
HOUSE BILL 2343

State of Washington

68th Legislature

2024 Regular Session

By Representatives Donaghy and Duerr

Read first time 01/12/24. Referred to Committee on Local Government.

1 AN ACT Relating to reimbursement by property owners for street,
2 road, and water or sewer projects; amending RCW 57.22.020, 35.91.020,
3 and 35.72.020.

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

5 **Sec. 1.** RCW 57.22.020 and 2006 c 88 s 3 are each amended to read
6 as follows:

7 (1) Except as otherwise provided in subsection (2) of this
8 section, the contract shall also provide, subject to the terms and
9 conditions in this section, for the reimbursement to the owner or the
10 owner's assigns for a period not to exceed (~~(fifteen)~~) 20 years of a
11 portion of the costs of the facilities constructed pursuant to such
12 contract from connection charges received by the district from other
13 property owners who subsequently connect to or use the facilities
14 within the period of time that the contract is effective and who did
15 not contribute to the original cost of such facilities.

16 (2)(a) The contract may provide for (~~(an extension)~~) one or more
17 extensions of the (~~(fifteen-year)~~) 20-year reimbursement period, each
18 for a time not to exceed the duration of (~~(any)~~):

19 (i) Any moratorium, phasing ordinance, concurrency designation,
20 or other governmental action that prevents making applications for,
21 or the approval of, any new development for a period of six months or

1 more within the benefit area of the system extensions authorized
2 under this chapter;

3 (ii) Any national economic recession as declared by the national
4 bureau of economic research business cycle dating committee.

5 (b) For those contracts approved prior to February 29, 2020, an
6 extension equal to the time between February 29, 2020, and October
7 28, 2022, during which the state of Washington was under a state of
8 emergency as a result of the COVID-19 pandemic, shall be granted
9 provided a request for this extension is received by the district
10 prior to March 31, 2025.

11 (c) Upon the extension of the reimbursement period pursuant to
12 (a) or (b) of this subsection, the contract must specify the duration
13 of the contract extension and must be filed and recorded with the
14 county auditor. ~~((Property owners who are subject to the~~
15 ~~reimbursement obligations under subsection (1) of this section shall~~
16 ~~be notified by the water-sewer district of the extension filed under~~
17 ~~this subsection.))~~

18 (3) Each contract shall include a provision requiring that every
19 two years from the date the contract is executed a property owner
20 entitled to reimbursement under this section provide the water-sewer
21 district with information regarding the current contract name,
22 address, and telephone number of the person, company, or partnership
23 that originally entered into the contract. If the property owner
24 fails to comply with the notification requirements of this subsection
25 within ~~((sixty))~~ 60 days of the specified time, then the water-sewer
26 district may collect any reimbursement funds owed to the property
27 owner under the contract. Such funds must be deposited in the capital
28 fund of the water-sewer district.

29 **Sec. 2.** RCW 35.91.020 and 2013 c 243 s 3 are each amended to
30 read as follows:

31 (1)(a) At the owner's request, a municipality must contract with
32 the owner of real estate for the construction or improvement of water
33 or sewer facilities that the owner elects to install solely at the
34 owner's expense. The owner must submit a request for a contract to
35 the municipality prior to approval of the water or sewer facility by
36 the municipality. The owner's request may only require a contract
37 under this subsection (1)(a) in locations where a municipality's
38 ordinances require the facilities to be improved or constructed as a
39 prerequisite to further property development. Water or sewer

1 facilities improved or constructed in accordance with this subsection
2 (1)(a) must be located within the municipality's corporate limits or,
3 except as provided otherwise by this subsection (1)(a), within
4 (~~ten~~) 10 miles of the municipality's corporate limits. Water or
5 sewer facilities improved or constructed in accordance with this
6 subsection (1)(a) may not be located outside of the county that is
7 party to the contract. The contract must be filed and recorded with
8 the county auditor and must contain conditions required by the
9 municipality in accordance with its adopted policies and standards.
10 Unless the municipality provides written notice to the owner of its
11 intent to request a comprehensive plan approval, the owner must
12 request a comprehensive plan approval for a water or sewer facility,
13 if required, and connection of the water or sewer facility to the
14 municipal system must be conditioned upon:

15 (i) Construction of the water or sewer facility according to
16 plans and specifications approved by the municipality;

