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No. 86796-8

SUPREME COURT OF THE STATE OF WASHINGTON

SKAGIT COUNTY PUBLIC HOSPITAL DISTRICT NO. 1,
d/b/a SKAGIT VALLEY HOSPITAL,

Appellant,

v.

SKAGIT COUNTY PUBIC HOSPITAL DISTRICT NO. 304,
dba UNITED GENERAL HOSPITAL,

Respondent.

RESPONDENT'S ANSWER TO *AMICUS CURIAE* BRIEF

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 ORIGINAL

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Respondent, Skagit County Public Hospital District No. 304, d/b/a United General Hospital, (“United General”) answers the *Amicus Curiae* Brief, filed by King County Public Hospital District No. 2, d/b/a Evergreen Health (“Evergreen”) as follows:

I. **Evergreen Mischaracterizes the Issue Before the Court and Misstates the Applicable Law.**

The essence of the argument of Evergreen, as *Amicus Curiae*, is that the Superior Court usurped the Legislature’s function by amending the public hospital district statutory provisions restricting the power of public hospital districts in providing hospital and other health care services outside their territorial boundaries, by holding that public hospital districts may not unilaterally invade the territory of other public hospital districts without the latter’s consent. In point of fact, the Superior Court upheld the long established rule of law that two municipal corporations of like kind, with like powers, may not co-exist in the same legal territory. See Respondent’s Brief, pgs. 3 & 4.¹

Although the rule has been narrowed over time by the Court, as recognized by the authorities cited in Footnote 1 hereof, to provide that the territorial limits are not material if the entities have separate and distinct governmental purposes, the Alderwood case, supra, at n.1, clearly applied

¹ Quoting McQuillin on the Law of Municipal Corporations, 2 McQuillin Mun. Corp. § 7.08 (3rd Ed.) and Alderwood Water District v. Pope & Talbot, Inc., 62 Wn. 2d 319, 381 P.2d 639 (1963).

the rule which Evergreen attempts to distinguish. Evergreen cites RCW 57.08.044, [formerly RCW 56.08.060],² for the proposition that the statutory authority for water districts to provide services outside their territorial boundaries is expressly restricted by a statutory proviso prohibiting such services within the territorial limits of another water district, unless provided with the consent of the Board of Commissioners of the other district. Evergreen argues that Alderwood "...turned on the specific language of the water district statutes, which prohibited overlapping districts." Evergreen's argument implies that the absence of such a proviso in the public hospital statute (RCW 70.44.060 (3)) permits unrestricted and unilateral invasion of one public hospital district by another.

Evergreen's argument is flawed and misleading in three material respects. *First*, RCW 57.08.044 (formerly RCW 56.08.060) pertains to sewer districts not water districts (except where a water district is duly authorized to exercise sewer district powers³); *second*, Alderwood actually involved statutes specifically pertaining to water districts (as opposed to sewer districts), particularly citing RCW 57.08.010 and 57.08.045 with regard to the powers granted by the Legislature to water districts to extend

² A copy of RCW 57.08.044 is attached as Appendix 1 hereto.

³ In 1996, the Legislature equated water and sewer districts. RCW 57.02.001.

services beyond their territorial boundaries,⁴ , neither of which has any express prohibition against operating within the boundaries of another district; and *third*, the proviso in RCW 57.08.044, upon which Evergreen relies, was not even part of the statute when the Supreme Court decided the Alderwood case. The proviso quoted by Evergreen was not added until many years later by the Washington Laws of 1981, Chapter 45, Section 4, a copy of which is attached hereto as Appendix 2. The statute, as written when the Alderwood case was decided, was as set forth in the amendment to RCW 56.08.060 made by the Washington Laws of 1959, Chapter 103, Section 3, a copy of which is attached hereto as Appendix 3, and merely provided for the power to provide services outside the district's territorial boundaries, as did the actual statutes under review in Alderwood.

