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HOUSE BILL 1823

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State of Washington                      65th Legislature                      2017 Regular Session

By Representatives Peterson, Springer, and Gregerson

Read first time 01/31/17. Referred to Committee on Local Government.

1            AN ACT Relating to business improvement districts; amending RCW  
2 35.87A.010,      35.87A.020,      35.87A.030,      35.87A.050,      35.87A.060,  
3 35.87A.070,      35.87A.075,      35.87A.080,      35.87A.090,      35.87A.100,  
4 35.87A.110,      35.87A.140,      35.87A.160,      35.87A.170,      35.87A.180,  
5 35.87A.190, 35.87A.200, and 35.87A.220; and repealing RCW 35.87A.040  
6 and 35.87A.210.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8            **Sec. 1.** RCW 35.87A.010 and 2005 c 178 s 1 are each amended to  
9 read as follows:

10            To aid general economic development and neighborhood  
11 revitalization, and to facilitate the cooperation of merchants,  
12 businesses, and residential property owners which assists trade,  
13 economic viability, and ~~((liveability))~~ livability, the legislature  
14 hereby authorizes all counties and all incorporated cities and towns,  
15 including unclassified cities and towns operating under special  
16 charters:

17            (1) To establish(~~(, after a petition submitted by the operators~~  
18 ~~responsible for sixty percent of the assessments by businesses and~~  
19 ~~multifamily residential or mixed-use projects within the area,~~  
20 ~~parking and business improvement areas, hereafter referred to as area~~

1 ~~or areas, for the following purposes))~~ business improvement districts  
2 to conduct the following activities:

3 (a) The acquisition, construction, or operation and maintenance  
4 of parking facilities for the benefit of the ((area)) district;

5 (b) ~~((Decoration of any public place in the area;))~~ Developing  
6 and implementing plans and designs to improve the appearance,  
7 character, or functionality of the district and its common areas;

8 (c) Sponsorship or promotion of public events ~~((which are to take~~  
9 ~~place on or in public places in the area))~~ in the district and the  
10 provision of entertainment in common and public areas;

11 (d) ~~((Furnishing of music in any public place in the area;~~  
12 ~~(e))~~) Providing professional management, planning, ~~((and~~  
13 ~~promotion for the area, including the management and promotion of~~  
14 ~~retail trade activities in the area))~~ marketing, promotional,  
15 communications, and economic development services for the district;

16 (e) Supporting business activities in the district, including  
17 assistance for existing businesses and attraction of new businesses;

18 (f) Providing cleaning, maintenance, and security for common~~((r))~~  
19 and public areas; ~~((e))~~

20 (g) Providing transportation services and improvements for the  
21 benefit of the ((area)) district; or

22 (h) Providing information and assistance to visitors, residents,  
23 employees, business owners, or others in the district about local  
24 services and resources using materials, digital communications,  
25 outreach, or local ambassadors.

26 (2) To levy special assessments on all businesses and multifamily  
27 residential or mixed-use projects within the ((area)) district and  
28 specially benefited by a ~~((parking and))~~ business improvement  
29 ((area)) district to pay in whole or in part the damages or costs  
30 incurred therein as provided in this chapter.

31 **Sec. 2.** RCW 35.87A.020 and 1993 c 429 s 2 are each amended to  
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter.

35 (1) "Business" means all types of business, including professions  
36 and the business of owning property.

37 (2) "District" means a business improvement district.

1       (3) "Legislative authority" means the legislative authority of  
2 any city or town including unclassified cities or towns operating  
3 under special charters or the legislative authority of any county.

4       ~~((+3))~~ (4) "Multifamily residential or mixed-use project" means  
5 any building or buildings containing four or more residential units  
6 or a combination of residential and commercial units, whether title  
7 to the entire property is held in single or undivided ownership or  
8 title to individual units is held by owners who also, directly or  
9 indirectly through an association, own real property in common with  
10 the other unit owners.

11       ~~((+4))~~ (5) "Residential operator" means the owner or operator of  
12 a multifamily residential or mixed-use project if title is held in  
13 single or undivided ownership, or, if title is held in a form of  
14 common interest ownership, the association of unit owners,  
15 condominium association, homeowners' association, property owners'  
16 association, or residential cooperative corporation.

