purpose and Financing.

In accordance with adopted legislative intent articulating general goal objectives, any county, subject to approval of a ballot measure by qualified property owners, may create a lake management district or a beach management district to finance the improvement and maintenance of lakes or beaches wholly or partially within the boundaries of the county. While lake management districts and beach management districts share many common governing provisions, current law states that beach management districts may be created for the purpose of controlling and removing aquatic plants or vegetation. Lake or beach management districts may be created for any needed period of time.

Special assessments or rates and charges to finance lake or beach improvement and maintenance activities may be imposed on all property included within a lake or beach management district. Examples of permitted improvement and maintenance activities include:

- controlling or removing aquatic plants and vegetation;
- improving water quality;
- studying lake or marine water quality problems and solutions; and
- related administrative, engineering, legal, and operational costs, including the costs of creating the lake or beach management district.

The special assessments or rates and charges may be imposed annually for the duration of the lake or beach management district. However, the county legislative authority may stop the imposition of annual special assessments if, in its opinion, the public interest will be served by doing so.

As specified in provisions governing rates and charges, counties, subject to specific requirements, may also issue lake or beach management district revenue bonds. In doing so, a county may create a lake or beach management district bond guaranty fund (fund) for each issuance of lake or beach management district bonds. A portion of the bond proceeds may be placed into the fund. Unused moneys remaining in the fund during the last two years of the

installments must be used to proportionally reduce the required level of installments, and must be transferred into the special fund into which installment payments are placed.

Creation Provisions.

The process to create a lake or beach management district may be initiated by the adoption of a resolution of intention by a county legislative authority, or through the filing of a landowner petition meeting specified requirements, including being signed by 10 landowners or the owners of at least 15 percent of the acreage within the proposed district, whichever is greater. The resolution of intention or petition must meet requirements for the proposed district, including setting forth the nature of the improvement or maintenance activities proposed to be financed, the amount of money to be raised by special assessments or rates and charges, and the annual amount of revenue proposed for collection.

If the county initiated the creation process through a resolution of intention, or if a submitted petition is found to be sufficient and, as determined by the county, financially feasible and in the best interest of the public, an amended or new resolution of intention, which serves as a governance document for a formal district, is adopted by the county legislative authority, and a public hearing on the proposed district is scheduled. At the public hearing, the county legislative authority may, subject to certain requirements, make changes in the proposed district or modify the proposed improvement or maintenance plans. Additionally, the county legislative authority may elect to alter the plans for the proposed improvement or maintenance activities in a manner that increases in the amount of money proposed to be raised, and may increase the amount of money proposed to be raised, but either of these actions require the adoption of an amended resolution of intention and compliance with further property owner notification requirements.

Following compliance with required public notice and hearing requirements, the county legislative authority may adopt a resolution submitting the question of creating the lake or beach management district exclusively to the owners of land within the proposed district. The resolution must satisfy specified requirements, including having a plan describing the proposed lake or beach improvement and maintenance activities, the number of years the district will exist, a description of the rates and charges (if rates and charges are to be imposed), and a statement indicating that revenue bonds may be issued and payable from the rates and charges.

The election determining whether to create a lake or beach management district is conducted according to specific requirements that are separate from general election laws, including the use of weighted ballots that grant property owners one vote for each dollar of estimated special assessment or rate and charge proposed to be imposed on their property. If the ballot proposal receives a simple majority vote in favor of creating the district, the county legislative authority must adopt a resolution creating the district.

Following the creation of a lake or beach management district, the county must satisfy specific administrative responsibilities. For example, within 15 days after a county creates a lake or beach management district, the county must file with the county treasurer a description of the lake or beach improvement and maintenance activities proposed and to be financed by the district. The county must also file a diagram or print showing the boundaries of the lake or beach management district, and a preliminary special assessment roll showing

the land to be benefited and the estimated cost and expense of the improvement and maintenance activities to be borne by each lot, tract, parcel of land, or other property.

Increases in Financing for Established Districts.

After a lake or beach management district has been created, the resolution of intention may be amended to increase the amount to be financed by the district through the same procedure in which a district is created.

