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SENATE BILL 5110

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State of Washington

53rd Legislature

1993 Regular Session

By Senators Haugen, Drew and Winsley

Read first time 01/13/93. Referred to Committee on Government Operations.

1 AN ACT Relating to water and sewer districts; amending RCW  
2 56.08.070, 57.08.010, 57.08.050, and 57.08.170; and reenacting and  
3 amending RCW 56.08.010.

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

5 **Sec. 1.** RCW 56.08.010 and 1989 c 389 s 2 and 1989 c 308 s 1 are  
6 each reenacted and amended to read as follows:

7 A sewer district may acquire by purchase or by condemnation and  
8 purchase all lands, property rights, water, and water rights, both  
9 within and without the district, necessary for its purposes. A sewer  
10 district may lease real or personal property necessary for its purposes  
11 for a term of years for which such leased property may reasonably be  
12 needed where in the opinion of the board of sewer commissioners such  
13 property may not be needed permanently or substantial savings to the  
14 district can be effected thereby. The right of eminent domain shall be  
15 exercised in the same manner and by the same procedure as provided for  
16 cities and towns, insofar as consistent with the provisions of this  
17 title, except that all assessments or reassessment rolls required to  
18 be filed by eminent domain commissioners or commissioners appointed by  
19 the court shall be prepared and filed by the district, and the duties

1 devolving upon the city treasurer shall be imposed upon the county  
2 treasurer for the purposes hereof. A sewer district may construct,  
3 condemn and purchase, add to, maintain, and operate systems of sewers  
4 for the purpose of furnishing the district and inhabitants thereof with  
5 an adequate system of sewers for all uses and purposes, public and  
6 private, including but not limited to on-site sewage disposal  
7 facilities, approved septic tanks or approved septic tank systems,  
8 other facilities and systems for the collection, interception,  
9 treatment, and disposal of wastewater, and for the control of pollution  
10 from wastewater and for the protection, preservation, and  
11 rehabilitation of surface and underground waters, facilities for the  
12 drainage of storm or surface waters, public highways, streets, and  
13 roads with full authority to regulate the use and operation thereof and  
14 the service rates to be charged and may construct, condemn, acquire, or  
15 own buildings and other necessary district facilities. Such sewage  
16 facilities may include facilities which result in combined sewage  
17 disposal, treatment, or drainage and electric generation, provided that  
18 the electricity generated thereby is a byproduct of the system of  
19 sewers. Such electricity may be used by the sewer district or sold to  
20 any entity authorized by law to distribute electricity. Such  
21 electricity is a byproduct when the electrical generation is  
22 subordinate to the primary purpose of sewage disposal, treatment, or  
23 drainage. For such purposes a district may conduct sewage throughout  
24 the district and throughout other political subdivisions within the  
25 district, and construct and lay sewer pipe along and upon public  
26 highways, roads, and streets, within and without the district, and  
27 condemn and purchase or acquire land and rights of way necessary for  
28 such sewer pipe. A district may erect sewage treatment plants, within  
29 or without the district, and may acquire by purchase or condemnation,  
30 properties or privileges necessary to be had to protect any lakes,  
31 rivers, or watercourses and also other areas of land from pollution,  
32 from its sewers or its sewage treatment plant. For the purposes of  
33 sewage facilities which include facilities which result in combined  
34 sewage disposal, treatment, or drainage and electric generation where  
35 the electric generation is a byproduct, nothing in this section may be  
36 construed to authorize a district to condemn electric generating,  
37 transmission, or distribution rights or facilities of entities  
38 authorized by law to distribute electricity, or to acquire such rights  
39 or facilities without the consent of the owner. A district may charge

1 property owners seeking to connect to the district system of sewers, as  
2 a condition to granting the right to so connect, in addition to the  
3 cost of such connection, such reasonable connection charge as the board  
4 of commissioners shall determine to be proper in order that such  
5 property owners shall bear their equitable share of the cost of such  
6 system. For purposes of calculating a connection charge, the board of  
7 commissioners shall determine the pro rata share of the cost of  
8 existing facilities and facilities planned for construction within the  
9 next ten years and contained in an adopted comprehensive plan and other  
10 costs borne by the district which are directly attributable to the  
11 improvements required by property owners seeking to connect to the  
12 system. The cost of existing facilities shall not include those  
13 portions of the system which have been donated or which have been paid  
14 for by grants.