The provisions of RCW 70.44.060(3), at issue in this case, providing for the extraterritorial provision of hospital and other health care services is not materially different than the corresponding statutes applicable to water districts reviewed in the Alderwood decision. The one difference is that RCW 70.44.060(3) restricts the extraterritorial provision

⁴ Attached as Appendices 4 and 5 are references to RCW 57.08.010 and RCW 57.08.045, respectively, and copies of the text of the statutes cited by the Court in Alderwood, is set forth in Washington Laws of 1959, Chapter 108, Sections 1 and 4, respectively are attached as Appendices 6 and 7, respectively.

of services to benefit the residents of the public hospital district providing them.⁵

Evergreen asserts that beyond the specific issue presented to the court by the parties, the court should consider broader issues regarding the ability of public hospital districts to serve their residence and adapt to population, traffic and other changes in the communities they serve, and to adapt to economic changes in the health care industry. See, page 5 of *Amicus Curiae* Brief. The broader issues that Evergreen raises are matters of public policy, not before the court in this case, and should more appropriately be addressed to the Legislature. While Evergreen invites the Court to do some legislative-like fact-finding about the circumstances facing non-rural public hospital districts, such as itself, and to base the decision, in this case, upon what Evergreen believes to be in its or what it perceives to be the public interest, United General submits that those matters are unnecessary for the Court to decide in resolving the issues before it herein and are best suited and left to the legislative process.

Evergreen overlooks the entirety of the public hospital district's statutory scheme which clearly respects the exclusive nature of the

⁵ As United General has previously pointed out, the record in this case shows that Skagit Valley desires to maintain a facility and operate with the territorial boundaries of United General, not for purposes of serving the residents of hospital district #1 (Skagit Valley), but rather for the residents of hospital district #304 (United General). See, Respondent's Rebuttal Brief at pages 8 and 9.

territorial boundaries of public hospital districts, including without limitation, the provisions of RCW 70.44.185 (permitting the change of district boundary lines to allow farm units to be wholly within one hospital district; RCW 70.44.190 (providing for consolidation of multiple hospital districts); RCW 70.44.200 through RCW 70.44.230 (providing for annexation of territory); RCW 70.44.235 (providing for withdrawal or re-annexation of areas); RCW 70.44.350-380 (providing for the division of a district); RCW 70.44.400 (providing for the withdrawal of territory from a public hospital district⁶); and RCW 70.44.450 (providing for cooperative agreements and contracts between rural public hospital districts – discuss further below).

As the court held in the Alderwood case, the broader statutory scheme pertaining to the powers of municipal corporations and, particularly in light of the empowerment to operate extra-territorially, it is important in distinguishing between the power to operate beyond the territorial boundaries of a municipal entity and the power to unilaterally invade the territorial boundaries of another like kind district. Consent of the invaded district is required so that the elected Board of Commissioners of the invaded district can determine whether or not to permit the invasion

⁶ Withdrawal of territory is subject to review by boundary review boards to avoid haphazard extension of and competition to extend boundaries. See Chapter 57.28 RCW (specified by RCW 70.44.400) and RCW 36.93.010 (referenced in RCW 57.28.001).

and, if so, upon what conditions, so as to best provide for its residents and taxpayers. Permitting an aggressive and expansive district, such as Evergreen describes itself, to invade another district in order to build health care service volumes and extend its territorial reach has great potential to divert revenues and services from the invaded district to the invading district, leaving the invaded district in a weakened financial position that could threaten its viability and increase the burdens upon the residents and taxpayers of the invaded district over time, which would thwart the purpose the legislature was attempting to accomplish, in part, through RCW 70.44.450, as noted below.

II. Evergreen's Argument that Rural Public Hospital Districts Enjoy an Anti-trust Exemption is Irrelevant and Immaterial to the Issues Before the Court.

Evergreen argues that RCW 70.44.450, which permits rural public hospital districts to enter into cooperative agreements and contracts with each other, if applied to it "could stifle competition." *See, Amicus Curiae* Brief, page 11. Evergreen argues that the Legislature's intent to insulate rural public hospital district ventures from anti-trust challenges should not be used a basis to restrict exercise of extraterritorial powers, particularly of non-rural public hospital districts. RCW 70.44.450 was predicated upon the Legislature's findings and concern about maintaining the viability of health care service delivery in rural areas as a primary goal of state health

policy. See, Washington Laws of 1992, Chapter 161, § 1. Whatever might be said for non-rural public hospital districts, such as Evergreen, in this context, is not relevant or material to deciding the issues before the Court, since both the Appellant and Respondent districts are rural public hospital districts. The ruling of the court below, as with the holding in Alderwood, is based in long established principles of municipal law and the entirety of the legislative scheme applicable to public hospital districts, not the singular provisions of RCW 70.44.450.