Summary of Amended Bill:

Numerous provisions related to the creation, operation, and financing of lake management districts and beach management districts are modified or established.

Purpose and Financing.

Legislative intent language related to the establishment of lake management districts and beach management districts is modified to specify that the Legislature finds that it is in the public interest to promote the conservation and stewardship of shorelines and upland properties adjoining lakes and beaches in order to meet delineated objectives, including:

- conserving natural or scenic resources;
- protecting riparian habitats and water quality;
- promoting conservation of soils, wetlands, shorelines, or tidal marshes; and
- enhancing the value of lakes or beaches to the public as well as the benefit of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open space.

In addition to being created for the improvement and maintenance of lakes and beaches wholly or partially within a county, lake management or beach management districts may also be created to finance the acquisition of real property or property rights within or outside of a lake or beach management district, and to promote the conservation and stewardship of shorelines and upland properties adjoining lakes or beaches for conservation or for minimal development. The acquisition of real property or property rights includes the authority to acquire conservation easements.

"Improvement" as the term is used in lake and beach management district provisions, is defined to include, among other things, the acquisition of real property and property rights within or outside a district for specified lake or beach management purposes.

The list of permitted improvement and maintenance activities that may be financed with special assessments or rates and charges imposed on property with the lake or beach management district is expanded to permit the acquisition of real property and property rights.

Provisions governing the authority of a county legislative authority to stop the imposition of annual special assessments are modified to specify that the legislative authority may not do so if lake or beach management district bonds are outstanding or if an existing contract might otherwise be impaired.

Creation Provisions.

If the process to create a lake or beach management district is initiated by a petition, the petition must be signed by 10 landowners or the owners of at least 20 percent, rather than 15, of the acreage within the district, whichever is greater. Provisions governing the resolution a county legislative authority may adopt to submit the question of creating a district to the owners of land within the proposed district are also modified. If rates and charges are to be imposed, the resolution must include a description of the "proposed" rates and charges, rather than only "the rates and charges."

Regarding county administrative responsibilities following the creation of a lake or beach management district, the county is granted 30 days, rather than 15, to file with the county treasurer a description of the lake or beach improvement and maintenance activities proposed and to be financed by the district.

Authority to Issue Revenue Bonds.

Counties are expressly authorized, in existing bond provisions, to issue lake or beach management district revenue bonds. Additional revenue bond governance provisions are established, including provisions specifying that:

- revenue bonds may be payable from special assessments and from rates and charges of the lake or beach management district;
- county indebtedness limitations provided in statute are not affected by a county assisting in the financing of improvements to lakes or beaches wholly or partially within the county, including lakes or beaches within a lake or beach management district;
- a county may deposit amounts into a lake or beach management guaranty fund (fund) from any money legally available for that purpose; and
- any amounts remaining in the fund after the repayment of all revenue bonds and the payment of assessment installments, may be applied to lake or beach improvement and maintenance activities, or to other district purposes.

Approvals, Limitations, and Powers Associated with the Acquisition of Real Property or Property Rights.

Regarding approval requirements, a proposal for the acquisition of real property or property rights within or outside of a lake or beach management district must, prior to the acquisition, have the written approval of a majority of the property owners of the district. Additionally, the property and property rights acquisition authority is limited to acquisitions in western Washington counties that plan under the Growth Management Act that have a population of more than 40,000 and fewer than 65,000 persons as of April 1, 2013.

A county, in connection with the acquisition of real property or property rights within or outside of a lake or beach management district, is granted specific powers related to the acquisition authority. Examples of these powers include county authority to:

- own real property and property rights, including, without limitation, conservation easements;
- transfer real property and property rights to another state or local government entity;
- contract with a public or private entity, including without limitation, a financial institution with trust powers, a municipal corporation, or a nonprofit corporation, to hold real property or property rights in trust for the purposes of the lake or beach

- management district, and, in connection with those services, to pay the reasonable costs of that financial institution or nonprofit corporation; and
- impose terms, conditions, and encumbrances upon real property or property rights acquired in respect of a lake or beach management district.

