

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 14 October 1981.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. W. E. Cooper

SILVERPEAKS COUNTY COUNCIL (LUMP SUM CONTRIBUTIONS) EMPOWERING

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to enable ratepayers of the Silverpeaks County to make a lump sum contribution to the capital costs of water works and drainage works and to apportion such costs
5 equally between all ratepayers affected thereby

1. **Short Title and commencement**—This Act may be cited as the Silverpeaks County Council (Lump Sum Contributions) Empowering Act 1981.

2. **Interpretation**—In this Act, unless the context otherwise
10 requires,—

“Council” means the Silverpeaks County Council:

“County” means the Silverpeaks County:

No. 86—2

*Silverpeaks County Council (Lump Sum
Contributions) Empowering*

“Works” and “proposed works” include water works as defined by section 376 of the Local Government Act 1974, and drainage works as defined by section 441 of *(the Local Government Act 1974)* that Act:

“Lump sum capital contribution” means the lump sum capital contribution as determined in accordance with *(the provisions of)* this Act: 5

“Uniform annual charges” means *(the)* uniform annual charges as determined in accordance with *(the provisions of)* the Local Government Act 1974. 10

3. Power to give right of election to make lump sum payment—(1) If the Council proposes to raise a special loan under *(the provisions of)* the Local Authorities Loans Act 1956 for the purpose of financing, either in whole or in part, any works within any water supply area constituted within the county under section 377 of the Local Government Act 1974 or any works within an urban drainage area constituted within the county under section 443 *(of the Local Government Act 1974)* of that Act, the Council may by resolution *(elect to)* apply the provisions of this Act to *(that special loan and may give every ratepayer in respect of each separately rated property in the water supply area or urban drainage area, as the case may be, affected the right either—)* those works. 15 20

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- (a) To pay an equal proportionate share of the total cost of the works by means of a lump sum capital contribution assessed in accordance with sections 4 and 10 of this Act; or 25
- (b) To pay an equal proportionate share of the total cost of the works by means of a special or separate rate in respect of each separately rated property of the ratepayer within the said area made and levied under the provisions of section 47 of the Local Authorities Loans Act 1956 or section 143, section 158, or section 162 of the Local Government Act 1974. 30 35

New

(2) If the Council applies the provisions of this Act to any works it shall give every ratepayer in respect of each separately rated property in the water supply area or urban

New

- drainage area, as the case may be, affected the right either—
- (a) To pay an equal share of the total cost of the works by means of a lump sum capital contribution assessed in accordance with sections 4 and 10 of this Act; or
- (b) As the Council determines, to pay an equal share of the total cost of the works and any loan charges by way of uniform annual charges, or to pay a proportionate share of that cost and those charges by way of a special or separate rate, in respect of each separately rated property of the ratepayer, made and levied under section 47 of the Local Authorities Loans Act 1956 or section 143, section 158, or section 162 of the Local Government Act 1974.

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- 4. Estimate of lump sum contribution and annual rate to be prepared**—When the Council passes a resolution to give ratepayers the right of election referred to in section 3 of this Act, the Council shall—

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- 4. Estimates to be prepared before Act applied to works**—Before the Council applies the provisions of this Act to any works it shall—
- (a) Cause to be prepared an estimate of the cost of the works proposed, and ~~(shall)~~ deduct the amount (if any) of any subsidies ~~(for the time being)~~ estimated as payable to the Council in respect thereof, and the balance ~~(arising therefrom)~~ shall be the estimated net capital cost of the works; and
- (b) Divide the estimated net capital cost of the works by the number of separately rated properties within the area to benefit from the proposed works, and the amount so calculated shall be the estimated lump sum capital contribution; and
- (c) Cause an assessment to be made of the estimated amount of the annual rate in the dollar or the uniform annual charge required to be levied to pay

the annual charges payable by the Council on a special loan for an amount equal to the estimated net cost of the proposed works.