Evergreen's invitation to take into account the changing populations, demographics, and health care industry market place, in the context of non-rural public hospital districts, injects issues of public policy that should more appropriately be addressed to the Legislature. United General submits the Court should not address those extraneous issues, although it might expressly note that this case involves only rural public hospital districts.

III. The Superior Court Properly Issued its Writ of Prohibition.

Evergreen's argument that the Superior Court erred in issuing its Writ of Prohibition is simply cumulative to the argument of Skagit Valley with the exception of the argument set forth in Evergreen's Motion to File Brief as Amicus Curiae, in which it argues that the Writ of Prohibition should not have been issued ". . . without a full evidentiary hearing. . . ."

As United General noted in its Objection to said Motion, RCW 7.16.300 provides that a Writ of Prohibition is to be issued upon Affidavit and neither Appellant nor Respondent have raised any issue herein regarding the nature of the hearing held.

Evergreen argues that a writ of prohibition cannot issue unless a public hospital district entirely lacks jurisdiction. It argues that because Skagit Valley has been granted power in one context, therefore, it is not wholly without jurisdiction, which Evergreen defines as "...the power to determine." Jurisdiction is a concept that does indeed define the limits of power. It typically has multiple dimensions in different contexts: subject matter, temporal (e.g. where limitation periods are jurisdictional in nature), and geographic. See Black's Law Dictionary, Ninth Ed. (2009) at 927-931. If the court below properly determined that Skagit Valley lacked the power to unilaterally invade United General, then Skagit Valley lacked jurisdiction to operate with the territorial boundaries of United General and issuance of the writ was proper. Without the express consent of the United General, Skagit Valley lacked the lawful power to invade and provide health care services to the residents of United General.

Evergreen makes the same argument that Appellant made, that United General should be denied the writ of prohibition because it could seek an injunction. Where Skagit Valley lacks the statutory authority to

unilaterally invade the territory of United General, the Court has the immediate power to prohibit it. United General should not be required to wait and suffer harm over time before the Court takes action to stop the unlawful conduct.

IV. Conclusion.

In conclusion, United General submits that the Court should not permit the injection of issues beyond those raised in this appeal by the parties and should affirm the decision of the Superior Court below. The distinction between rural and so-called urban public hospital districts is irrelevant and immaterial to the decision in this case. As pointed out herein, the argument of Evergreen has mischaracterized the issues before the Court and misstated the law it relies upon.

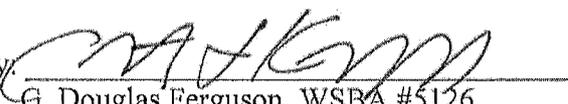
The issuance of the writ of prohibition must follow from the Court's decision on the primary issue relating to the authority of public hospital districts to unilaterally invade other such districts. United General submits that the Court should affirm the lower court and issuance of the writ of prohibition should not be further delayed.

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Respectfully submitted this 2nd day of October, 2012.

ANDERSON HUNTER LAW FIRM, P.S.

By: 

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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington, that on the date stated below, I e-filed the original of this document with the Supreme Court; and emailed to the attorneys listed below and mailed, postage prepaid thereon, via regular U.S. Mail, a copy of this document to the following attorneys:

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Dated this 2nd day of October, 2012.


