



CITY OF BLACK DIAMOND
May 12, 2011 Special Meeting/Workstudy Agenda
25510 Lawson St., Black Diamond, Washington

Workstudies are meetings for Council to review upcoming and pertinent business of the City. Public testimony is only accepted at the discretion of the Council.

4:00 P.M. – CALL TO ORDER, ROLL CALL

- 1.) Executive Session – To discuss with legal counsel litigation pursuant to RCW 42.30.110(1)(i) with no action to follow.
- 2.) Workstudy – Community Facilities Districts (CFDs)
 - a. CFD Basics – Yarrow Bay – John W. Hempelmann, Cairncross & Hempelmann
 - b. CFD Points to Consider from a City’s perspective- Hugh Spitzer, Foster Pepper
 - c. CFD-Follow-up-Yarrow Bay
 - d. Council-Staff Q & A
- 3.) Adjournment

WASHINGTON COMMUNITY FACILITIES DISTRICTS (CFDs)

Briefing by John W. Hempelmann

Cairncross & Hempelmann

May 12, 2011

Topics to be covered:

- What is a CFD?
- What a CFD is not.
- Why is a CFD needed?
- How is a CFD created?
- How does a CFD work?
- How might a CFD be used in Black Diamond?

What is a CFD?

- A CFD is a Special Purpose District to finance and potentially construct, local and sub-regional improvements/infrastructure needed to support growth.
 - Constitution: Article VII, Section 9
 - Statute: RCW Chpt. 36.145
- A CFD is a “Super” Local Improvement District or LID.
 - Inclusion in the CFD district is 100% voluntary.
 - District property owners pay 100% of formation and operations costs associated with the District.
 - Residents and businesses outside the District’s boundaries are not subject to assessments.
- A CFD is a financing tool. CFD bonds are secured ONLY by the land inside the District.
- CFD improvements may be financed by the District prior to, during or after completion of improvements.

What a CFD is not.

- A CFD is not a separate government. All improvements must be permitted, and approved, by the city.
- A CFD does not burden municipal finances or debt capacity.
- A CFD is not backed by the full faith and credit of the state or city.
- A CFD is not funded, or paid for, by any property owner, resident or business outside the district.

Why is a CFD Needed?

- Growth is occurring and it requires new infrastructure – roads, sewers, water and other utility systems. RCW 36.145.005
- Much of the required infrastructure has a sub-regional benefit and existing infrastructure financing tools are limited in their ability to fund these types of improvements. The CFD expands the list of eligible improvements.
- Local, state and federal funding is very limited.
- Growth should pay for growth. Those who benefit from new facilities over time pay for the new facilities over time. To ensure assessments are equitable and reasonable, the costs are shared by the original property owners and developers and by all future builders, businesses and homeowners within the CFD. These costs remain within the CFD and are not shared beyond the boundaries of the CFD.
- CFD assessment bonds are long-term, lower cost, tax exempt bonds. Banks and traditional private lending sources will not provide long-term financing for infrastructure. Assessment bonds have been used for decades to fund infrastructure improvements and are familiar to those who purchase bonds.

How is a CFD Created?

1. A petition to the city is submitted to form a CFD. The petition must be executed by 100% of property owners within the proposed district.
 - The petition proposes improvement projects that benefit property in the District.
 - The petition proposes special assessments on property within the CFD to finance bonds to pay for projects.
 - The petition nominates 2 of 5 members of the CFD Board of Supervisors.
2. The city gives notice of a public hearing and the community has an opportunity to participate in the public hearing process.
3. Approval by city: The city must find the CFD is “in best interests of” the city.
4. The city appoints a 5 member CFD Board of Supervisors with 3 chosen by the city (either elected officials or qualified representatives).
5. A CFD is final only after the appeal period expires.

How Does a CFD Work?

1. After approval of a CFD by the city, the CFD Board hires, or contracts for, staff and/or consultants and counsel to conduct the business of the District.
2. The CFD finalizes project plans (in accordance with the city's design and permitting process and requirements).
3. The CFD finalizes project finances and special assessments based on a special benefits study and obtains permits from the city.
4. The CFD constructs, leases or purchases improvements or contracts with others to construct improvements based on public works requirements.
5. The CFD sells assessment or revenue bonds to pay for improvements and to establish bond reserve account. The use of General Obligation bonds is prohibited by the legislation.
6. Assessments are collected like property taxes to pay bond principal and interest. Assessments are split many times as property is divided over periods of development.
7. Bonds are paid off. Assessments terminate.