17       **Sec. 3.** RCW 35.87A.030 and 1993 c 429 s 3 are each amended to  
18 read as follows:

19       (1)(a) For the purpose of establishing a ~~((parking and))~~ business  
20 improvement ~~((area))~~ district, an initiation petition may be  
21 presented to the legislative authority having jurisdiction of the  
22 ~~((area))~~ district in which the proposed ~~((parking and))~~ business  
23 improvement ~~((area))~~ district is to be located or the legislative  
24 authority may by resolution initiate a ~~((parking and))~~ business  
25 improvement ~~((area))~~ district. The initiation petition or resolution  
26 shall contain the following:

27       ~~((+1))~~ (i) A description of the boundaries of the proposed  
28 ~~((area))~~ district;

29       ~~((+2))~~ (ii) The proposed uses and projects to which the proposed  
30 special assessment revenues shall be put and the total estimated cost  
31 thereof;

32       ~~((+3))~~ (iii) The estimated rate of levy of special assessment  
33 with a proposed breakdown by class of business and multifamily  
34 residential or mixed-use project if such classification is to be  
35 used.

36       (b) The initiating petition shall also contain the signatures of  
37 the persons who operate businesses and residential operators in the  
38 proposed ~~((area which))~~ district that would ~~((pay))~~ be assessed fifty  
39 percent of the proposed special assessments.

1       (2) If the formation of a business improvement district has been  
2 initiated pursuant to the petition method set forth in this section  
3 and the signature requirement has been satisfied, the legislative  
4 authority shall adopt a resolution restating all of the information  
5 contained in the initiation petition and shall also state the time  
6 and place of a hearing to be held by the legislative authority to  
7 consider establishment of a district.

8       (3) If the formation of the district has been initiated pursuant  
9 to a resolution process as set forth in this section, without an  
10 initiation petition, the resolution must state the time and place of  
11 a hearing to be held by the legislative authority to consider  
12 establishment of the district.

13       **Sec. 4.** RCW 35.87A.050 and 1993 c 429 s 4 are each amended to  
14 read as follows:

15       Notice of ((a)) any hearing held under the provisions of this  
16 chapter shall be given by:

17       (1) One publication of the resolution ((of intention)) stating  
18 the time and place of a hearing to be held by the legislative  
19 authority to consider establishment of a district in a newspaper of  
20 general circulation in the city; and

21       (2) Mailing a complete copy of the resolution ((of intention)) to  
22 each business and multifamily residential or mixed-use project in the  
23 proposed, or established, ((area)) district that would be assessed  
24 under the proposal. Publication and mailing shall be completed at  
25 least ten days prior to the time of the hearing.

26       **Sec. 5.** RCW 35.87A.060 and 1993 c 429 s 5 are each amended to  
27 read as follows:

28       Whenever a hearing is held under this chapter, the legislative  
29 authority shall hear all protests and receive evidence for or against  
30 the proposed action. The legislative authority may continue the  
31 hearing from time to time. Proceedings shall terminate if protest is  
32 made by businesses and residential operators in the proposed ((area  
33 which)) district that would ((pay)) be assessed a majority of the  
34 proposed special assessments.

35       **Sec. 6.** RCW 35.87A.070 and 1971 ex.s. c 45 s 7 are each amended  
36 to read as follows:

1        If the legislative authority decides to change the boundaries of  
2 the proposed ((area)) district, the hearing shall be continued to a  
3 time at least fifteen days after such decision and notice shall be  
4 given as prescribed in RCW 35.87A.050, showing the proposed boundary  
5 amendments(~~(, but no resolution of intention is required)~~).

6        **Sec. 7.** RCW 35.87A.075 and 2002 c 69 s 1 are each amended to  
7 read as follows:

8        (1) The legislative authority may modify the boundaries of a  
9 (~~(parking and)~~) business improvement ((area)) district by ordinance,  
10 adopted after a hearing before the legislative authority. The  
11 legislative authority may modify (~~(an area)~~) a district either by  
12 expanding or reducing the existing boundaries. (~~(If the modification~~  
13 ~~to the boundaries is to expand existing boundaries, the expansion~~  
14 ~~area must be adjacent to an existing boundary.)~~) A modification to an  
15 existing boundary may occur no more than once per year and may not  
16 affect ((an area)) a district with a projected assessment ((fee)) roll  
17 greater than ten percent of the current assessment ((role)) roll for  
18 the existing ((area)) district. If the modification of ((an area)) a  
19 district results in the boundary being expanded, the assessments for  
20 the new ((area)) district shall be established pursuant to RCW  
21 35.87A.080 and 35.87A.090 and any other applicable provision of this  
22 chapter.

23        (2) The legislative authority shall adopt a resolution of  
24 intention to modify the boundaries of ((an area)) a district at least  
25 fifteen days prior to the hearing required in subsection (1) of this  
26 section. The resolution shall specify the proposed modification and  
27 shall give the time and place of the hearing. Notice of the hearing  
28 shall be made in accordance with RCW 35.87A.050.

