

## **CITY COUNCIL AGENDA ITEM**

### **CITY OF SHORELINE, WASHINGTON**

<b>AGENDA TITLE:</b>	Water-Sewer District Assumption Bill Update		
<b>DEPARTMENT:</b>	City Manager's Office		
<b>PRESENTED BY:</b>	Debbie Tarry, City Manager Scott MacColl, Intergovernmental Programs Manager		
<b>ACTION:</b>	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

#### **PROBLEM/ISSUE STATEMENT:**

On February 18, Engrossed Substitute Senate Bill (ESSB) 6008, an act relating to voter approval of assumptions of water-sewer districts by cities and towns, was passed by the Senate by a vote of 37 to 10. This bill is now being considered by the House, and there was a committee hearing today on the bill in the House Committee on Local Government. At today's hearing, Deputy Mayor Eggen and City Manager Tarry testified in opposition to the bill.

Currently, a City may adopt a resolution or ordinance to assume jurisdiction of a water or sewer district when the entire district territory is included within the corporate boundaries of the city. The City took this step for the assumption of the Ronald Wastewater District (RWD) with the adoption of Ordinance No. 681 on December 9, 2013. Adoption of this ordinance signified the City's intent to execute its option to assume RWD in 2017 at the completion of the term of the City's 2002 Interlocal Operating Agreement (IOA) with RWD.

However, if ESSB 6008 becomes law (is passed by the House and signed by the Governor), a city in a county with a population greater than 1.5 million people (i.e. King County), may not assume jurisdiction of all or a portion of a water or sewer district serving more than 1000 residents unless the assumption is approved by a majority of voters of the entire district. The cost of the election must be paid for by the City and the City would also need to conduct a feasibility study of the assumption. Finally, the bill is applicable to assumptions of water or sewer districts that have already been initiated, such as the City's assumption of RWD.

It is currently unclear if this bill will be voted out of the Local Government committee in the House, and if so, whether it would be approved by the full House prior to the close of the legislative session. Staff understands that the bill must be voted out of committee by this Friday, February 28, in order for it to be considered by the full House.

## **CITY CONCERNS:**

The City's primary concerns with ESSB 6008 are as follows:

- The bill would apply to the City's assumption of RWD, as the bill applies to assumptions that were initiated or pending at the effective date of the bill. The effective date is 90 days after the bill is signed, so it is assumed that it would become effective at the end of May if adopted by the legislature.
- The bill would require a vote for Shoreline to assume RWD. The bill states that mutual agreement between a district and city to avoid a vote only applies if City has 100% of the district inside its boundaries. Given that RWD extends into unincorporated Snohomish County, the City would have to hold a vote on assumption. Although the Council has not yet taken a position on whether or not to hold a vote, this would take away the Council's ability to make this determination.
- The bill would require a study that is mutually agreed upon by RWD and the City. The requirements of the study are extensive, including impacts on future rates and bond ratings.
- The bill only applies to King County as currently proposed, so it seems aimed directly at the City's assumption of RWD. Given that King County is the most populated and urban county in the state, it would seem that this bill is in direct conflict with the Growth Management Act and the King County Countywide Planning Policies. This bill would impact most cities in King County, which has 19 special purpose districts that cover all or parts of 29 of the 39 cities.

These concerns exist with regard to the RWD assumption due to the City's current agreement with RWD to assume them in 2017. The 2002 IOA with RWD, signed and agreed to by both organizations, was entered into to unify sewer services with City operations. Procedures for an orderly and predictable transition of the sewer utility from District to City ownership are outlined in the IOA. Given that the City Council and RWD Board are both supportive of the continued implementation of the IOA and assumption of the district by 2017, ESSB 6008 would require additional levels of due diligence and process that are unwarranted, unless agreed to by the parties themselves.

## **COUNCIL GOAL ADDRESSED**

This item addressed Council Goal No. 2, Improve Shoreline's utility, transportation and environmental infrastructure, as this goal includes a specific action step to 'Develop a plan to merge the Ronald Wastewater District into City operations as outlined in the 2002 Interlocal Operating Agreement'.

## **RECOMMENDATION**

No action is required at this time. Staff is providing an update to the Council on this proposed legislation and the impacts that it may have on the City. Staff may also look for direction from Council about how to proceed regarding the future assumption of the Ronald Wastewater District.

## **ATTACHMENTS**

Attachment A: Engrossed Substitute Senate Bill 6008

Attachment B: Senate Bill 6008 – Bill Report

Approved By:        City Manager ***DT***    City Attorney ***IS***

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**ENGROSSED SUBSTITUTE SENATE BILL 6008**

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**State of Washington****63rd Legislature****2014 Regular Session**

**By** Senate Governmental Operations (originally sponsored by Senators Chase, Roach, Rivers, Hatfield, Hasegawa, Keiser, and Benton)

READ FIRST TIME 02/07/14.