How Might a CFD Be Used in Black Diamond?

To finance improvements that matter to both current and future residents and businesses such as:

- a. Roads and transportation improvements
- b. Water and sewer facilities
- c. Stormwater facilities
- d. Parks
- e. Trails

QUESTIONS?

WHAT a CFD IS, ISN'T,
(and a few things for a city to think
about when forming one)

Hugh Spitzer, Foster Pepper PLLC
Affiliate Professor
University of Washington
School of Law

A CFD Is a Financing Tool

(Not Really a Separate Government)

RCW 36.145.090 labels a CFD

**“an independently governed,
special purpose district”**

Independent?

- Created by a city
 - Board controlled by a city
 - Probably separate for liability purposes
 - Closest analogies: transportation benefit district; public development authority
-

A CFD Is Governmental

- Subject to Open Public Meetings
- Subject to Public Records Law
- Subject to Public Works Bidding Laws
- Subject to State Audit

Compliance takes time and care

What a CFD Isn't

- Not a taxing district, like California CFDs
- Not a private, developer-controlled entity
- Not an entity with broad authority

(*authority is very limited*)

What a CFD Does . . .

Just one thing: Create and manage special assessments districts to finance listed improvements subject to city local improvement district laws.

Tax-exempt financing substantially lowers infrastructure costs for developers. (But the public works requirement increases costs somewhat.)

Basic Special Assessment Rules

- Capital improvements
 - Must be public improvements
 - Improvements must increase property value at least as much as the assessments
 - Assessments must be fairly distributed
 - Can't be used for improvements that don't confer "special benefit"
-

Why CFD's Rather Than LID's?

- Slightly broader list of improvements
 - Shifts risk entirely to developer/property owners
 - No claim on City Guaranty Fund
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Things to Think About (!)

- Pros & cons of strong City control of Board
 - Pros & cons of City staffing the CFD
 - Impact of CFD assessments on future voted bonds (“taxpayer fatigue”)
 - Can the CFD really work, financially?
(The challenge of “greenfield financings”)
 - How will CFD exercise eminent domain?
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More Things to Think About

- Limiting the scope of each CFD - picking the “low hanging fruit”
 - Should the City have its own team of consultants/financial advisors/lawyers?
 - Developer Guarantee & Escrow Contract(s)?
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CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6241

Chapter 7, Laws of 2010

61st Legislature
2010 Regular Session

COMMUNITY FACILITIES DISTRICTS--CREATION

EFFECTIVE DATE: 06/10/10

Passed by the Senate February 15, 2010
YEAS 43 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House March 2, 2010
YEAS 75 NAYS 22

FRANK CHOPP

Speaker of the House of Representatives

Approved March 10, 2010, 2:16 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6241** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 10, 2010

Secretary of State
State of Washington

1 community facilities district should be available to counties, cities,
2 and towns so that needed community facilities and local, subregional,
3 and regional infrastructure can be provided;

4 (4) This chapter is intended to facilitate voluntary landowner
5 financing of community facilities and local, subregional, and regional
6 infrastructure by authorizing the creation of community facilities
7 districts, while creating jobs and facilitating economic development;
8 and

9 (5) It is in the interest of the people of the state of Washington
10 to authorize the establishment of community facility districts as
11 independently governed, special purpose districts, vested with the
12 corporate authority included under Article VII, section 9 of the state
13 Constitution to make local improvements in accordance with this chapter
14 and to carry out the purposes specifically authorized under this
15 chapter.

16 NEW SECTION. **Sec. 102.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

18 (1) "Board of supervisors" or "board" means the governing body of
19 a community facilities district.

20 (2) "Community facilities district" or "district" means a district
21 created under this chapter.

22 (3) "Facility" or "facilities" means the local improvements
23 included under section 501 of this act.

24 (4) "Legislative authority" means the governing body of a county,
25 city, or town to which a petition or amended petition is submitted.

26 (a) If the proposed district is located entirely within
27 unincorporated land, then the county is the exclusive "legislative
28 authority" for purposes of approving formation of the district under
29 sections 201 through 206 of this act, inclusive, and section 301 of
30 this act.