15 The connection charge may include interest charges applied from the  
16 date of construction of the sewer system until the connection, or for  
17 a period not to exceed ten years, whichever is shorter, at a rate  
18 commensurate with the rate of interest applicable to the district at  
19 the time of construction or major rehabilitation of the sewer system,  
20 or at the time of installation of the sewer lines to which the property  
21 owner is seeking to connect.

22 A district may permit payment of the cost of connection and the  
23 reasonable connection charge to be paid with interest in installments  
24 over a period not exceeding fifteen years. The county treasurer may  
25 charge and collect a fee of three dollars per parcel for each year for  
26 the treasurer's services. Such fees shall be a charge to be included  
27 as part of each annual installment, and shall be credited to the county  
28 current expense fund by the county treasurer. A district may compel  
29 all property owners within the sewer district located within an area  
30 served by the district system of sewers to connect their private drain  
31 and sewer systems with the district system under such penalty as the  
32 sewer commissioners shall prescribe by resolution. The district may  
33 for such purpose enter upon private property and connect the private  
34 drains or sewers with the district system and the cost thereof shall be  
35 charged against the property owner and shall be a lien upon property  
36 served.

37 Revenues from connection charges excluding permit fees are to be  
38 considered payments in aid of construction as defined by department of  
39 revenue rule.

1       **Sec. 2.** RCW 56.08.070 and 1989 c 105 s 1 are each amended to read  
2 as follows:

3       (1) All materials purchased and work ordered, the estimated cost of  
4 which is in excess of five thousand dollars shall be let by contract.  
5 All contract projects, the estimated cost of which is less than fifty  
6 thousand dollars, may be awarded to a contractor on the small works  
7 roster. The small works roster shall be comprised of all responsible  
8 contractors who have requested to be on the list. The board of sewer  
9 commissioners may set up uniform procedures to prequalify contractors  
10 for inclusion on the small works roster. The board of sewer  
11 commissioners shall authorize by resolution a procedure for securing  
12 telephone and/or written quotations from the contractors on the small  
13 works roster to assure establishment of a competitive price and for  
14 awarding contracts to the lowest responsible bidder. Such procedure  
15 shall require that a good faith effort be made to request quotations  
16 from all contractors on the small works roster. Immediately after an  
17 award is made, the bid quotations obtained shall be recorded, open to  
18 public inspection, and available by telephone inquiry. The small works  
19 roster shall be revised once a year. All contract projects equal to or  
20 in excess of fifty thousand dollars shall be let by competitive  
21 bidding. Before awarding any competitive contract the board of sewer  
22 commissioners shall cause a notice to be published in a newspaper in  
23 general circulation where the district is located at least once, ten  
24 days before the letting of such contract, inviting sealed proposals for  
25 such work, plans and specifications which must at the time of  
26 publication of such notice be on file in the office of the board of  
27 sewer commissioners subject to public inspection. Such notice shall  
28 state generally the work to be done and shall call for proposals for  
29 doing the same to be sealed and filed with the board of sewer  
30 commissioners on or before the day and hour named therein.

31       (2) Each bid shall be accompanied by a bid proposal deposit in the  
32 form of a certified check, cashier's check, postal money order, or  
33 surety bond payable to the order of the county treasurer for a sum not  
34 less than five percent of the amount of the bid and no bid shall be  
35 considered unless accompanied by such bid proposal deposit. At the  
36 time and place named such bids shall be publicly opened and read and  
37 the board of sewer commissioners shall proceed to canvass the bids and  
38 may let such contract to the lowest responsible bidder upon plans and  
39 specifications: PROVIDED, That no contract shall be let in excess of