17 (ii) Inspection and approval of the water or sewer facility by
18 the municipality;

19 (iii) Transfer to the municipality of the water or sewer
20 facility, without cost to the municipality, upon acceptance by the
21 municipality of the water or sewer facility;

22 (iv) Full compliance with the owner's obligations under the
23 contract and with the municipality's rules and regulations;

24 (v) Provision of sufficient security to the municipality to
25 ensure completion of the water or sewer facility and other
26 performance under the contract;

27 (vi) Payment by the owner to the municipality of all of the
28 municipality's costs associated with the water or sewer facility
29 including, but not limited to, engineering, legal, and administrative
30 costs; and

31 (vii) Verification and approval of all contracts and costs
32 related to the water or sewer facility.

33 (b) If authorized by ordinance or contract, a municipality may
34 participate in financing water or sewer facilities development
35 projects authorized and improved or constructed in accordance with
36 (a) of this subsection. Unless otherwise provided by ordinance or
37 contract, municipalities that participate in the financing of water
38 or sewer facilities improved or constructed in accordance with (a) of
39 this subsection:

1 (i) Have the same rights to reimbursement as owners of real
2 estate who make contributions as authorized under this section; and

3 (ii) Are entitled to a pro rata share of the reimbursement based
4 on the respective contribution of the owner and the municipality.

5 (2) A contract entered into under this section must also provide,
6 in accordance with the requirements of this section, for the pro rata
7 reimbursement to the owner or the owner's assigns for ~~((twenty))~~ 20
8 years, or for a longer period if extended in accordance with
9 subsection (4) of this section. The reimbursements must be: (a)
10 Within the period of time that the contract is effective; (b) for a
11 portion of the costs of the water or sewer facilities improved or
12 constructed in accordance with the contract; and (c) from latecomer
13 fees received by the municipality from property owners who
14 subsequently connect to or use the water or sewer facilities, but who
15 did not contribute to the original cost of the facilities.

16 (3) Except as provided otherwise by this section, a municipality
17 seeking reimbursement from an owner of real estate under this section
18 is limited to the dollar amount authorized in accordance with
19 subsection (7) of this section. This does not prevent the
20 municipality from collecting amounts for services or infrastructure
21 that are additional expenditures not subject to the ordinance,
22 contract, or agreement, nor does it prevent the collection of fees
23 that are reasonable and proportionate to the total expenses incurred
24 by the municipality in complying with this section.

25 (4) (a) The contract may provide for ~~((an extension))~~ one or more
26 extensions of the ~~((twenty-year))~~ 20-year reimbursement period, each
27 for a time not to exceed the duration of ~~((any))~~ :

28 (i) Any moratorium, phasing ordinance, concurrency designation,
29 or other governmental action that prevents making applications for,
30 or the approval of, any new development within the benefit area for a
31 period of six months or more;

32 (ii) Any national economic recession as declared by the national
33 bureau of economic research business cycle dating committee.

34 (b) For those contracts approved prior to February 29, 2020, an
35 extension equal to the time between February 29, 2020, and October
36 28, 2022, during which the state of Washington was under a state of
37 emergency as a result of the COVID-19 pandemic, shall be granted
38 provided a request for this extension is received by the district
39 prior to March 31, 2025.

1 (c) Upon the extension of the reimbursement period pursuant to
2 (a) or (b) of this subsection, the contract must specify the duration
3 of the contract extension and must be filed and recorded with the
4 county auditor. (~~Property owners who are subject to the~~
5 ~~reimbursement obligations under subsection (1) of this section shall~~
6 ~~be notified by the contracting municipality of the extension filed~~
7 ~~under this subsection.~~)

8 (5) The requirement for a municipality to contract with an owner
9 of real estate for the construction or improvement of water or sewer
10 facilities under this section is only applicable if the facilities
11 are consistent with all applicable comprehensive plans and
12 development regulations of the municipalities through which the
13 facilities will be constructed or will serve.

14 (6) Each contract must include a provision requiring that every
15 two years from the date the contract is executed a property owner
16 entitled to reimbursement under this section provide the municipality
17 with information regarding the current contract name, address, and
18 telephone number of the person, company, or partnership that
19 originally entered into the contract. If the property owner fails to
20 comply with the notification requirements of this subsection within
21 (~~sixty~~) 60 days of the specified time, then the contracting
22 municipality may collect any reimbursement funds owed to the property
23 owner under the contract. The funds collected under this subsection
24 must be deposited in the capital fund of the municipality.