31 (b) If all or a portion of the proposed district is located within
32 unincorporated land that is entirely surrounded by an incorporated city
33 or town, then the "legislative authority" for purposes of approving
34 formation of the district under sections 201 through 206 of this act,
35 inclusive, and section 301 of this act includes the governing bodies of
36 the county and the city or town surrounding the unincorporated land.

1 (c) If the proposed district is located entirely within
2 incorporated land, then the city or town is the exclusive "legislative
3 authority" for purposes of this chapter, and all powers and
4 responsibilities of a county under this chapter must be exercised by
5 that city or town.

6 (5) "Petition" means a request, meeting the requirements of section
7 201 of this act, made by landowners to form a community facilities
8 district and to voluntarily submit their land to the assessments
9 authorized under this chapter and includes an amended petition meeting
10 the requirements of section 201(3) of this act.

11 (6) "Special assessment" means an assessment imposed in accordance
12 with the requirements of this chapter.

13 **PART II**

14 **COMMUNITY FACILITIES DISTRICT FORMATION**

15 NEW SECTION. **Sec. 201.** Community facilities districts are
16 authorized to be formed for the purposes authorized under this chapter.
17 Community facilities districts may only include land within urban
18 growth areas designated under the state growth management act, located
19 in portions of one or more cities, towns, or counties when created in
20 accordance with this chapter. A district may include one or more
21 noncontiguous tracts, lots, parcels, or other properties meeting the
22 requirements of this chapter.

23 (1) To form a community facilities district, a petition must be
24 presented to the applicable legislative authorities. The petition
25 must:

26 (a) Designate and describe the boundaries of the district by metes
27 and bounds or reference to United States townships, ranges, and legal
28 subdivisions;

29 (b) Be executed by one hundred percent of all owners of private
30 property located within the boundaries of the proposed district. The
31 property owners must include a request to subject their property to the
32 assessments, up to the amount included in the petition and authorized
33 under this chapter;

34 (c) Include a certification by the petitioners that they want to
35 voluntarily submit their property to the authority of the district

1 under this chapter to approve the petitioner's request to submit their
2 property to the assessments, up to the amount included in the petition
3 and authorized under this chapter;

4 (d) Include a general explanation of the objective and plan of the
5 district and describe the specific facilities that the district
6 anticipates financing;

7 (e) Declare the district will be conducive to public health,
8 safety, and welfare;

9 (f) Assert that the purpose for forming the district will be a
10 benefit to the land located in the district;

11 (g) Be accompanied by an "obligation" signed by at least two
12 petitioners who agree to pay the costs of the formation process;

13 (h) Include a list of petitioners or representatives thereof who
14 are willing and able to serve on the board of supervisors. All
15 petitioners within a proposed district who are natural persons, or
16 natural persons who are designated representatives of petitioners, are
17 eligible to include their name on the list of eligible supervisors.
18 The petitioners may nominate qualified professions to serve on the
19 board of supervisors in lieu of the petitioners or representatives of
20 the petitioners;

21 (i) If it proposes a special assessment, include: (i) A diagram
22 showing each separate lot, tract, parcel of land, or other property in
23 the district; (ii) the acreage of the property; (iii) the name and
24 address of the owner or reputed owner of each lot, tract, parcel of
25 land, or other property as shown on the tax rolls of the county
26 assessor; (iv) a preliminary assessment roll showing the special
27 assessment proposed to be imposed on each lot, tract, parcel of land,
28 or other property; and (v) a proposed method or combination of methods
29 for computing special assessments, determining the benefit to assessed
30 property or use from facilities or improvements funded directly or
31 indirectly by special assessments under this chapter; and

32 (j) Include an explanation of what security will be provided to
33 ensure the timely payment of assessments and the timely payment of
34 bonds issued by the district.

35 (2) The petition must be filed with the auditor of each county in
36 which property included within the proposed district is located. The
37 auditor for the county in which the largest geographic portion of the
38 proposed district is located must be the lead auditor for the purposes

1 of this section. Within thirty days of the lead auditor's receipt of
2 the petition, the lead auditor must confirm that the petition has been
3 validly executed by one hundred percent of all owners of the property
4 located within the proposed district, including confirmation by the
5 auditors of all other counties with whom the petition was filed.
6 Within ten days of the lead auditor's finding that the petition either
7 does or does not contain the required signatures, the lead auditor must
8 either (a) transmit the petition, together with a certificate of
9 sufficiency attached thereto, to each legislative authority petitioned
10 for formation of the district; or (b) return the petition to the
11 petitioners with a list of property owners who must sign the petition
12 in order to comply with this section. There are no restrictions on the
13 number of petitions that may be submitted by one or more property
14 owners.