Linda Nelson, Legal Assistant

Appendix 1 – RCW 57.08.044

Appendix 2 – Washington Laws of 1981, Chapter 45, Section 4

Appendix 3 – Washington Laws of 1959, Chapter 103, Section 3

Appendix 4 – RCW 57.08.010

Appendix 5 – RCW 57.08.045

Appendix 6 – Washington Laws of 1959, Chapter 108, Section 1

Appendix 7 – Washington Laws of 1959, Chapter 108, Section 4

APPENDIX 1



- Inside the Legislature
 - * Find Your Legislator
 - * Visiting the Legislature
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 - * Bill Information
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[RCWs](#) > [Title 57](#) > [Chapter 57.08](#) > [Section 57.08.044](#)

[57.08.040](#) << [57.08.044](#) >> [57.08.047](#)

RCW 57.08.044

Contracts for acquisition, use, operation, etc., authorized — service to areas in other districts.

A district may enter into contracts with any county, city, town, or any other municipal or quasi-municipal corporation, or with any private person or corporation, for the acquisition, ownership, use, and operation of any property, facilities, or services, within or without the district, and necessary or desirable to carry out the purposes of the district. A district may provide water, reclaimed water, sewer, drainage, or street lighting services to property owners in areas within or without the limits of the district, except that if the area to be served is located within another existing district duly authorized to exercise district powers in that area, then water, reclaimed water, sewer, drainage, or street lighting service may not be so provided by contract or otherwise without the consent by resolution of the board of commissioners of that other district.

[2009 c 253 § 2; 1999 c 153 § 7; 1996 c 230 § 309; 1981 c 45 § 4; 1959 c 103 § 3; 1953 c 250 § 8; 1941 c 210 § 48; Rem. Supp. 1941 § 9425-57. Formerly RCW 56.08.060.]

Notes:

Part headings not law -- 1999 c 153: See note following RCW 57.04.050.

Part headings not law -- Effective date -- 1996 c 230: See notes following RCW 57.02.001.

Legislative declaration -- "District" defined -- Severability -- 1981 c 45: See notes following RCW 36.93.090.

Severability -- 1959 c 103: "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." [1959 c 103 § 19.]

Water-sewer districts and municipalities, joint agreements: RCW 35.67.300.



APPENDIX 2

Sec. 2. Section 9, chapter 189, Laws of 1967 as last amended by section 12, chapter 5, Laws of 1979 ex. sess. and RCW 36.93.090 are each amended to read as follows:

Whenever any of the following described actions are proposed in a county in which a board has been established, the initiators of the action shall file a notice of intention with the board, which may review any such proposed actions pertaining to:

(1) The creation, dissolution, incorporation, disincorporation, consolidation, or change in the boundary of any city, town, or special purpose district, except that a board may not review the dissolution or disincorporation of a special purpose district which was dissolved or disincorporated pursuant to the provisions of chapter 36.96 RCW; or

(2) The assumption by any city or town of all or part of the assets, facilities, or indebtedness of a special purpose district which lies partially within such city or town; or

(3) The establishment of or change in the boundaries of a mutual water and sewer system or separate sewer system by a water district pursuant to RCW 57.08.065 or chapter 57.40 RCW, as now or hereafter amended; or

(4) The establishment of or change in the boundaries of a mutual sewer and water system or separate water system by a sewer district pursuant to RCW 56.20.015 or chapter 56.36 RCW, as now or hereafter amended; or

(5) The extension of permanent water or sewer service outside of its existing corporate boundaries by a city, town, or special purpose district.

Sec. 3. Section 5, chapter 210, Laws of 1941 and RCW 56.04.070 are each amended to read as follows:

Whenever two or more petitions for the formation of a sewer district shall be filed as ~~((herein))~~ provided in this chapter, the petition describing the greater area shall supersede all others, and an election shall first be held thereunder, and no lesser sewer district shall ever be created within the limits in whole or in part of any other sewer district, except as provided in RCW 56.36.060, as now or hereafter amended.

Sec. 4. Section 48, chapter 210, Laws of 1941 as last amended by section 3, chapter 103, Laws of 1959 and RCW 56.08.060 are each amended to read as follows:

A sewer district may enter into contracts with any county, city, town, sewer district, water district, or any other municipal corporation, or with any private person, firm or corporation, for the acquisition, ownership, use, and operation of any property, facilities, or services, within or without the sewer district and necessary or desirable to carry out the purposes of the sewer district, and a sewer district or a water district duly authorized to exercise sewer district powers may provide sewer service to property owners ~~((outside))~~ in areas within or without the limits of the ((sewer)) district; PROVIDED, That if any such area is located within another existing district duly authorized to exercise sewer district powers in such area, then

sewer service may not be so provided by contract or otherwise without the consent by resolution of the board of commissioners of such other district.