1 the cost of ~~((said))~~ the materials or work(~~(, or if in the opinion~~  
2 ~~of))~~. The board of sewer commissioners ~~((all bids are unsatisfactory~~  
3 ~~they))~~ may reject all ~~((of them))~~ bids for good cause and readvertise  
4 and in such case all checks, cash or bid bonds shall be returned to the  
5 bidders. If such contract be let, then all checks, cash or bid bonds  
6 shall be returned to the bidders, except that of the successful bidder,  
7 which shall be retained until a contract shall be entered into for the  
8 purchase of such materials or doing such work, and a bond to perform  
9 such work furnished with sureties satisfactory to the board of sewer  
10 commissioners in the full amount of the contract price between the  
11 bidder and the commission in accordance with bid. If ~~((said))~~ the  
12 bidder fails to enter into ~~((said))~~ the contract in accordance with  
13 ~~((said))~~ the bid and furnish such bond within ten days from the date at  
14 which he or she is notified that he or she is the successful bidder,  
15 the ~~((said))~~ check, cash or bid bonds and the amount thereof shall be  
16 forfeited to the sewer district.

17 (3) In the event of an emergency when the public interest or  
18 property of the sewer district would suffer material injury or damage  
19 by delay, upon resolution of the board of sewer commissioners, or  
20 proclamation of an official designated by the board to act for the  
21 board during such emergencies, declaring the existence of such  
22 emergency and reciting the facts constituting the same, the board, or  
23 the official acting for the board, may waive the requirements of this  
24 chapter with reference to any purchase or contract. In addition, these  
25 requirements may be waived for purchases which are clearly and  
26 legitimately limited to a single source of supply and purchases  
27 involving special facilities, services, or market conditions, in which  
28 instances the purchase price may be best established by direct  
29 negotiation.

30 **Sec. 3.** RCW 57.08.010 and 1991 c 82 s 4 are each amended to read  
31 as follows:

32 (1)(a) A water district may acquire by purchase or condemnation, or  
33 both, all property and property rights and all water and water rights,  
34 both within and without the district, necessary for its purposes.

35 (b) A water district may lease real or personal property necessary  
36 for its purposes for a term of years for which such leased property may  
37 reasonably be needed where in the opinion of the board of water

1 commissioners such property may not be needed permanently or  
2 substantial savings to the district can be effected thereby.

3 (c) The right of eminent domain shall be exercised in the same  
4 manner and by the same procedure as provided for cities of the third  
5 class, insofar as consistent with the provisions of this title, except  
6 that all assessment rolls to be prepared and filed by eminent domain  
7 commissioners or commissioners appointed by the court shall be prepared  
8 and filed by the water district, and the duties devolving upon the city  
9 treasurer are hereby imposed upon the county treasurer.

10 (d) A water district may construct, condemn and purchase, purchase,  
11 add to, maintain, and supply waterworks to furnish the district and  
12 inhabitants thereof, and any city or town therein and any other  
13 persons, both within and without the district, with an ample supply of  
14 water for all uses and purposes public and private with full authority  
15 to regulate and control the use, content, distribution, and price  
16 thereof in such a manner as is not in conflict with general law and may  
17 construct, condemn, acquire, or own buildings and other necessary  
18 district facilities. Where a customer connected to the district's  
19 system uses the water on an intermittent or transient basis, a district  
20 may charge for providing water service to such a customer, regardless  
21 of the amount of water, if any, used by the customer.

22 (e) A water district contiguous to Canada may contract with a  
23 Canadian corporation for the purchase of water and for the  
24 construction, purchase, maintenance, and supply of waterworks to  
25 furnish the district and inhabitants thereof and residents of Canada  
26 with an ample supply of water under terms approved by the board of  
27 commissioners. Such waterworks may include facilities which result in  
28 combined water supply and electric generation, provided that the  
29 electricity generated thereby is a byproduct of the water supply  
30 system.

31 (f) Such electricity may be used by the water district or sold to  
32 any entity authorized by law to distribute electricity. Such  
33 electricity is a byproduct when the electrical generation is  
34 subordinate to the primary purpose of water supply.

35 (g) For such purposes, a water district may take, condemn and  
36 purchase, purchase, acquire, and retain water from any public or  
37 navigable lake, river, or watercourse, or any underflowing water and,  
38 by means of aqueducts or pipe line conduct the same throughout such

1 water district and any city or town therein and carry it along and upon  
2 public highways, roads, and streets, within and without such district.

