

# HOUSE BILL REPORT

## SSB 5795

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### As Passed House:

April 14, 2015

**Title:** An act relating to authorizing municipalities to create assessment reimbursement areas for the construction or improvement of water or sewer facilities.

**Brief Description:** Authorizing municipalities to create assessment reimbursement areas for the construction or improvement of water or sewer facilities.

**Sponsors:** Senate Committee on Government Operations & Security (originally sponsored by Senators Roach and Liias).

### Brief History:

#### Committee Activity:

Local Government: 3/17/15, 3/19/15 [DP].

#### Floor Activity:

Passed House: 4/14/15, 57-40.

### Brief Summary of Substitute Bill

- Authorizes a municipality (a county, city, town, or drainage district) to create an assessment reimbursement area (ARA) on its own initiative, finance all of the costs associated with construction or improvement of water or sewer facilities (facilities), and become the sole beneficiary of reimbursements.
- Requires the municipality to notify affected property owners of its preliminary determination of the ARA's boundaries and assessments, and record its final determination with the county auditor.
- Establishes that reimbursements to a municipality: (a) may not exceed each property's pro rata share of costs associated with construction of facilities required to meet utility service and fire suppression standards; and (b) may not include administrative and legal costs, except for engineering and construction management costs.

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## HOUSE COMMITTEE ON LOCAL GOVERNMENT

*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.*

**Majority Report:** Do pass. Signed by 5 members: Representatives Takko, Chair; Gregerson, Vice Chair; Fitzgibbon, McBride and Peterson.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; McCaslin and Pike.

**Staff:** Michaela Murdock (786-7289).

**Background:**

Contract for Water or Sewer Facilities.

A property owner may request a county, city, town, or drainage district (municipality) to contract with the owner for the construction or improvement of water or sewer facilities (facility or facilities), to be installed solely at the owner's expense. A municipality may participate in financing such facility development projects, if authorized to do so by ordinance or contract. "Water or sewer facilities" means: (a) storm, sanitary, or combination sewers; (b) pumping stations; and (c) disposal plants, water mains, hydrants, reservoirs, or appurtenances.

In locations where a municipality's ordinances require facilities to be improved or constructed as a prerequisite to further property development, the municipality must contract with the owner at the owner's request. A municipality is only required to contract with an owner for facilities that are consistent with all applicable comprehensive plans and development regulations. Contracts must be filed and recorded with the county auditor (auditor).

Connection of the facility to the municipal system must be conditioned upon various criteria, including:

- construction in accordance with approved plans and specifications, and inspection and approval of the facility by the municipality;
- transfer of the facility, without cost, to the municipality;
- provision of sufficient security to the municipality; and
- payment by the owner of all costs of the municipality associated with the facility, including engineering, legal, and administrative costs.

Following completion of construction or improvement of facilities, the owner must submit the total cost to the municipality. This information must be used as a basis for determining reimbursements.

Reimbursement of Costs and Latecomer Fees.

A contract between a property owner and a municipality for the construction or improvement of facilities must provide for pro rata reimbursement to the property owner, or his or her assigns, for a period of 20 years, or longer if authorized. A municipality that participates in financing the construction or improvement of facilities has the same right to reimbursement as contributing property owners. Pro rata shares are based on the respective contributions of the owners and the municipality.

Reimbursements are paid from latecomer fees received by the municipality. A latecomer fee is a fee charged by a municipality, either as a separate fee or as part of a connection fee for providing access to a municipal system. The fee is charged to other property owners who connect to or use a facility that was constructed or improved pursuant to a contract between a municipality and a property owner.

A municipality may also collect amounts for additional expenditures not subject to the applicable ordinance, contract, or agreement. A municipality may collect fees that are reasonable and proportionate to the total expenses incurred by the municipality.

#### Assessment Reimbursement Areas–Street Projects.

For road or street improvements, counties, cities, and towns are currently authorized to: (a) create assessment reimbursement areas (ARA) without the participation of property owners; (b) finance the costs of improvements; and (c) become the sole beneficiary of reimbursements for the project. The ARA is formulated by the county, city, or town based on a determination of which parcels adjacent to the improvements would require similar street improvements upon development. Reimbursements are a pro rata share of the construction and administration costs of the project, and the share of each property owner is determined using a method of cost apportionment based on benefits to the property owner.

#### **Summary of Bill:**

As an alternative to the statutory contract and financing procedures for construction or improvement of facilities that are initiated at the request of a property owner, municipalities are authorized to: (a) create ARAs in areas where facilities are required by ordinance to be constructed prior to development or redevelopment; (b) create the ARA on their own initiative without the participation of a property owner; (c) finance all of the costs associated with facility construction or improvement; and (d) become the sole beneficiary of reimbursements.

In creating an ARA, the municipality must:

- define the boundaries of the ARA by determining which parcels in the area would require construction or improvement of facilities, or would be allowed to connect to or use such facilities, upon development or redevelopment;
- send a preliminary determination of the boundaries and assessments of the ARA with an explanation of property owners' rights and options to each property owner within the ARA; and
- record the final determination of the ARA's boundaries and assessments with the auditor.

Within 20 days of receiving the preliminary determination, property owners may request a public hearing on the ARA. Notice of the hearing must be sent to all affected property owners. Any rulings of the municipality's legislative authority are determinative and final, subject to judicial review.

A municipality may be reimbursed only for those costs of facility construction or improvement benefitting property that will connect to or use the facilities within the ARA.

Reimbursement may be assessed only at the time property is developed or redeveloped, or a property owner requests to connect to or use facilities.

The municipality must determine the reimbursement share of each property owner. Shares are determined using a method of cost apportionment based on the benefit to the property owner from the project. The reimbursement assessment may not exceed a property's pro rata share of costs associated with construction of facilities required to meet utility service and fire suppression standards, and may not include administrative and legal costs, except for engineering and construction management costs.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Staff Summary of Public Testimony:**

(In support) This bill will make available to local governments optional authority to use latecomer agreements for constructing wastewater facilities. This authority is similar to current authority local governments have to fund and finance roads and then charge later developments that use those roads.

The language of the bill before the committee has been agreed upon by interested stakeholders. Stakeholders previously had concerns, but those concerns have been resolved with the current version of the bill. Specifically, concerns regarding the following have been resolved: what is subject to reimbursement; the pro rata share; sizing the infrastructure appropriately; and opportunities for judicial review.

(Opposed) None.

**Persons Testifying:** Dave Williams, Association of Washington Cities; and Greg Hanon, Commercial Real Estate Development Association.

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