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5. Ratepayers to be notified and make an election— 5

(1) The Council, within 14 days after the passing of a resolution under section 3 of this Act, shall cause notice to be served, in accordance with form 1 in the Schedule to this Act, on each ratepayer in respect of each separately rated property in the water supply area or urban drainage area, as the case may be, affected requiring every such ratepayer within 1 month after the date of service of the notice to advise whether in respect of each separately rated property the ratepayer elects to pay an annual lump sum capital contribution to the cost of the proposed works or whether the ratepayer elects in respect of each separately rated property to be liable in respect thereof for a special rate or uniform annual charge made and levied as provided in section 3 of this Act. 10 15

(2) The accidental omission to effect service of such notice on any ratepayer shall not invalidate any proceedings under this Act. 20

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5. Ratepayers to be notified and make an election—

The Council, within 14 days after the passing of a resolution under section 3 of this Act, shall cause notice in form 1 in the Schedule to this Act to be served on each ratepayer in respect of each separately rated property in the water supply area or urban drainage area, as the case may be, affected requiring every such ratepayer, within 2 months after the date of service of the notice, to advise whether, in respect of each separately rated property, the ratepayer elects to pay a lump sum capital contribution to the cost of the proposed works or to be liable in respect of that cost for a special or separate rate or uniform annual charge made and levied as set out in section 3 of this Act. 25 30 35

6. Annual rate payable in default of election and election irrevocable—(1) Where any ratepayer fails to notify the Council within the prescribed time of his election in accordance with section 5 of this Act, that ratepayer shall in respect

of each separately rated property in respect of which no elec-
tion is made be deemed to have elected to be liable to pay the
rates or any uniform annual charge that may be made and
levied to repay any such loan and interest thereon required
5 to be raised for the works.

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(2) Any election made under the provisions of section 5 of
this Act shall be irrevocable, and thereafter each separately
rated property in respect of which an election has been made
10 shall be so levied or rated accordingly.

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(2) Every election made under section 5 of this Act to
pay a lump sum capital contribution shall be irrevocable.

(3) A ratepayer who has elected or who is deemed to have
15 elected to pay by way of a special or separate rate or a
uniform annual charge, as the case may be, may with the
consent of the Council change that election to a lump sum
capital contribution at any time before the Council invokes
the provisions of section 52 of the Local Authorities Loans
20 Act 1956 to raise all or the first issue of the special loan for
the works to which the election relates.

7. Power to raise loan for balance of cost—After the expira-
tion of the period of ~~(1 month)~~ 2 months in which the rate-
payer may make an election as provided in section 5 of this
25 Act, the Council shall deduct the total amount of all the lump
sum capital contributions which ratepayers have elected to
pay in respect of each separately rated property from the
estimated net capital cost of the works and the Council may
thereafter raise a special loan in accordance with the provi-
30 sions of the Local Authorities Loans Act 1956 for the resi-
dual amount calculated as remaining.

**8. Consequences of electing lump sum capital contribu-
tions**—Any separately rated property in respect of which the
ratepayer has elected to pay a lump sum capital contribution
35 under ~~(the provisions of this Act for the proposed works)~~ this
Act shall—

(a) Be included on the special roll prepared under ~~(the~~
provisions of) section 27 (3) of the Local Auth-
40 orities Loans Act 1956 for the special loan required
to be raised to finance the works; and

- (b) Not be liable for the special rate made and levied pursuant to *(the provisions of)* section 47 of the Local Authorities Loans Act 1956 as security for repayment of the loan raised to finance those works; and
- (c) Not be liable for any portion of any separate rate or uniform annual charge made and levied under *(the provisions of)* section 143, section 158, or section 162 of the Local Government Act 1974 for the purpose of paying the annual charges on the loan raised to finance those works; and
- (d) Be liable for that portion of any separate rate or uniform annual charge made or levied under *(the provisions of)* section 143, section 158, or section 162 of the Local Government Act 1974 for the purpose of meeting maintenance and operating costs in respect of those works.

9. Payment of lump sum capital contributions—When the Council invokes the provisions of section 52 of the Local Authorities Loans Act 1956 to raise all or the first issue of any special loan required to finance the works it shall thereupon serve a notice in form 2 in the Schedule to this Act on the ratepayer of each separately rated property in respect of which an election was made to pay a lump sum capital contribution requiring that ratepayer to pay, within 3 months after the date of the notice, the estimated lump sum capital contribution referred to in the said notice as assessed in accordance with (section 3) section 4 (d) of this Act.

10. Reassessment on completion of works—After the completion of construction of any works *(as provided in section 3 of this Act)* to which this Act has been applied the Council shall ascertain the actual (costs) cost of the works and actual subsidies received in respect thereof, and the actual number of separately rated properties within the area to benefit from the works, and shall redetermine the actual lump sum capital contribution payable in respect of each separately rated property for which an election to make such contribution was made pursuant to (sections 4 and 5) sections 5 and 6 (3) of this Act.