15 (3) A petition may be amended for any reason if the amendment is
16 signed by one hundred percent of the owners of property located within
17 the district proposed in the amended petition.

18 NEW SECTION. **Sec. 202.** A public hearing on the petition for
19 formation of a district must be held by each applicable legislative
20 authority, not less than thirty, but not more than sixty days, from the
21 date that the lead county auditor issues the certificate of sufficiency
22 required under section 201 of this act.

23 NEW SECTION. **Sec. 203.** Notice of all public hearings must include
24 a description of the proposal, be mailed to all petitioners, and must
25 be published once a week for three consecutive weeks in the official
26 paper for each applicable legislative authority, prior to the date set
27 for the hearing. The notice must be posted for not less than fifteen
28 days prior to the date of the hearing in each of three public places
29 within the boundaries of the proposed district and in three public
30 places for each applicable legislative authority. Each notice must
31 contain the time, date, and place of the public hearing.

32 NEW SECTION. **Sec. 204.** At the time and place of the public
33 hearing, the legislative authority must consider the petition. The
34 legislative authority may receive any evidence it deems material that
35 supports or opposes the formation of the district, including the

1 inclusion or exclusion of land. Unless an amended petition satisfying
2 the requirements of section 201 of this act is approved in accordance
3 with the requirements of this chapter, no land outside the boundaries
4 described in the petition may be included within the proposed district.
5 No land inside the boundaries of an approved petition may be removed
6 from the district unless an amended petition satisfying the
7 requirements of section 201 of this act is approved in accordance with
8 the requirements of this chapter.

9 NEW SECTION. **Sec. 205.** (1) The legislative authority may act on
10 the petition to form a community facilities district at the public
11 hearing held under section 204 of this act and in no event may the
12 legislative authority's decision be issued later than thirty days after
13 the day of the public hearing. The applicable legislative authority
14 may approve the petition by resolution if the applicable legislative
15 authority determines, in its sole discretion, that the petitioners will
16 benefit from the proposed district and that the formation of the
17 district will be in the best interest of the county, city or town, as
18 applicable, and that formation of the district is consistent with the
19 requirements of Washington's growth management act.

20 (2) A community facilities district may not be formed unless each
21 applicable legislative authority makes the finding required under
22 subsection (1) of this section.

23 (3) All resolutions approving a petition must conform to the terms
24 and conditions contained in the petition, including the maximum amounts
25 of special assessments set forth in the petition, and must designate
26 the name and number of the community facilities district being formed.

27 NEW SECTION. **Sec. 206.** (1) Any person who objects to formation of
28 the district may appeal the final decision of a legislative authority
29 to approve a petition for formation of a community facilities district
30 by filing an appeal with the superior court of the county in which any
31 part of the district is located within thirty days of the effective
32 date of the resolution approving formation of the district.

33 (2) If no appeal is timely filed, then the legislative authority's
34 decision is deemed valid, complete, and final, and neither the legal
35 existence of the district, nor the terms and conditions of an approved
36 petition can thereafter be challenged or questioned by any person on

1 the grounds of procedural defect or otherwise. Certified copies of
2 each resolution approving a district must be filed with the auditor of
3 the county or counties in which the community facilities district is
4 located.

5 **PART III**

6 **COMMUNITY FACILITIES DISTRICT BOARD OF SUPERVISORS**

7 NEW SECTION. **Sec. 301.** (1) A community facilities district must
8 be governed by a board of supervisors possessing the powers set forth
9 under section 401 of this act. The board of supervisors must be
10 appointed by each applicable legislative authority within sixty days of
11 the formation of the district. Except as expressly provided under this
12 section, each applicable legislative authority is authorized to appoint
13 members to the board of supervisors only from among the members of its
14 own governing body. Each applicable legislative authority must appoint
15 the petitioner members or nominees required under subsection (2) or (3)
16 of this section. The term of office of each supervisor is three years
17 and until a successor is appointed, except that the supervisors first
18 appointed serve for one and two years respectively from the date of
19 their appointments, as designated in their appointments.