If, in accordance with these granted powers, a county contracts with a financial institution, municipal corporation, or nonprofit corporation to hold that property or property rights in trust for purposes of the lake or beach management district, the terms of the contract must meet specific requirements, including specifying that the financial institution, municipal corporation, or nonprofit corporation may not sell, pledge, or hypothecate the property or property rights for any purpose.

Before a lake or beach management district in existence as of the effective date of the legislation may exercise the previously specified powers related to acquisition authority, the legislative authority of the county must provide for an amended resolution of intention and modified district plan, and must satisfy public hearing requirements.

Increases to or Modifications of Financing for Established Districts.

After a lake or beach management district has been created, the resolution of intention may be amended to increase or otherwise modify the amount to be financed by the district through the same procedure in which a district is created, including landowner approvals consistent with specific election-related provisions.

Establishment of District Dissolution Process.

Except when lake or beach management district bonds are outstanding or when an existing contract might otherwise be impaired, a district may be dissolved by the county legislative authority or through an election-based process. If dissolved by the county legislative authority, the authority must find that the purposes of the district have been accomplished.

The process to dissolve a district through an election-based process may be initiated through a proposal of the county legislative authority or through a sufficient petition signed by the owners of at least 20 percent of the acreage within the district. The question of dissolution must be submitted to the property owners of the district, and each ballot must be weighted so that a property owner has one vote for each dollar of special assessment or rates and charges imposed on his or her property. If, following the tabulation of the valid ballots, a simple majority of the votes cast are in favor of dissolving the district, the district must be dissolved on the date established in the ballot proposition.

A county, although not separately responsible for satisfying the financial obligations of a dissolved district, may continue imposing special assessments, rates, and charges for a dissolved district until all financial obligations of the district incurred prior to its dissolution have been extinguished or retired.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony (Local Government):

(In support) This bill contains the same language that was previously adopted by the House Local Government Committee and that was passed by the Senate 41-8. Underlying statutes for lake and beach management districts are quite confusing - this has resulted in questions. The bottom line for this bill is that, unless an assessment receives the approval of the landowners, the additional assessment cannot be levied.

A supporter of the legislation has been involved in an effort to protect the north shore of Lake Nahwatzel for two years, the first year of which was adversarial for all involved. The language of the bill, which would have been helpful 25 years earlier, allows the community, landowners, and the greater community to solve problems in a collaborative way. This language can work and should be adopted.

A county commissioner and supporter of the legislation previously made a tough vote on a proposal to rezone land on Lake Nahwatzel. The citizens that wanted to keep the land zoned as long-term commercial forest appreciated the ability to have stewardship over that land and its habitat of serene, undisturbed land. The county commission had to weigh the needs of all the parties and was forced to rezone the land as residential. The commission realized that the citizens would take whatever authorities that were given to them to maintain that stewardship desire. This bill will let citizens maintain that stewardship desire and is supported by the county commission.

(Available for questions) The underlying district statute regarding landowner protections for additional revenues is rather confusing, but it does state that if a district seeks to raise assessments, it must complete a voter-approval process. A belt and suspenders approach, as is in the bill, would also require written approval from property owners before the issuance of bonds. Rather than requiring property owner approvals before the issuance of bonds, you could require the approval earlier in the process, such as before the adoption of a resolution for the issuance of bonds.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) The bill creates opportunities for community driven and locally funded conservation efforts in shoreline areas by expanding the authority of lake and beach management districts. This is a solution for communities in Mason County hoping to conserve forest lands of Lake Nahwatzel.

The bill does not create any new taxing authority, as these districts have existed since 1985. The bill expands protections for property owners by requiring their approval prior to engaging in conservation efforts.

(Opposed) None.

Persons Testifying (Local Government): (In support) Patty Case, Green Diamond Resource Company; Malcome Dick, Friends of Lake Nahwatzel; and Terri Jeffreys, Mason County Commissioners' Office.

(Available for questions) Leda Chahim, Forterra.

Persons Testifying (Finance): Leda Chahim, Forterra; and Patti Case, Green Diamond Resource Company.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Finance): None.