1       AN ACT Relating to voter approval of assumptions of water-sewer  
2       districts by cities and towns; adding new sections to chapter 35.13A  
3       RCW; and creating a new section.

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

5       NEW SECTION. **Sec. 1.** A new section is added to chapter 35.13A RCW  
6       to read as follows:

7       (1) A city or town that is wholly or at least eighty percent  
8       located in a county with a population greater than one million five  
9       hundred thousand may not assume, under this chapter, the jurisdiction  
10      of all or part of a water-sewer district serving a population greater  
11      than one thousand residents unless voters of the entire water-sewer  
12      district approve a ballot proposition authorizing the assumption under  
13      general election law. The cost of the election must be borne by the  
14      city or town seeking approval to assume jurisdiction of a water-sewer  
15      district.

16      (2) A city or town that is wholly or at least eighty percent  
17      located in a county with a population greater than one million five  
18      hundred thousand may assume jurisdiction over a water-sewer district  
19      located entirely within its boundaries without seeking approval of the

1 voters, as required under subsection (1) of this section, if the board  
2 of commissioners of the water-sewer district consent to the assumption  
3 of jurisdiction by the city or town. The feasibility study required  
4 under subsection (3) of this section is not required if the board of  
5 commissioners of the water-sewer district consents to the assumption of  
6 jurisdiction by the city or town.

7 (3) Following the passage of a resolution by a city or town that is  
8 wholly or at least eighty percent located in a county with a population  
9 greater than one million five hundred thousand to assume all or part of  
10 a special purpose water-sewer district under this chapter, a  
11 feasibility study of the assumption must be conducted, unless the board  
12 of commissioners of the water-sewer district consents to the assumption  
13 of jurisdiction by the city or town as provided under subsection (2) of  
14 this section. The study must be jointly and equally funded by the city  
15 or town and the district through a mutually agreed contract with a  
16 qualified independent consultant with professional expertise involving  
17 public water and sewer systems. The study must address the impact of  
18 the proposed assumption on both the city or town and district. Issues  
19 to be considered must be mutually agreed to by the city or town and the  
20 district and must include, but not be limited to, engineering and  
21 operational impacts, costs of the assumption to the city or town and  
22 the district including potential impacts on future water-sewer rates,  
23 bond ratings and future borrowing costs, status of existing water  
24 rights, and other issues jointly agreed to. The findings of the joint  
25 study must be presented as a public record that is available to the  
26 registered voters of the district, both within and without the boundary  
27 of the city or town conducting the assumption, prior to a vote on the  
28 proposed assumption by all the voters in the district. The study must  
29 be completed within six months of the passage of the resolution to  
30 assume the district. No vote may take place until the study has been  
31 completed and the results have been made available to the registered  
32 voters of the district.

33 (4) Once the voters in a water-sewer district have approved or  
34 disapproved an assumption through the ballot proposition process  
35 required under subsection (1) of this section, a boundary review board  
36 does not have jurisdiction, under chapter 36.93 RCW, to conduct a  
37 review of the assumption where the attempted or completed assumption  
38 involves not more than one city or town.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 35.13A RCW  
2    to read as follows:

3        (1) If a city or town that is wholly or at least eighty percent  
4    located in a county with a population greater than one million five  
5    hundred thousand assumes jurisdiction over a water-sewer district  
6    without seeking approval of the voters pursuant to section 1 of this  
7    act, the assumption is subject to referendum for forty-five days after  
8    its approval by a boundary review board or the superior court under  
9    chapter 36.93 RCW or, in those counties without a boundary review  
10   board, a petition to dissolve the district has been filed in superior  
11   court under RCW 35.13A.080. Upon the filing of a timely and sufficient  
12   referendum petition with the board of commissioners, signed by  
13   registered voters in number equal to not less than ten percent of the  
14   registered voters in the area to be assumed who voted in the last  
15   municipal general election, the question of assumption must be  
16   submitted to the voters of the area in a general election if one is to  
17   be held within ninety days or at a special election called for that  
18   purpose by the board of commissioners in accordance with RCW  
19   29A.04.330. The election must be conducted in accordance with the  
20   general election laws of the state. The assumption is deemed approved  
21   by the voters unless a majority of the votes cast on the proposition  
22   are in opposition thereto.

23        (2) After the expiration of the forty-fifth day from but excluding  
24   the date the assumption has been approved by a boundary review board or  
25   the superior court under chapter 36.93 RCW or, in those counties  
26   without a boundary review board, a petition to dissolve the district  
27   has been filed in superior court under RCW 35.13A.080, if no timely and  
28   sufficient referendum petition has been filed, the city or town may  
29   proceed to assume jurisdiction over the water-sewer district.

30        NEW SECTION.    **Sec. 3.**    This act is applicable to assumptions of  
31   jurisdiction of water-sewer districts by cities or towns that is wholly  
32   or at least eighty percent located in a county with a population  
33   greater than one million five hundred thousand that have been initiated  
34   prior to the effective date of this section and that are pending as of  
35   that date, as well as those assumptions of jurisdiction that are  
36   initiated on or after the effective date of this section. Nothing in

1 this act may be construed to preempt or modify any existing interlocal  
2 agreement, franchise, or contract between a city or town and a water-  
3 sewer district in effect on the effective date of this section.