20 (2) Except as provided in subsection (3) of this section, if the
21 proposed district is located entirely within a single jurisdiction,
22 then the board of supervisors consists of: (a) Three members of the
23 legislative authority of the jurisdiction; and (b) two members
24 appointed from among the list of eligible supervisors included in the
25 petition as provided in section 201(1)(h) of this act. All members of
26 the board of supervisors must be natural persons.

27 (3) If all or a portion of the proposed district is located within
28 unincorporated land that is entirely surrounded by an incorporated city
29 or town, then the board of supervisors consists of: (a) Two members
30 appointed from the county legislative authority; (b) two members
31 appointed from the legislative authority of the city or town that is
32 the additional legislative authority under section 102(4) of this act;
33 and (c) one member appointed from the list of eligible petitioners
34 included in the petition as provided in section 201(1)(h) of this act,
35 depending on the number of additional members that are required to
36 result in an overall odd number of supervisors.

1 (4) If the county, city, or town is the exclusive legislative
2 authority pursuant to section 102 of this act, then the board of
3 supervisors consists of: (a) Three members appointed from such county,
4 city, or town; and (b) two members from the list of eligible
5 petitioners or nominees included in the petition, as provided in
6 section 201(1)(h) of this act, to result in an overall odd number of
7 supervisors.

8 (5) The legislative authorities may appoint qualified professionals
9 with expertise in municipal finance in lieu of one or more appointments
10 authorized in this section. A jurisdiction's appointments to the board
11 of supervisors may consist of a combination of qualified professionals
12 authorized under this section and one or more members from the
13 applicable legislative authority. Nothing contained in this section
14 authorizes a legislative authority to exceed the maximum number of
15 appointments set forth under subsection (2) or (3) of this section.

16 (6) A vacancy on the board must be filled by the legislative
17 authority authorized to make the appointment to the applicable
18 supervisor position under this section. Vacancies must be filled by a
19 person in the same position vacating the board, which for initial
20 petitioner members or nominees includes successor owners of property
21 located within the boundaries of an approved district. If the approved
22 district was originally located entirely on unincorporated land and the
23 unincorporated land has been annexed into a city or town, then, as of
24 the effective date of annexation, the city or town is deemed the
25 exclusive legislative authority for the purposes of this chapter and
26 the composition of the board must be structured accordingly, as
27 provided in this section. Supervisors must serve without compensation,
28 but they are entitled to expenses, including traveling expenses,
29 necessarily incurred in discharge of their duties. The board must
30 designate a chair from time to time.

31 PART IV

32 COMMUNITY FACILITIES DISTRICT POWERS

33 NEW SECTION. **Sec. 401.** (1) A community facilities district
34 created in accordance with this chapter is an independently governed,
35 special purpose district, vested with the corporate authority included
36 under Article VII, section 9 of the state Constitution to make local

1 improvements by special assessment in accordance with this chapter.
2 Nothing in this chapter exempts the public improvements and facilities
3 provided by a district from the regulatory and land use permitting
4 requirements of the county, city, or town in which the improvements are
5 to be located.

6 (2) Subject to the terms and conditions of an approved petition, a
7 community facilities district has the powers necessary to carry out the
8 specific purposes authorized under this chapter in order to carry out
9 the specific objectives, plan, and facilities identified in the
10 approved petition including, but not limited to, the authority to:

11 (a) Acquire, purchase, hold, lease, finance, manage, occupy,
12 construct, and sell real and personal property, facilities, or any
13 interest therein, either inside or outside of the boundaries of the
14 district, except that any such property, facilities, or interests
15 outside the boundaries of the district must directly serve facilities
16 or benefit properties within the district;

17 (b) Finance and construct facilities authorized under this chapter;

18 (c) Enter into and perform any and all contracts;

19 (d) Levy and enforce the collection of special assessments against
20 the property included within a district;

21 (e) Enter into lease-purchase agreements with or without an option
22 to purchase;

23 (f) Enter into executory conditional sales contracts, leases, and
24 installment promissory notes;

25 (g) Borrow money to the extent and in the manner authorized by this
26 chapter;

