

SENATE BILL REPORT

SB 5742

As of January 25, 2022

Title: An act relating to stormwater control facilities and county jurisdiction.

Brief Description: Concerning stormwater control facilities and county jurisdiction.

Sponsors: Senator Honeyford.

Brief History:

Committee Activity: Housing & Local Government: 1/25/22.

Brief Summary of Bill

- Requires a county to consult a diking, drainage, or sewer improvement district prior to constructing or improving any stormwater control facility within the district's boundaries.
- Directs a district to assume basic maintenance and operation of a county-owned stormwater control facility if the facility or portion of the facility is within the district's boundaries.
- Authorizes a diking, drainage, or sewerage district to collect all stormwater service charges and rates generated within the district boundaries.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Staff: Maggie Douglas (786-7279)

Background: Local Stormwater Management. Stormwater is a primary cause of water pollution in the United States, and as such, has resulted in many federal, state, and local regulations. Stormwater is runoff that flows into pipes, ditches, streams, and other receiving water bodies. The Clean Water Act of 1972 established the regulatory framework to address stormwater pollution control through the restoration and maintenance of the

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chemical, physical, and biological integrity of United States' waters.

Local stormwater management is typically provided through a stand-alone governmental utility. A stormwater utility may be operated by a city or county, and provides stormwater services to a jurisdiction through user fees. Stormwater management activities may vary depending on a jurisdiction's geographical needs, but often includes the ongoing operation and maintenance of publicly owned stormwater facilities, drainage basin planning, education and outreach, water quality programs, monitoring, and capital improvement projects.

Stormwater utilities generate a majority of their revenue through utility rates based on impervious surface area. Stormwater utilities may also rely on city street funds or county road funds, as well as special assessments, local improvement districts, direct charges and fees, capital facilities charges, or conventional debt instruments. The revenue generated from stormwater utility rates provide for capital construction of stormwater systems and controls to prevent flooding and improve quality and maintenance and operations.

Diking, Drainage, and Sewerage Improvement Districts. Diking, drainage, and sewerage improvement districts (districts) are special purpose districts established to improve dikes, drains, sewerages and ditches to provide an efficient system of drainage and flood control for land within the district. Districts are governed by a board of three elected supervisors, and are authorized to impose assessments on properties within their borders in proportion to the benefits those properties receive from diking improvements and maintenance. Districts may also impose a one-year regular property tax levy or issue general obligation debt.

The districts may provide an array of improvements to the land within the boundaries of the jurisdiction, including:

- construct or improve all rivers, watercourses or streams causing overflow damage, including perform activities that straighten, widen, or deepen such watercourses;
- establish diking and drainage systems or erect flood dams to prevent inundations; and
- plan, construct, and operate facilities to collect, treat, and dispose of sanitary, industrial, and other sewage.

In 1985, the Legislature adopted standardized provisions governing districts creation and operation. Separate statutory provisions continue to apply to diking, drainage, and sewerage districts and their actions.

Summary of Bill: A county must consult a district prior to constructing or improving any stormwater control facility within the district's boundaries.

A district must accept responsibilities for the maintenance and operation of a stormwater control facility or portion of a facility within the district boundaries.

Any revenue generated from county stormwater service charges and rates collected within a

district must be deposited into the district's revenue account. A district may retroactively collect no greater than seven years of service charges and rate revenues from the county treasury.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The diking and drainage district provides critical flood control services within their jurisdiction and this bill provides additional funding to help them carry out those essential duties. This would be a simple accounting function of debiting one fund and crediting another fund within the county treasury. The establishment of the stormwater management program plans were county centered and have ignored the long-established diking, drainage and sewerage improvement districts that operate under RCW Title 85. The authors of RCW 36.89 did not take into account the taxing inequities that would be created when the Environmental Protection Agency became involved. Had the ditch district been given its share of the stormwater tax we would be able to do our part to study, learn, plan, design, improve and more adequately maintain our stormwater facilities.

CON: The county works with state and federal regulations to provide stormwater management and comply with long range planning and permitting to reduce pollutants in stormwater runoff. The bill would require counties to back pay seven years of revenue and collect stormwater fees originally intended for permit compliance and direct them to special purpose districts that don't have the capability or requirement to comply with regulatory permits. Diking and drainage districts are typically focused on flood protections. While there may be some similarities in stormwater management, the goals of these special purpose districts differ in that they do not provide responsibilities of managing a jurisdiction wide stormwater control program. Further, the requirement to consult any diking, drainage, or sewerage improvement district prior to constructing stormwater control facilities would create significant challenges in the case that a county and special purpose district are unable to reach agreement—the consequence being that the county may eventually fall out of compliance with state or federal stormwater regulations.

Persons Testifying: PRO: Senator Jim Honeyford, Prime Sponsor; MAT JACKMOND, Commissioner, Hopkins Drainage Ditch District #2 in Thurston County.

CON: Axel Swanson, Washington State Association of County Engineers.

Persons Signed In To Testify But Not Testifying: No one.