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# SENATE BILL REPORT

## SB 6008

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As of January 20, 2014

**Title:** An act relating to voter approval of assumptions of water-sewer districts by cities and towns.

**Brief Description:** Modifying water-sewer district provisions.

**Sponsors:** Senators Chase, Roach, Rivers, Hatfield, Hasegawa, Keiser and Benton.

**Brief History:**

**Committee Activity:** Governmental Operations: 1/20/14.

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### SENATE COMMITTEE ON GOVERNMENTAL OPERATIONS

**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 within or without their corporate limits. Cities and towns may participate in and expend revenue on cooperative watershed management actions related to water supply, water quality, and water resource protection and management.

A city legislative authority may adopt a resolution or ordinance to assume jurisdiction of a water-sewer district when the entire district territory is included within the corporate boundaries of the city. 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

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*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.*



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 city may assume responsibility for the management of the district's property, facilities, and equipment throughout the entire district upon a favorable vote of all voters within the 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. Customers generally pay the service charges established by the principal city.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** A city or town may not assume jurisdiction of all or a portion of a water-sewer district serving more than 1000 residents unless the assumption is approved by a majority of voters of the entire district. After voters approve or reject an assumption, a boundary review board does not have jurisdiction to conduct a review of the assumption where the attempted or completed assumption involves not more than one city or town. A city or town may assume jurisdiction over a water-sewer district when the entire district territory is included in the boundaries of the city or town without seeking voter approval if the board of the district consents to the assumption.

If a city or town assumes jurisdiction of all or a portion of a water-sewer district that serves fewer than 1000 residents or a district in which the board consents to the assumption, the assumption is subject to referendum for 45 days after:

- approval by a boundary review board or the superior court if the boundary review board decision is appealed; or
- a petition to dissolve the district is filed in superior court in those counties without a boundary review board.

A referendum petition must be signed by not less than 10 percent of the residents in the area to be assumed who voted in the last election. Upon the filing of a referendum petition, the question of assumption must be submitted to the voters at the next special or general election.

After a city or town passes a resolution or ordinance to assume jurisdiction of a water-sewer district, the city and the district must pay for a feasibility study to be completed within six months of adoption of the resolution or ordinance. The feasibility study must address the impacts of the proposed assumption, including engineering and operational impacts, costs of the assumption to the city or town and the district, and potential impacts on future water-sewer rates. A feasibility study is not required if the board consents to the assumption. A vote on the assumption cannot occur until the feasibility study is complete and the results are made available to voters.

Assumptions of water-sewer districts that have been initiated and are pending prior to enactment of this legislation are subject to these requirements.

**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:** PRO: Ratepayers should be able to make decisions about whether a city should be able to take over their utility. Citizens are concerned that their utility bills will increase after an assumption. This bill will allow ratepayers to have an informed vote on the matter of assumption. The current process for assumptions is outdated. There have been three assumptions that were highly contested, costly, and divisive to the community. There is concern about assumptions currently because there is no mandated feasibility study. This bill would require a feasibility study. The other concern about assumptions is the possibility that it could disenfranchise voters. This bill addresses that issue by giving residents a vote on the assumption. Water-sewer districts often operate in multiple jurisdictions, and splitting up a district would impact economies of scale and the ability of the water-sewer district to operate as efficiently as possible. If there is a change that will impact all of the ratepayers of a district, all of the ratepayers should have a vote on that change. The cannibalization of a district could leave horrible repercussions if vital facilities are assumed without the support and vote of the ratepayers. Citizens of Shoreline are concerned by the lack of transparency and information from the city about the possible assumption. Ronald Wastewater operates very efficiently and debt-free and recently passed a rate decrease. The concern is that Shoreline will charge additional rates and fees to make up a budget deficiency.

CON: This bill is a one size fits all solution for a problem that is not a one size fits all problem. There are many different types of water-sewer districts. There are times when customers want a city to assume its water-sewer district, but the district does not want to be assumed. This bill should be amended so that the vote to assume is by the voters in the area to be assumed, not by all the ratepayers in the district or all the people in the city. The feasibility study sounds like a good idea, but it may be challenging to implement when there is disagreement between the city and the district. The bill should be amended to address the situation when the city and district cannot reach agreement on the feasibility study. The current law works well and does not need to be changed.

**Persons Testifying:** PRO: Senator Chase, prime sponsor; Joe Daniels, Blair Burroughs, WA Assn. of Sewer Water Districts; Ron Speer, Soos Creek Water Sewer District; Diane Pottinger, Manager, North City Water District; Ginny Scantlebury, Steve Lindstrom, Sno King Water Alliance.

CON: Tom Brubaker, City of Kent; Carl Schroeder, Assn. of WA Cities.