27 (h) Hold in trust property useful to accomplishment of the
28 authority granted under this chapter;

29 (i) Issue revenue bonds in accordance with chapter 39.46 RCW and
30 assessment bonds in accordance with chapter 35.45 RCW, and the
31 requirements of this chapter, payable from revenue or assessments,
32 respectively, of the district that is legally available to be pledged
33 to secure the bonds;

34 (j) Contract with any municipal corporation, governmental, or
35 private agencies to carry out the purposes authorized by this chapter;

36 (k) Sue and be sued;

37 (l) Accept and receive on behalf of the district any money or
38 property donated, devised, or bequeathed to the district and carry out

1 the terms of the donation, devise, or bequest, if it is within the
2 powers granted by law to community facilities districts or, in the
3 absence of such terms, expend or use the money or property for district
4 purposes as determined by the board of supervisors;

5 (m) Transfer to any county, city, or other municipal corporation,
6 without compensation, any property or other assets of the district; and

7 (n) Do any and all lawful acts required and expedient to carry out
8 the express authority provided in this chapter.

9 **PART V**

10 **COMMUNITY FACILITIES DISTRICT FINANCES**

11 NEW SECTION. **Sec. 501.** (1) Through the use of district revenue
12 derived through special assessments and bonds authorized under this
13 chapter and, consistent with the terms and conditions of a petition
14 approved in accordance with this chapter, a community facilities
15 district may finance all or a portion of the following costs, expenses,
16 and facilities whether located inside or outside the boundaries of an
17 approved district:

18 (a) The cost, or any portion thereof, of the purchase, finance,
19 lease, sublease, construction, expansion, improvement, or
20 rehabilitation of any facility with an estimated life of five years or
21 longer;

22 (b) The planning and design work that is directly related to the
23 purchase, construction, expansion, improvement, or rehabilitation of a
24 facility, including engineering, architectural, planning, and
25 inspection costs;

26 (c) Facilities listed in RCW 35.43.040 to the extent not specified
27 in this section;

28 (d) Sanitary sewage systems, including collection, transport,
29 storage, treatment, dispersal, effluent use, and discharge;

30 (e) Drainage and flood control systems, including collection,
31 transport, diversion, storage, detention, retention, dispersal, use,
32 and discharge;

33 (f) Water systems for domestic, industrial, irrigation, municipal,
34 or community facilities purposes, including production, collection,
35 storage, treatment, transport, delivery, connection, and dispersal;

1 (g) Highways, streets, roadways, and parking facilities, including
2 all areas for vehicular use for travel, ingress, egress, and parking;

3 (h) Areas for pedestrian, equestrian, bicycle, or other nonmotor
4 vehicle use for travel, ingress, egress, and parking;

5 (i) Pedestrian malls, parks, recreational facilities, and open-
6 space facilities for the use of members of the public for
7 entertainment, assembly, and recreation;

8 (j) Landscaping, including earthworks, structures, lakes, and other
9 water features, plants, trees, and related water delivery systems;

10 (k) Public buildings, public safety facilities, and community
11 facilities;

12 (l) Publicly owned natural gas transmission and distribution
13 facilities, facilities for the transmission or distribution of
14 electrical energy, and limited communications facilities, specifically
15 poles, trenches, and conduits, for use of any communications provider;

16 (m) Street lighting;

17 (n) Traffic control systems and devices, including signals,
18 controls, markings, and signage;

19 (o) Systems of surface, underground, or overhead railways,
20 tramways, buses, or any other means of mass transportation facilities,
21 including passenger, terminal, station parking, and related facilities
22 and areas for passenger and vehicular use for travel, ingress, egress,
23 and parking;

24 (p) Library, educational, and cultural facilities; and

25 (q) Facilities similar to those listed in this section.

26 (2) The district may not finance public or private residential
27 dwellings, nonprofit facilities as defined in RCW 43.180.300, health
28 care facilities as defined in RCW 70.37.020, higher education
29 institutions as defined in RCW 28B.07.020, or economic development
30 activities as defined in RCW 43.163.010.