Sec. 5. Section 4, chapter 58, Laws of 1974 ex. sess. as last amended by section 1, chapter 12, Laws of 1980 and RCW 56.20.015 are each amended to read as follows:

In addition to all of the powers and authorities set forth in Title 56 RCW, any sewer district shall have all of the powers of cities as set forth in chapter 35.44 RCW. Sewer districts may also exercise all of the powers permitted to a water district under Title 57 RCW, except that a sewer district may not exercise water district powers in any area within its boundaries which is part of an existing district which previously shall have been duly authorized to exercise water district powers in such area without the consent by resolution of the board of commissioners of such district.

A sewer district shall have the power to issue general obligation bonds for water system purposes: PROVIDED, That a proposition to authorize general obligation bonds payable from excess tax levies for water system purposes pursuant to chapters 57.16 and 57.20 RCW shall be submitted to all of the qualified voters within that part of the sewer district which is not contained within another existing district duly authorized to exercise water district powers, and the taxes to pay the principal of and interest on the bonds approved by such voters shall be levied only upon all of the taxable property within such part of the sewer district.

Sec. 6. Section 4, chapter 148, Laws of 1969 ex. sess. and RCW 56.36-.040 are each amended to read as follows:

If at such election a majority of the voters in the water district or all or either of the water districts involved, shall vote in favor of the merger, the county election canvassing board shall so declare in its canvass, and the return of the election shall be made within ten days after the date of such election. Upon completion of the return the merger shall be effective as to the sewer district and each water district in which the majority of voters voted in favor of the merger, and each such water district shall cease to exist as a separate entity and the area within such water district shall become a part of the sewer district. The water commissioners of any water district so merged shall cease to hold office, and the affairs of the merged districts shall be managed and conducted by the board of sewer commissioners of the sewer district, the members of which shall thereafter be elected in the manner provided in RCW 56.12.030.

Sec. 7. Section 6, chapter 148, Laws of 1969 ex. sess. and RCW 56.36-.060 are each amended to read as follows:

Following merger, the sewer district and the board of commissioners thereof shall have all powers granted sewer districts by RCW 56.08.060 and 56.20.015 and shall have all other powers granted sewer districts by Title 56 RCW in any area within its boundaries which is not part of another existing

APPENDIX 3

improvement district lying wholly or partially within any other political subdivision included in the district; and provide whether the whole or some part of the cost and expenses shall be paid from sewer revenue bonds. The commissioners may employ such engineering and legal services as they deem necessary in carrying out the purposes hereof. The comprehensive plan shall be adopted by resolution and submitted to an engineer designated by the county commissioners and to the director of health, and must be approved in writing by the engineer and director of health.

Approval.

If the district includes portions or all of one or more cities or towns, the comprehensive plan shall be submitted also to, and approved by resolution of, the legislative authority of cities and towns before becoming effective. This section and RCW 56.08.030, 56.08.040, 56.08.050, 56.16.010, and 56.16.020 shall not apply to reorganized districts, except as specifically referred to in this section.

SEC. 3. Section 48, chapter 210, Laws of 1941, as amended by section 8, chapter 250, Laws of 1953, and RCW 56.08.060 are each amended to read as follows:

RCW 56.08.060
amended.

A sewer district may enter into contracts with any county, city, town, sewer district, water district, or any other municipal corporation, or with any private person, firm or corporation, for the acquisition, ownership, use and operation of any property, facilities, or services, within or without the sewer district and necessary or desirable to carry out the purposes of the sewer district, and a sewer district may provide sewer service to property owners outside the limits of the sewer district.

Contracts for
joint use—
Service out-
side district.

