

HOUSE BILL REPORT

ESSB 5048

As Reported by House Committee On:
Local Government

Title: An act relating to the referendum of assumptions of water-sewer districts by cities and towns.

Brief Description: Subjecting a resolution or ordinance adopted by the legislative body of a city or town to assume a water-sewer district to a referendum.

Sponsors: Senate Committee on Government Operations & Security (originally sponsored by Senators Chase, Roach, Hatfield and Miloscia).

Brief History:

Committee Activity:

Local Government: 3/18/15, 3/19/15 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Makes resolutions and ordinances adopted by city legislative bodies to assume jurisdiction of all or part of a water-sewer district (district) subject to referendum by the voters in the area subject to the assumption.
- Establishes requirements and provisions related to the referendum process.
- Exempts full or partial assumptions from being subject to a referendum if the assumption occurs through a contract or an interlocal agreement between the city and the district.
- Provides that resolutions and ordinances adopted by city legislative bodies to assume jurisdiction of all or part of a district may not take effect until 90 or more days after their adoption.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Takko, Chair; Gregerson, Vice Chair; Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride, McCaslin, Peterson and Pike.

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.

Staff: Ethan Moreno (786-7386).

Background:

Water-Sewer Districts.

Water-sewer districts (districts) may purchase, construct, maintain, and supply waterworks to furnish water to inhabitants within and outside of the district. Districts may also develop and operate systems of sewers and drainage, and are authorized to create facilities, systems, and programs for the collection, treatment, and pollution control of wastewater. Districts may also fix rates and charges for services, enter into contracts, levy taxes, and issue bonds and instruments evidencing indebtedness. Water-sewer districts are governed by boards of elected commissioners.

City Assumption of Jurisdiction.

Cities, if certain conditions are met, may assume control, operation, and ownership of a district through assumption provisions established in statute. For example, if all of the territory of a district is included within the boundaries of a city, the legislative body of the city may adopt an ordinance or resolution to assume jurisdiction over the entirety of the district.

A second method of jurisdictional assumption allows a city to assume, by ordinance, the full and complete management and control of the part of a district that is not within the boundaries of another city. This assumption method may only be used if at least 60 percent of the district's territory or assessed value is within the city seeking assumption.

City Assumption of District Operation and Maintenance.

As an alternative to assuming full control of a district, a city may assume responsibility for the operation and maintenance of a district. If the district territory included within a city's boundaries constitutes less than 60 percent of the district's area or assessed value, the voters of the district may elect to require the city to, in exchange for payment, assume responsibility for the operation and maintenance of the district's property, facilities, and equipment, throughout the entire district.

Boundary Review Boards.

Boundary review boards (boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of boards in counties with at least 210,000 residents, a board may be created and established in any other county.

Upon receiving a timely and sufficient request for review, and following an invocation of a board's jurisdiction, a board must review and, subject to specified requirements, approve, disapprove, or modify proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district.

Interlocal Cooperation Act.

Under the Interlocal Cooperation Act (ICA), public agencies are authorized to enter into interlocal agreements to jointly or cooperatively exercise powers, privileges, or authorities exercised or capable of being exercised singularly. A "public agency" for purposes of the

ICA, includes any agency, political subdivision, or unit of local government, including municipal corporations, special purpose districts, and other governmental entities.

Summary of Amended Bill:

A resolution or ordinance adopted by a city legislative body to assume jurisdiction of all or part of a water-sewer district (district) may not take effect until 90 or more days after its adoption and is subject to referendum.

A referendum petition to repeal the assumption resolution or ordinance must be filed with the applicable county auditor (auditor) within 10 days of passage of the resolution or ordinance. Within 10 days of this filing, the auditor is obligated to write a ballot title for the measure and provide notice to the petitioner.

After receiving notice from the auditor, the petitioner has 45 days to secure and file with the auditor the signatures of at least 10 percent of the number of voters residing in the part of the district subject to the assumption ordinance or resolution who voted in the most recent general election. The county auditor must verify the sufficiency of petition signatures and, in the event of a sufficient petition, submit the referendum measure, in accordance with timeliness requirements, to the voters in the part of the district subject to the assumption ordinance or resolution. The election must be conducted according to general election laws, and the cost of the election must be borne by the city seeking to assume jurisdiction of all or part of the district.

When a referendum petition is filed with the auditor, the assumption resolution or ordinance sought to be referred to the voters, and any proceedings before a boundary review board, are suspended from taking effect. This suspension terminates when there is a final determination on the petition's insufficiency or untimeliness, or when the assumption resolution or ordinance is approved by the voters at a referendum election.

If a city legislative authority assumes jurisdiction of all or part of a district through a contract or an interlocal agreement with a district, the assumption is not subject to a referendum.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill makes the following changes to the engrossed substitute bill:

- removes a provision requiring a city that has adopted a resolution or ordinance to assume all or part of a water-sewer district (district) on or after January 1, 2014, to adopt a new ordinance or resolution, which would be subject to referendum under the bill, confirming the assumption;
- removes a provision requiring an assuming city to produce a local voters' pamphlet;
- specifies that city resolutions or ordinances to assume jurisdiction of all or part of a district may not take effect until 90 or more days (rather than 45 or more days) after their adoption; and

- makes a technical change to specify that the cost of a referendum must be borne by the city seeking approval to assume jurisdiction of "all or part of" the district, rather than the city seeking approval to assume jurisdiction of the district.
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Appropriation: None.

Fiscal Note: Available.

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:

(In support) The issues of the bill have been around since 1972. The ratepayer revenues of special purpose districts are dedicated to the supporting of the purposes of the districts. Most of the levy rates that can be imposed by special purpose districts are capped in statute. Washington has the most regressive tax system in the nation. In Snohomish County, 37 percent of the children come from families in poverty; in King County, it's 36 percent. If, because of assumptions that are not subject to a referendum, cities add additional taxes—which they will do, the result will be to balance city and special purpose district budgets on the backs of poor people. Cities need more revenue, but it is unconscionable for the Legislature to allow an additional tax on basic necessities such as water and sewer services, without a vote of consent by the people. If people are going to be assumed by a city without a vote, they should have an opportunity to reverse the assumption. The issues in this bill are questions of justice.

This bill includes provisions that are very similar to referendum provisions for fire district annexations. This bill could represent a resolution to a long-unresolved issue. Water-sewer districts have concerns about the retroactive provisions in the bill, but that language is indicative of how assumption issues can simmer for long periods of time.

(With concerns) The chief concern that cities have with the bill relates to retroactive provision; that provision is punitive, sets a bad precedent, and would require cities that have gone through a local and formal assumption process to start over.

(Opposed) None.

Persons Testifying: (In support) Senator Chase, prime sponsor; and Joe Daniels, Washington State Association of Sewer and Water Districts.

(With concerns) Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.