31 NEW SECTION. **Sec. 502.** (1) The board of supervisors of a
32 community facilities district may impose special assessments on
33 property located inside the district and benefited by the facilities
34 and improvements provided, or to be provided, by a district, whether
35 the facilities and improvements are located inside or outside of the
36 boundaries of the proposed district. The requirements and powers of a
37 district relating to the formation, assessment, collection,

1 foreclosure, and other powers of a special assessment district are as
2 set forth in chapters 35.43, 35.44, 35.49, and 35.50 RCW, except where
3 otherwise addressed under this chapter. In any case where the
4 provisions of this chapter conflict with the requirements under any
5 other chapter that applies to the formation, assessment, collection,
6 foreclosure, or other powers of a special assessment district, the
7 provisions of this chapter control.

8 (2) Except as otherwise expressly provided under this chapter, the
9 special assessments imposed and collected on property within a district
10 may not exceed the amount set forth in a petition or amended petition
11 approved in accordance with this chapter.

12 (3) The term of the special assessment is limited to the lesser of
13 (a) twenty-eight years or (b) two years less than the term of any bonds
14 issued by or on behalf of the district to which the assessments or
15 other revenue of the district is specifically dedicated, pledged, or
16 obligated.

17 (4) The computation of special assessments must follow the
18 requirements of chapter 35.44 RCW, including the authority to use any
19 method or combination of methods to compute assessments which may be
20 deemed by the board of supervisors to fairly reflect the benefit to the
21 properties being assessed. The method of assessment may utilize the
22 supplemental authority granted under chapter 35.51 RCW. A petition
23 meeting the requirements of section 201 of this act may provide for the
24 reduction or waiver of special assessments for low-income households as
25 that term is defined in RCW 36.130.010.

26 (5) The board must set a date, time, and place for hearing any
27 objections to the assessment roll, which hearing must occur no later
28 than one hundred twenty days from final approval of formation of the
29 district. Petitioners or representatives thereof serving on the board
30 of supervisors must not participate in the determination of the special
31 assessment roll or vote on the confirmation of that assessment roll.
32 The restriction in this subsection does not apply to members of the
33 board of supervisors appointed from among the qualified professionals
34 that petitioners may nominate under section 201(1)(h) of this act.

35 (6) The procedures and requirements for assessments, hearings on
36 the assessment roll, filing of objections to the assessment roll, and
37 appeals from the decision of the board approving or rejecting the

1 assessment roll, must be as set forth in RCW 35.44.010 through
2 35.44.020, 35.44.080 through 35.44.110, and 35.44.190 through
3 35.44.270.

4 (7) At the hearing on the assessment roll and, in no event later
5 than thirty days after the day of the hearing, the board may adopt a
6 resolution approving the assessment roll or may correct, revise, raise,
7 lower, change, or modify the assessment roll or any part thereof, and
8 provide the petitioner with a detailed explanation of the changes made
9 by the board.

10 (8) If the assessment roll is revised by the board in any way,
11 then, within thirty days of the board's decision, the petitioner(s)
12 must unanimously make one of the following elections: (a) Rescind the
13 petition; or (b) accept the changes made by the board, upon which
14 occurrence the board must adopt a resolution approving the assessment
15 roll as modified by the board.

16 (9) Reassessments, assessments on omitted property, and
17 supplemental assessments are governed by the provisions set forth under
18 chapter 35.44 RCW.

19 (10) Any assessment approved under the provisions of this chapter
20 may be segregated upon a petition of one hundred percent of the owners
21 of the property subject to the assessment to be segregated. The
22 segregation must be made as nearly as possible on the same basis as the
23 original assessment was levied and approved by the board. The board,
24 in approving a petition for segregation and amendment of the assessment
25 roll, must do so in a fashion such that the total of the segregated
26 parts of the assessment equal the assessment before segregation. As to
27 any property originally entered upon the roll the assessment upon which
28 has not been raised, no objections to the approval of the petition for
29 segregation, the resulting assessment, or the amended assessment roll
30 may be considered by the jurisdiction in which the district is located,
31 the board, or by any court on appeal. Assessments must be collected in
32 districts pursuant to the district's previous assessment roll until the
33 amendment to the assessment roll is finalized under this section.

34 (11) Except as provided under chapter 35.44 RCW, assessments may
35 not be increased without the approval of one hundred percent of the
36 property owners subject to the proposed increase.

37 (12) Special assessments must be collected by the district
38 treasurer determined in accordance with section 505 of this act.

