

SENATE BILL REPORT

ESSB 5048

As Amended by House, April 13, 2015

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: Government Operations & Security (Note: Senate Resolution 8609 adopted January 27, 2015, renamed the Committee on Government Operations & State Security to Committee on Government Operations & Security): 1/19/15, 2/10/15 [DPS].
Passed Senate: 3/11/15, 28-21.
Passed House: 4/13/15, 96-1.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: That Substitute Senate Bill No. 5048 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; Habib and McCoy.

Staff: Karen Epps (786-7424)

Background: Water-sewer districts provide water and sewer services to incorporated and unincorporated areas. Districts are established through a petition, public hearing, and voter approval process and are each managed by a board of elected commissioners. District powers include the authority to purchase, construct, maintain, and supply waterworks to furnish water to inhabitants, and to develop and operate systems of sewers and drainage.

Cities and towns may provide for the sewerage, drainage, and water supply of the city or town. They may also establish, construct, and maintain water supply systems and systems of sewers and drains both within and outside their corporate limits.

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.

A city legislative authority may adopt a resolution or ordinance to assume jurisdiction of all or part of a water-sewer district when:

- a district is wholly within the boundaries of the city or town;
- part of a district equal to at least 60 percent of the district area or 60 percent of the assessed valuation of real property in the district is within the boundaries of the city or town; or
- part of a district equal to less than 60 percent of the district area and less than 60 percent of the assessed valuation of real property in the district is within the boundaries of the city or town.

If a city or town assumes jurisdiction over an entire district, all property, franchises, rights, assets, district-specific taxes levied, and all other facilities and equipment of the water-sewer district become the property of the city upon assumption of the district. The city manages the district, including its facilities and equipment, and collects service charges from the properties served by the city. The city must honor or assume existing district debts.

A city may assume jurisdiction by ordinance over a portion of a water-sewer district located within its jurisdiction if the portion equals at least 60 percent of the district's total area or assessed real property valuation. Cities encompassing less than 60 percent of the district's total area and assessed real property valuation may assume jurisdiction of the district that is within its corporate city limits. In both situations, the district may elect upon a favorable vote of all voters within the district to require the city to assume responsibility for the management of the district's property, facilities, and equipment throughout the entire district.

If a water-sewer district includes more than one city, the city encompassing at least 60 percent of the district's assessed valuation may assume management responsibility over the district if the principal city has approval from the other city or cities included within the district. The other cities may install facilities and establish local improvement districts to pay for these facilities, which may be connected to the utility system operated by the principal city if they were installed in accordance with the principal city's standards.

Summary of Engrossed Substitute Bill: A resolution or ordinance to assume jurisdiction over all or a portion of a water-sewer district is subject to referendum. A resolution or ordinance to assume jurisdiction of all or a part of a water-sewer district may not take effect until 45 days after its adoption. A referendum petition to repeal the assumption resolution or ordinance must be submitted within ten days of the date the ordinance was passed. If a city has adopted a resolution or ordinance to assume jurisdiction of all or part of a water-sewer district on or after January 1, 2014, the city must adopt a resolution or ordinance confirming the assumption and the assumption is subject to referendum.

After the county auditor has issued an identification number and written a ballot title, the county auditor must notify the petitioner. The petitioner has 45 days to gather signatures. The referendum petition must be signed by not less than 10 percent of the residents who voted in the most recent election and who live within the part of the water-sewer district to be assumed.

If there are sufficient signatures on the referendum petition, the question of assumption must be submitted to the voters residing in the part of the water-sewer district to be assumed at the

next general election or a special election held no later than 120 days after the signed petition is filed with the county auditor. The cost of the election must be paid by the city seeking approval to assume jurisdiction of the water-sewer district. Additionally, the city must prepare a local voters' pamphlet.

When a referendum petition is filed with the county 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. The suspension terminates if there are insufficient signatures or the petition is not submitted in a timely manner, or if the assumption resolution or ordinance is approved by the voters. The assumption of a water-sewer district is not subject to a referendum if the city and the water-sewer district enter into a contract or interlocal agreement for the assumption of all or part of the district.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is about allowing the people who own a utility to be able to decide what happens with their assets. People who establish a utility district and have assets in the district ought to have a say in what happens with their property. This bill sets up a referendum process and allows for a vote. The statute that is being amended is the only statute where an elected government can take over another elected government without the consent of the elected commissioners or the people affected by the assumption. This bill is patterned after assumptions of fire districts by cities. This bill gives residents the power to decide which branch of government will make decisions about their water and sewer service. This bill addresses the potential assumptions of water and sewer districts by cities and does not try to judge whether cities or special purpose districts are the best local government to run that particular operation. This bill would leave this decision up to the rate payers, the residents subject to the assumption.

CON: This bill subjects the assumption ordinance to a referendum of the entire water-sewer district when only a portion of the district may be subject to the assumption. This is inconsistent with existing similar statutes. Another inconsistency with existing referendum provisions are the thresholds in this bill. This bill provides for 10 percent of the total voters in the last election, whereas the standard referendum provision for code cities is 15 percent of the registered voters. There is a different timeline for referendum petitions in that this bill allows for 90 days and all other referendum petitions have 30 days.

Persons Testifying: PRO: Senator Chase, prime sponsor; Joe Daniels, WA Assn. of Sewer and Water Districts; Jeff Clarke, Alderwood Water District.

CON: Carl Schroeder, Assn. of WA Cities.

House Amendment(s): Removes a provision requiring a city that has adopted a resolution or ordinance to assume all or part of a water-sewer district on or after January 1, 2014, to adopt a new ordinance or resolution confirming the assumption, which would be subject to referendum. Requires that a city attorney, rather than a county auditor, prepare ballot titles for the referendum of a city resolution or ordinance to assume jurisdiction of all or part of a water-sewer district. 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 water-sewer district may not take effect until 90 or more days – rather than 45 or more days – after their adoption. 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 water-sewer district, rather than the city seeking approval to assume jurisdiction of the water sewer district.