29        **Sec. 8.** RCW 35.87A.080 and 1993 c 429 s 6 are each amended to  
30 read as follows:

31        For purposes of the special assessments to be imposed pursuant to  
32 this chapter, the legislative authority may make a reasonable  
33 classification of businesses and multifamily residential or mixed-use  
34 projects, giving consideration to various factors such as business  
35 and occupation taxes imposed, square footage of the business, number  
36 of employees, gross sales, or any other reasonable factor relating to  
37 the benefit received, including the degree of benefit received from  
38 parking. Whenever it is proposed that a (~~(parking and)~~) business

1 improvement ((area)) district provide more than one of the purposes  
2 listed in RCW 35.87A.010, special assessments may be imposed in a  
3 manner that measures benefit from each of the separate purposes, or  
4 any combination of the separate purposes. Special assessments shall  
5 be imposed and collected annually, or on another basis specified in  
6 the ordinance establishing the ((parking and)) business improvement  
7 ((area)) district.

8 **Sec. 9.** RCW 35.87A.090 and 1993 c 429 s 7 are each amended to  
9 read as follows:

10 The special assessments need not be imposed on different classes  
11 of business and multifamily residential or mixed-use projects, as  
12 determined pursuant to RCW 35.87A.080, on the same basis or the same  
13 rate. The special assessments imposed for the purpose of the  
14 acquisition, construction or maintenance of parking facilities for  
15 the benefit of the ((area)) district shall be imposed on the basis of  
16 benefit determined by the legislative authority after giving  
17 consideration to the total cost to be recovered from the businesses  
18 and multifamily residential or mixed-use projects upon which the  
19 special assessment is to be imposed, the total area within the  
20 boundaries of the ((parking and)) business improvement ((area))  
21 district, the assessed value of the land and improvements within the  
22 ((area)) district, the total business volume generated within the  
23 ((area)) district and within each business, and such other factors as  
24 the legislative authority may find and determine to be a reasonable  
25 measure of such benefit.

26 **Sec. 10.** RCW 35.87A.100 and 1993 c 429 s 8 are each amended to  
27 read as follows:

28 If the legislative authority, following the hearing, decides to  
29 establish the proposed ((area)) district, it shall adopt an ordinance  
30 to that effect. This ordinance shall contain the following  
31 information:

32 (1) The number, date and title of the resolution of intention  
33 pursuant to which it was adopted;

34 (2) The time and place the hearing was held concerning the  
35 formation of such ((area)) a district;

36 (3) The description of the boundaries of such ((area)) a  
37 district;

1 (4) A statement that the businesses and multifamily residential  
2 or mixed-use projects in the ((area)) district established by the  
3 ordinance shall be subject to the provisions of the special  
4 assessments authorized by RCW 35.87A.010;

5 (5) The initial or additional rate or levy of special assessment  
6 to be imposed with a breakdown by classification of business and  
7 multifamily residential or mixed-use project, if such classification  
8 is used; ((and))

9 (6) A statement that a ((~~parking and~~)) business improvement  
10 ((area)) district has been established((-)); and

11 (7) The uses to which the special assessment revenue shall be  
12 put. Uses shall conform to the uses as declared in the initiation  
13 petition or resolution presented pursuant to RCW 35.87A.030.

14 **Sec. 11.** RCW 35.87A.110 and 1971 ex.s. c 45 s 11 are each  
15 amended to read as follows:

16 The legislative authority of each city or town or county shall  
17 have sole discretion as to how the revenue derived from the special  
18 assessments is to be used within the scope of the purposes; however,  
19 the legislative authority may appoint existing advisory boards or  
20 commissions to make recommendations as to its use, or the legislative  
21 authority may create a new advisory board or commission for the  
22 purpose.

23 The legislative authority may contract with a chamber of commerce  
24 or other similar ((~~business association~~)) organization operating  
25 primarily within the boundaries of the legislative authority to  
26 administer the operation of a ((~~parking and~~)) business improvement  
27 ((area)) district, including any funds derived pursuant thereto:  
28 PROVIDED, That such administration must comply with all applicable  
29 provisions of law including this chapter, with all county, city, or  
30 town resolutions and ordinances, and with all regulations lawfully  
31 imposed by the state auditor or other state agencies.

32 **Sec. 12.** RCW 35.87A.140 and 1993 c 429 s 9 are each amended to  
33 read as follows:

34 Changes may be made in the rate or additional rate of special  
35 assessment as specified in the ordinance establishing the ((area))  
36 district, by ordinance adopted after a hearing before the legislative  
37 authority.

