KEEPING THE LIGHTS ON: WORKING WITH CITIES TO REGULATE STREET LIGHTING SYSTEMS

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Water and sewer districts have statutory authority to establish, acquire, construct, and operate street lighting systems.¹ To establish a street lighting system, the board of commissioners must hold a public hearing and adopt a resolution that fixes the boundaries of the system.² Districts have the same power to impose charges, collect delinquencies, and finance capital improvements for street lighting systems as they have for operating water or sewer systems.³ The operation of a street lighting system is a proprietary function because it is “designed to benefit particular customers of the service” who pay fees correlating with the benefits.⁴

By contrast, cities are prohibited from imposing charges on property owners to raise revenue for the operation and maintenance of street lighting systems.⁵ In Okeson v. City of Seattle, the Washington Supreme Court held that operation of a city street lighting system is a governmental function that benefits the general public.⁶ Cities cannot impose street lighting charges on property owners because that would unfairly burden them with costs of operating and maintaining a system that benefits the entire city.⁷ Those types of costs must instead be paid with general taxes.⁸

What happens if a city annexes the territory of a district that includes a street lighting system?⁹ The short answer is: nothing. A district continues to operate its street lighting system, even if benefiting properties have been annexed into the city. Cities have no statutory authority to assume ownership and operation of a district street lighting system through annexation. Street lights annexed into a city are not suddenly provided for the benefit of the general public; they continue to be provided for the benefit of the properties within the area of the district system.

While cities cannot impose or collect charges to operate and maintain their own street lighting system, cities and districts are free to enter into interlocal agreements in which a city collects and remits street lighting charges on behalf of a district.¹⁰ State law prohibits one governmental entity from providing free services to another.¹¹ Thus, the interlocal agreement must require the district to compensate the city for billing services, either in funds or services. This is often a useful arrangement that allows districts to capitalize on efficient city billing systems.

About the Author
Jacob represents cities and special purpose districts by providing a full range of legal services, including drafting and reviewing ordinances and resolutions; advising city councils, boards of commissioners, and staff; drafting and reviewing contracts and interlocal agreements; advising on public works projects, including surety, bonding, and insurance matters; and advising on land use decisions and development regulations. He represents municipal entities in trial and appellate courts on a wide range of litigation. Jacob can be reached at (425) 450-4276 or jstillwell@insleebest.com.
For example, code cities can annex territory pursuant to Chapter 35A.14 RCW.

See, Chapter 39.34 RCW.