SEC. 4. Section 9, chapter 210, Laws of 1941, as last amended by section 1, chapter 373, Laws of 1955, and RCW 56.12.010 are each amended to read as follows:

RCW 56.12.010
amended.

APPENDIX 4

Rev. Code Wash. (ARCW) § 57.08.010

Statutes current through 2012 Regular and First and Second Special Sessions.

Annotated Revised Code of Washington > TITLE 57. > CHAPTER 57.08.

§ 57.08.010. Right to acquire property and rights -- Eminent domain -- Leases -- Generation of electricity -- Rates and charges -- Use of property for park or recreational purposes

Repealed by 1996 c 230, § 1703, effective July 1, 1997.

Annotations

Notes

EDITOR'S NOTES.

This section was derived from 1994 c 81 § 81; 1991 c 82 § 4. Prior: 1989 c 389 § 9; 1989 c 308 § 2; 1988 c 11 § 1; 1987 c 449 § 10; 1985 c 444 § 4; 1959 c 108 § 1; 1929 c 114 § 8; RRS § 11586. Cf. 1913 c 161 § 8.

Research References & Practice Aids

USER NOTE:

For more generally applicable notes, see notes under the first section of this heading, part, article, chapter or title.

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APPENDIX 5

Rev. Code Wash. (ARCW) § 57.08.045

Statutes current through 2012 Regular and First and Second Special Sessions.

Annotated Revised Code of Washington > TITLE 57. > CHAPTER 57.08.

§ 57.08.045. Contracts for joint use -- Service to areas in other districts

Repealed by 1996 c 230 § 1703, effective July 1, 1997.

Annotations

Notes

EDITOR'S NOTES.

This section was derived from 1981 c 45 § 10; 1959 c 108 § 4; 1953 c 251 § 3.

Case Notes

SCOPE.

This section was meant to extend water services only to those individuals who are not within the boundaries of any other water district. *Alderwood Water Dist. v. Pope & Talbot, Inc.*, 62 Wn.2d 319, 382 P.2d 639 (1963).

Research References & Practice Aids

USER NOTE:

For more generally applicable notes, see notes under the first section of this heading, part, article, chapter or title.

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APPENDIX 6

Laws of 1949 and RCW 16.64.010 through 16.64.040 are each repealed.

Passed the House March 5, 1959.

Passed the Senate March 4, 1959.

Approved by the Governor March 11, 1959.

CHAPTER 108.

[H. B. 382.]

WATER DISTRICTS

AN ACT relating to water districts; amending section 8, chapter 114, Laws of 1929 and RCW 57.08.010; amending section 3, chapter 251, Laws of 1953 and RCW 57.08.045; adding two new sections to chapter 57.08 RCW; amending section 7, chapter 114, Laws of 1929, as last amended by section 1, chapter 18, Laws of 1959, and RCW 57.12.010; amending section 6, chapter 18, Laws of 1959 and RCW 57.16.010; amending section 7, chapter 18, Laws of 1959 and RCW 57.16.020; amending section 8, chapter 18, Laws of 1959 and RCW 57.16.030; amending section 9, chapter 18, Laws of 1959 and RCW 57.16.040; adding a new section to chapter 57.16 RCW; amending section 3, chapter 128, Laws of 1939 and RCW 57.20.020; amending section 17, chapter 251, Laws of 1953 and RCW 57.20.025; amending section 23, chapter 114, Laws of 1929 and RCW 57.20.140; adding four new sections to chapter 57.20 RCW; adding two new sections to Title 57, RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

RCW 57.08.010
amended.

SECTION 1. Section 8, chapter 114, Laws of 1929 and RCW 57.08.010 are each amended to read as follows:

Right to ac-
quire property
and rights—
Eminent
domain.