1       The legislative authority shall adopt a resolution of intention  
2 to change the rate or additional rate of special assessment at least  
3 fifteen days prior to the hearing required by this section. This  
4 resolution shall specify the proposed change and shall give the time  
5 and place of the hearing. Proceedings to change the rate or impose an  
6 additional rate of special assessments shall terminate if protest is  
7 made by businesses (~~((or multifamily residential or mixed-use~~  
8 ~~projects))~~) and residential operators in the proposed (~~(area which))~~  
9 district that would (~~(pay))~~) be assessed a majority of the proposed  
10 increase or additional special assessments.

11       **Sec. 13.** RCW 35.87A.160 and 1971 ex.s. c 45 s 16 are each  
12 amended to read as follows:

13       All provisions of this chapter applicable to establishment or  
14 disestablishment of (~~(an area))~~) a district also apply to the  
15 establishment, modification, or disestablishment of benefit zones  
16 pursuant to RCW 35.87A.150. The establishment or the modification of  
17 any such zone shall follow the same procedure as provided for the  
18 establishment of a (~~(parking and))~~) business improvement (~~(area))~~  
19 district and the disestablishment shall follow the same procedure as  
20 provided for disestablishment of (~~(an area))~~) a district.

21       **Sec. 14.** RCW 35.87A.170 and 1993 c 429 s 10 are each amended to  
22 read as follows:

23       Businesses or multifamily residential or mixed-use projects  
24 established after the creation of (~~(an area))~~) a district within the  
25 (~~(area))~~) district may be exempted from the special assessments  
26 imposed pursuant to this chapter for a period not exceeding one year  
27 from the date they commenced business in the (~~(area))~~) district.

28       **Sec. 15.** RCW 35.87A.180 and 1971 ex.s. c 45 s 18 are each  
29 amended to read as follows:

30       The legislative authority may disestablish (~~(an area))~~) a district  
31 by ordinance after a hearing before the legislative authority. The  
32 legislative authority shall adopt a resolution of intention to  
33 disestablish the (~~(area))~~) district at least fifteen days prior to the  
34 hearing required by this section. The resolution shall give the time  
35 and place of the hearing.



1       **Sec. 16.**     RCW 35.87A.190 and 1971 ex.s. c 45 s 19 are each  
2 amended to read as follows:

3       Upon disestablishment of ((~~an area~~)) a district, any proceeds of  
4 the special assessments, or assets acquired with such proceeds, or  
5 liabilities incurred as a result of the formation of such ((~~area~~))  
6 district, shall be subject to disposition as the legislative  
7 authority shall determine: PROVIDED, HOWEVER, Any liabilities, either  
8 current or future, incurred as a result of action taken to accomplish  
9 the purposes of RCW 35.87A.010 shall not be an obligation of the  
10 general fund or any special fund of the city or town, but such  
11 liabilities shall be provided for entirely from available revenue  
12 generated from the projects or facilities authorized by RCW  
13 35.87A.010 or from special assessments on the property specially  
14 benefited within the ((~~area~~)) district.

15       **Sec. 17.**     RCW 35.87A.200 and 1971 ex.s. c 45 s 20 are each  
16 amended to read as follows:

17       Any city or town or county authorized by this chapter to  
18 establish a ((~~parking~~)) business improvement ((~~area~~)) district shall  
19 ((~~call for competitive bids by appropriate public notice and award~~  
20 ~~contracts, whenever the estimated cost of such work or improvement,~~  
21 ~~including cost of materials, supplies and equipment, exceeds the sum~~  
22 ~~of two thousand five hundred dollars~~)) require the district to follow  
23 its competitive bidding requirements.

24       **Sec. 18.**     RCW 35.87A.220 and 1971 ex.s. c 45 s 22 are each  
25 amended to read as follows:

26       This chapter providing for ((~~parking and~~)) business improvement  
27 ((~~areas~~)) districts shall not be deemed or construed to affect any  
28 existing act, or any part thereof, relating to special assessments or  
29 other powers of counties, cities and towns, but shall be supplemental  
30 thereto and concurrent therewith.

31       The purposes and functions of ((~~parking and~~)) business  
32 improvement ((~~areas~~)) districts as set forth by the provisions of  
33 this chapter may be accomplished in part by the establishment of ((~~an~~  
34 ~~area~~)) a district pursuant to this chapter and in part by any other  
35 method otherwise provided by law, including provisions for local  
36 improvements.

1        NEW SECTION.    **Sec. 19.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 35.87A.040 (Resolution of intention to establish—Contents  
4 —Hearing) and 1971 ex.s. c 45 s 4; and

5        (2) RCW 35.87A.210 (Computing cost of improvement for bid  
6 requirement) and 1971 ex.s. c 45 s 21.

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