3 (h) For the purpose of constructing or laying aqueducts or pipe  
4 lines, dams, or waterworks or other necessary structures in storing and  
5 retaining water or for any other lawful purpose such water district may  
6 occupy the beds and shores up to the high water mark of any such lake,  
7 river, or other watercourse, and may acquire by purchase or  
8 condemnation such property or property rights or privileges as may be  
9 necessary to protect its water supply from pollution.

10 (i) For the purposes of waterworks which include facilities for the  
11 generation of electricity as a byproduct, nothing in this section may  
12 be construed to authorize a water district to condemn electric  
13 generating, transmission, or distribution rights or facilities of  
14 entities authorized by law to distribute electricity, or to acquire  
15 such rights or facilities without the consent of the owner.

16 (2) A water district may purchase and take water from any municipal  
17 corporation.

18 (3) A water district may fix rates and charges for water supplied  
19 and may charge property owners seeking to connect to the district's  
20 water supply system, as a condition to granting the right to so  
21 connect, in addition to the cost of such connection, such reasonable  
22 connection charge as the board of commissioners shall determine to be  
23 proper in order that such property owners shall bear their equitable  
24 share of the cost of such system.

25 (a) For purposes of calculating a connection charge, the board of  
26 commissioners shall determine the pro rata share of the cost of  
27 existing facilities and facilities planned for construction within the  
28 next ten years and contained in an adopted comprehensive plan and other  
29 costs borne by the district which are directly attributable to the  
30 improvements required by property owners seeking to connect to the  
31 system. The cost of existing facilities shall not include those  
32 portions of the system which have been donated or which have been paid  
33 for by grants.

34 (b) The connection charge may include interest charges applied from  
35 the date of construction of the water system until the connection, or  
36 for a period not to exceed ten years, whichever is shorter, at a rate  
37 commensurate with the rate of interest applicable to the district at  
38 the time of construction or major rehabilitation of the water system,

1 or at the time of installation of the water lines to which the property  
2 owner is seeking to connect.

3 (4)(a) A district may permit payment of the cost of connection and  
4 the reasonable connection charge to be paid with interest in  
5 installments over a period not exceeding fifteen years. The county  
6 treasurer may charge and collect a fee of three dollars for each year  
7 for the treasurer's services. Such fees shall be a charge to be  
8 included as part of each annual installment, and shall be credited to  
9 the county current expense fund by the county treasurer.

10 (b) Revenues from connection charges excluding permit fees are to  
11 be considered payments in aid of construction as defined by department  
12 of revenue rule.

13 (5) A district may operate and maintain a park or recreational  
14 facilities on real property that it owns or in which it has an interest  
15 that is not immediately necessary for its purposes.

16 (6) If such park or recreational facilities are operated by a  
17 person other than the district, including a corporation, partnership,  
18 or other business enterprise, the person shall indemnify and hold  
19 harmless the district for any injury or damage caused by the action of  
20 the person.

21 **Sec. 4.** RCW 57.08.050 and 1989 c 105 s 2 are each amended to read  
22 as follows:

23 (1) The board of water commissioners shall have authority to create  
24 and fill such positions and fix salaries and bonds thereof as it may by  
25 resolution provide.

26 (2) All materials purchased and work ordered, the estimated cost of  
27 which is in excess of five thousand dollars shall be let by contract.  
28 All contract projects, the estimated cost of which is less than fifty  
29 thousand dollars, may be awarded to a contractor on the small works  
30 roster. The small works roster shall be comprised of all responsible  
31 contractors who have requested to be on the list. The board of water  
32 commissioners may set up uniform procedures to prequalify contractors  
33 for inclusion on the small works roster. The board of water  
34 commissioners shall authorize by resolution a procedure for securing  
35 telephone and/or written quotations from the contractors on the small  
36 works roster to assure establishment of a competitive price and for  
37 awarding contracts to the lowest responsible bidder. Such procedure  
38 shall require that a good faith effort be made to request quotations

1 from all contractors on the small works roster. Immediately after an  
2 award is made, the bid quotations obtained shall be recorded, open to  
3 public inspection, and available by telephone inquiry. The small works  
4 roster shall be revised once a year. All contract projects equal to or  
5 in excess of fifty thousand dollars shall be let by competitive  
6 bidding. Before awarding any such contract the board of water  
7 commissioners shall cause a notice to be published in a newspaper in  
8 general circulation where the district is located at least once ten  
9 days before the letting of such contract, inviting sealed proposals for  
10 such work, plans and specifications which must at the time of  
11 publication of such notice be on file in the office of the board of  
12 water commissioners subject to public inspection. Such notice shall  
13 state generally the work to be done and shall call for proposals for  
14 doing the same to be sealed and filed with the board of water  
15 commissioners on or before the day and hour named therein.