A water district may acquire by purchase or condemnation, or both, all property and property rights and all water and water rights, both within and without the district, necessary for its purposes. A water district may lease real or personal property necessary for its purposes for a term of years for which such leased property may reasonably be

needed where in the opinion of the board of water commissioners such property may not be needed permanently or substantial savings to the district can be effected thereby. The right of eminent domain shall be exercised in the same manner and by the same procedure as provided for cities of the third class, insofar as consistent with the provisions of this title, except that all assessment rolls to be prepared and filed by eminent domain commissioners or commissioners appointed by the court shall be prepared and filed by the water district, and the duties devolving upon the city treasurer are hereby imposed upon the county treasurer. A water district may construct, condemn and purchase, purchase, add to, maintain and supply waterworks to furnish the district and inhabitants thereof, and any city or town therein and any other persons, both within and without the district, with an ample supply of water for all uses and purposes public and private with full authority to regulate and control the use, distribution and price thereof. For such purposes, a water district may take, condemn and purchase, purchase, acquire and retain water from any public or navigable lake, river or watercourse, or any underflowing water and, by means of aqueducts or pipe line conduct the same throughout such water district and any city or town therein and carry it along and upon public highways, roads and streets, within and without such district. For the purpose of constructing or laying aqueducts or pipe lines, dams, or waterworks or other necessary structures in storing and retaining water or for any other lawful purpose such water district may occupy the beds and shores up to the high water mark of any such lake, river, or other watercourse, and may acquire by purchase or condemnation such property or property rights or privileges as may be necessary to protect its water supply from pollution.

A water district may purchase and take water from any municipal corporation.

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

New section.

SEC. 2. There is added to chapter 57.08 RCW a new section to read as follows:

Collection of
charges—
Property lien.

The commissioners shall enforce collection of the water connection charges and rates and charges for water supplied against property owners connecting with the system and/or receiving such water, such charges being deemed charges against the property served, by addition of penalties of not more than ten percent thereof in case of failure to pay the charges at times fixed by resolution. The commissioners may provide by resolution that where either water connection charges or rates and charges for water supplied are delinquent for any specified period of time, the district shall certify the delinquencies to the treasurer of the county in which the district is situated, and the charges and any penalties added thereto and interest thereon at the rate of not more than eight percent per year shall be a lien against the property upon which the service was received, subject only to the lien for general taxes.

New section.

SEC. 3. There is added to chapter 57.08 RCW a new section to read as follows:

Collection of
charges—
Civil action.

The district may, at any time after the connection charges or rates and charges for water supplied and penalties are delinquent for a period of sixty days, bring suit in foreclosure by civil action in the superior court of the county in which the district is

APPENDIX 7

situated. The court may allow, in addition to the costs and disbursements provided by statute, such an attorney's fee as it adjudges reasonable. The action shall be in rem, and may be brought in the name of the district against an individual, or against all of those who are delinquent in one action, and the laws and rules of the court shall control as in other civil actions.

Attorney's
fee.

SEC. 4. Section 3, chapter 251, Laws of 1953 and RCW 57.08.045 are each amended to read as follows:

RCW 57.08.045
amended.

A water district may enter into contracts with any county, city, town, sewer district, water district, or any other municipal corporation, or with any private person or corporation, for the acquisition, ownership, use and operation of any property, facilities, or services, within or without the water district and necessary or desirable to carry out the purposes of the water district, and a water district may provide water services to property owners outside the limits of the water district.

Contracts for
joint use.

Service out-
side district.

SEC. 5. Section 7, chapter 114, Laws of 1929, as last amended by section 1, chapter 18, Laws of 1959, and RCW 57.12.010 are each amended to read as follows:

RCW 57.12.010
amended.

The officers of [a] district shall be a board of water commissioners consisting of three members. The board shall annually elect one of its members as president and another as secretary.

Commis-
sioners---
Officers.

The secretary may be paid a reasonable sum for the clerical services performed by him. The board shall by resolution adopt rules governing the transaction of its business and shall adopt an official seal. All proceedings shall be by resolution recorded in a book kept for that purpose which shall be a public record.

Administra-
tion.

A district may provide by resolution for the payment of compensation to each of its commissioners at a rate not exceeding twenty-five dollars for each

Compensation.

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Attached hereto for filing is Respondent's Answer to Amicus Curiae Brief (with Appendices). Hard copies have also been mailed to attorneys.

Thank you.

Linda Nelson

Legal Assistant to Christopher J. Knapp/G. Douglas Ferguson ANDERSON HUNTER LAW FIRM

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