25 (7) To the extent it may require in the performance of the
26 contract, the municipality may install the water or sewer facilities
27 in and along the county streets in the area to be served as
28 hereinabove provided, subject to reasonable requirements as to the
29 manner of occupancy of the streets as the county may by resolution
30 provide. The provisions of the contract may not be effective as to
31 any owner of real estate not a party thereto unless the contract has
32 been recorded in the office of the county auditor of the county in
33 which the real estate of the owner is located prior to the time the
34 owner taps into or connects to the water or sewer facilities.

35 (8) Within (~~one hundred twenty~~) 120 days of the completion of a
36 water or sewer facility, the owners of the real estate must submit
37 the total cost of the water or sewer facility to the applicable
38 municipality. This information must be used by the municipality as
39 the basis for determining reimbursements by future users who benefit

1 from the water or sewer facility, but who did not contribute to the
2 original cost of the water or sewer facility.

3 (9) Nothing in this section is intended to create a private right
4 of action for damages against a municipality for failing to comply
5 with the requirements of this section. A municipality, its officials,
6 employees, or agents may not be held liable for failure to collect a
7 latecomer fee unless the failure was willful or intentional. Failure
8 of a municipality to comply with the requirements of this section
9 does not relieve a municipality of any future requirement to comply
10 with this section.

11 **Sec. 3.** RCW 35.72.020 and 2006 c 88 s 1 are each amended to read
12 as follows:

13 (1) Except as otherwise provided in subsection (2) of this
14 section, the contract may provide for the partial reimbursement to
15 the owner or the owner's assigns for a period not to exceed
16 (~~fifteen~~) 20 years of a portion of the costs of the project by
17 other property owners who:

18 (a) Are determined to be within the assessment reimbursement area
19 pursuant to RCW 35.72.040;

20 (b) Are determined to have a reimbursement share based upon a
21 benefit to the property owner pursuant to RCW 35.72.030;

22 (c) Did not contribute to the original cost of the street
23 project; and

24 (d) Subsequently develop their property within the period of time
25 that the contract is effective and at the time of development were
26 not required to install similar street projects because they were
27 already provided for by the contract.

28 Street projects subject to reimbursement may include design,
29 grading, paving, installation of curbs, gutters, storm drainage,
30 sidewalks, street lighting, traffic controls, and other similar
31 improvements, as required by the street standards of the city, town,
32 or county.

33 (2) (a) The contract may provide for (~~an extension~~) one or more
34 extensions of the (~~fifteen-year~~) 20-year reimbursement period, each
35 for a time not to exceed the duration of (~~any~~);

36 (i) Any moratorium, phasing ordinance, concurrency designation,
37 or other governmental action that prevents making applications for,
38 or the approval of, any new development within the benefit area for a
39 period of six months or more;

1 (ii) Any national economic recession as declared by the national
2 bureau of economic research business cycle dating committee.

3 (b) For those contracts approved prior to February 29, 2020, an
4 extension equal to the time between February 29, 2020, and October
5 28, 2022, during which the state of Washington was under a state of
6 emergency as a result of the COVID-19 pandemic, shall be granted
7 provided a request for this extension is received by the district
8 prior to March 31, 2025.

9 (c) Upon the extension of the reimbursement period pursuant to
10 (a) or (b) of this subsection, the contract must specify the duration
11 of the contract extension and must be filed and recorded with the
12 county auditor. ((Property owners who are subject to the
13 reimbursement obligations under subsection (1) of this section shall
14 be notified by the appropriate county, city, or town of the extension
15 filed under this subsection.))

16 (3) Each contract shall include a provision requiring that every
17 two years from the date the contract is executed a property owner
18 entitled to reimbursement under this section provide the appropriate
19 county, city, or town with information regarding the current contract
20 name, address, and telephone number of the person, company, or
21 partnership that originally entered into the contract. If the
22 property owner fails to comply with the notification requirements of
23 this subsection within ~~((sixty))~~ 60 days of the specified time, then
24 the contracting county, city, or town may collect any reimbursement
25 funds owed to the property owner under the contract. Such funds must
26 be deposited in the capital fund of the county, city, or town.

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