16 (3) Each bid shall be accompanied by a certified or cashier's check  
17 or postal money order payable to the order of the county treasurer for  
18 a sum not less than five percent of the amount of the bid, or  
19 accompanied by a bid bond in an amount not less than five percent of  
20 the bid with a corporate surety licensed to do business in the state,  
21 conditioned that the bidder will pay the district as liquidated damages  
22 the amount specified in the bond, unless ((he)) the bidder enters into  
23 a contract in accordance with his or her bid, and no bid shall be  
24 considered unless accompanied by such check, cash or bid bond. At the  
25 time and place named such bids shall be publicly opened and read and  
26 the board of water commissioners shall proceed to canvass the bids and  
27 may let such contract to the lowest responsible bidder upon plans and  
28 specifications on file or to the best bidder submitting his or her own  
29 plans and specifications: PROVIDED, That no contract shall be let in  
30 excess of the cost of ((said)) the materials or work((, or if in the  
31 opinion of)). The board of water commissioners ((all bids are  
32 unsatisfactory they)) may reject all ((of them)) bids for good cause  
33 and readvertise and in such case all checks, cash or bid bonds shall be  
34 returned to the bidders. If such contract be let, then all checks,  
35 cash or bid bonds shall be returned to the bidders, except that of the  
36 successful bidder, which shall be retained until a contract shall be  
37 entered into for the purchase of such materials or doing such work, and  
38 a bond to perform such work furnished with sureties satisfactory to the  
39 board of water commissioners in the full amount of the contract price

1 between the bidder and the commission in accordance with the bid. If  
2 ((said)) the bidder fails to enter into ((said)) the contract in  
3 accordance with ((said)) the bid and furnish such bond within ten days  
4 from the date at which he or she is notified that he or she is the  
5 successful bidder, the ((said)) check, cash or bid bonds and the amount  
6 thereof shall be forfeited to the water district: PROVIDED, That if  
7 the bidder fails to enter into a contract in accordance with ((his))  
8 the bid, and the board of water commissioners deems it necessary to  
9 take legal action to collect on any bid bond required herein, then the  
10 water district shall be entitled to collect from ((said)) the bidder  
11 any legal expenses, including reasonable attorneys' fees occasioned  
12 thereby.

13 (4) In the event of an emergency when the public interest or  
14 property of the water district would suffer material injury or damage  
15 by delay, upon resolution of the board of water commissioners, or  
16 proclamation of an official designated by the board to act for the  
17 board during such emergencies, declaring the existence of such  
18 emergency and reciting the facts constituting the same, the board, or  
19 official acting for the board, may waive the requirements of this  
20 chapter with reference to any purchase or contract. In addition, these  
21 requirements may be waived for purchases which are clearly and  
22 legitimately limited to a single source of supply and purchases  
23 involving special facilities, services, or market conditions, in which  
24 instances the purchase price may be best established by direct  
25 negotiation.

26 **Sec. 5.** RCW 57.08.170 and 1991 c 82 s 7 are each amended to read  
27 as follows:

28 A water district may adopt a water conservation plan and emergency  
29 water use restrictions. The district may enforce a water conservation  
30 plan and emergency water use restrictions by imposing a fine as  
31 provided by resolution for failure to comply with any such plan or  
32 restrictions. The commissioners may provide by resolution that if a  
33 fine for failure to comply with the water conservation plan or  
34 emergency water use restrictions is delinquent for a specified period  
35 of time, the district shall ~~((certify the delinquency to the treasurer  
36 of the county in which the real property is located and))~~ serve notice  
37 of the delinquency on the subscribing water customer who fails to  
38 comply, and the fine is then a separate item for inclusion on the bill

1 of the party failing to comply with the water conservation plan or  
2 emergency water use restrictions.

3 Water districts shall collect fines under RCW 57.08.080 and  
4 57.08.090.

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