1 (13) A notice of any special assessment imposed under this chapter
2 must be provided to the owner of the assessed property, not less than
3 once per year, with the following appearing at the top of the page in
4 at least fourteen point, bold font:

5 *****NOTICE*****

6
7 **THIS PROPERTY IS SUBJECT TO THE ASSESSMENTS ITEMIZED BELOW AND APPROVED**
8 **BY COMMUNITY FACILITIES DISTRICT # AS THE OWNER OR**
9 **POTENTIAL BUYER OF THIS PROPERTY, YOU ARE, OR WOULD BE, RESPONSIBLE FOR**
10 **PAYMENT OF THE AMOUNTS ITEMIZED BELOW.**

11 **PLEASE REFER TO RCW 36.--.--- (section 502, chapter . . . , Laws of 2010**
12 **(section 502 of this act)) OR CONTACT YOUR COUNTY AUDITOR FOR**
13 **ADDITIONAL INFORMATION.**

14 (14) The district treasurer responsible for collecting special
15 assessments may account for the costs of handling the assessments and
16 may collect a fee not to exceed the measurable costs incurred by the
17 treasurer.

18 NEW SECTION. **Sec. 503.** (1) The district may utilize the special
19 assessments and revenue derived in accordance with this chapter for the
20 payment of principal and interest on bonds issued pursuant to the
21 authority granted under this chapter to fund or reimburse the costs of
22 facilities authorized under this chapter and prior to the issuance of
23 bonds, may utilize the revenue to directly fund the costs of providing
24 the facilities authorized under this chapter on a pay-as-you-go basis.

25 (2) The board of supervisors may establish, administer, and pay or
26 otherwise dedicate, pledge, or obligate the assessments and revenue
27 generated in accordance with this chapter into a specific fund created
28 by or on behalf of the district, in order to guarantee payment of
29 obligations incurred in connection with facilities provided under this
30 chapter, including the payment of principal and interest on any bonds
31 issued by or on behalf of the district.

32 (3) The proceeds of any bond issued pursuant to this chapter may be
33 used to pay any and all costs related to providing the facilities
34 authorized under this chapter, including expenses incurred in
35 connection with issuance of the bonds.

1 (4) The reporting requirements of RCW 39.44.210 apply to any bond
2 issuance under this chapter.

3 NEW SECTION. **Sec. 504.** No bonds issued by or on behalf of a
4 community facilities district are obligations of any city, town,
5 county, or the state of Washington or any political subdivision thereof
6 other than the district and the bonds must so state.

7 NEW SECTION. **Sec. 505.** (1) If a district includes land that is
8 entirely within a county and the land is not surrounded entirely by a
9 city or town, then the treasurer of that county is the treasurer of the
10 district. If a district includes land that is entirely within a county
11 and the land is entirely surrounded by a city or town, or, if parts of
12 the district include land within or surrounded by more than one
13 jurisdiction, then the board of supervisors may, with the concurrence
14 of the treasurers of all jurisdictions within which the district lies,
15 appoint the treasurer of any of those jurisdictions to serve as the
16 district treasurer. Except as specifically provided under this
17 chapter, the duties of a district treasurer are as provided under
18 applicable law.

19 (2) The district treasurer must establish a community facilities
20 district fund, into which must be paid all district revenues. The
21 district treasurer must also maintain any special funds created by the
22 board of supervisors of the community facilities district, into which
23 the district treasurer must place all money as the board of supervisors
24 may, by resolution, direct. The treasurer may create such subfunds,
25 accounts, and subaccounts as he or she deems necessary, consistent with
26 applicable law.

27 (3) The district treasurer must pay assessment bonds and revenue
28 bonds and the accrued interest thereon in accordance with their terms
29 from the appropriate fund when interest or principal payments become
30 due.

31 (4) All interest collected on community facilities district funds
32 belongs to the district and must be deposited to its credit in the
33 proper district funds.

34

PART VI

MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 601.** All assessments imposed on the respective lots, tracts, parcels of land, and other property included within the boundaries of an approved district in accordance with this chapter, are a lien upon the property from the date of final approval and are paramount and superior to any other lien or encumbrance whatsoever, theretofore or thereafter created, except a lien for general taxes.

NEW SECTION. **Sec. 602.** Sections 101 through 601 of this act constitute a new chapter in Title 36 RCW.

NEW SECTION. **Sec. 603.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate February 15, 2010.
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