11. Refund of overpayment or payment to meet deficiency—
As soon as practicable after making an assessment of the actual lump sum capital contribution in accordance with section 10 of this Act the Council shall—

- 5 (a) If that amount is less than the amount of the estimated lump sum capital contribution already paid, refund the amount of any overpayment to the ratepayer who made that payment; or
- 10 (b) If the amount is more than the amount of the estimated lump sum capital contribution, serve a further notice in form 2 in the Schedule to this Act on the ratepayer for the time being of each separately rated property in respect of which an election was made to pay a lump sum capital contribution requiring
- 15 that ratepayer in respect of that property to pay the balance owing within 1 month after the date of service of the notice.

12. Additional charge on unpaid capital contributions—An additional charge not exceeding 10 percent may by resolution of the Council be added to any lump sum capital contribution *(and actual lump sum capital contribution)* or balance thereof which has not been paid on or before the date on which it fell due under *(the provisions of)* this Act, and such additional charge may be credited to the general revenues of the county.

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13. Power to recover capital contribution—All estimated lump sum capital contributions and actual lump sum capital contributions payable under the provisions of this Act, and additional charges payable pursuant to section 12 of this Act, in respect of all separately rated property shall constitute a charge on that property and in default of payment of such contribution or any part of it the Council may recover the amount due as if it were a rate made under the provisions of the Rating Act 1967.

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14. Service of notices—Any notice required to be served on the Council under this Act shall be sufficiently served if it is delivered or left at any office of the Council, and any notice to be served on any ratepayer pursuant to the provisions of

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this Act shall be served in accordance with the provisions of section 253 of the Local Government Act 1974 and if sent by post it shall be deemed to have been served at the time when the notice would have been delivered in the ordinary course of post. 5

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13. Power to recover capital contribution, etc.—Every lump sum capital contribution and balance thereof payable under this Act, and every additional charge payable under section 12 of this Act, shall constitute a charge on the separately rateable property in respect of which it is payable, and in default of payment may be recovered by the Council in the same manner as if it were a rate payable under the Rating Act 1967. 10 15

14. Service of notices—(1) Any notice required to be served on the Council under this Act shall be sufficiently served if it is posted or delivered to or left at any office of the Council.

(2) Any notice required to be served on a ratepayer under this Act shall be delivered in accordance with section 65 of the Rating Act 1967, and the provisions of that section shall apply as if the notice were a rates assessment. 20

(3) If a notice is sent by post it shall be deemed to have been served at the time when it would have been delivered in the ordinary course of post. 25

SCHEDULE

Form 1

To [Name and address of Ratepayer] being the ratepayer for the property included in valuation assessment No. and described therein as [Insert legal description]. Pursuant to the provisions of the Silverpeaks County Council (Lump Sum Contributions) Empowering Act 1981, the Silverpeaks County Council hereby notifies you that it proposes to instal a [water or sewerage] scheme in the [Insert name of area] area, which will be available to service the above described property. Further, it notifies you that you must, within **(1 month)** 2 months after the date of service of this notice elect to pay the said property's share of the capital cost of the scheme (if it proceeds) by either—

1. Your paying a lump sum capital contribution, which at this stage is estimated to be \$....., but which will be finally assessed after the work is completed and actual costs are known; or

2. The property being made liable for the payment of **(a special)** an annual rate (or charge) to meet the annual charges on a loan which the Council would raise to finance the scheme or that part of the scheme not paid for by **(the)** lump sum capital contributions. At this stage it is estimated that the amount of the rate (or charge) payable in respect of your property would be [Insert amount] per annum for the [Insert number] year term of the loan **(; and this would be in addition to the rates payable for maintenance and operating costs).**

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NOTE—Any payment under clause 1 or clause 2 above would be for the capital cost of the work only and would not cover maintenance and operating costs.

Further, you are notified as follows:

- (a) That the attached duplicate copy of this form must be completed, and returned to the undersigned so as to be received not later than 5.00 p.m. on [Insert date].
- (b) That if the attached form is not returned within the prescribed time, or if it does not clearly indicate your wishes, it will be **(deemed)** assumed that you do not wish to make a lump sum capital contribution and your property will be rated annually if the scheme proceeds.

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- (c) That an election having been made, or having been deemed to have been made, that election shall be final and irrevocable and it shall be binding on all subsequent ratepayers of the property for the term of the loan in respect of which the election is made.

Silverpeaks County Council (Lump Sum Contributions) Empowering

SCHEDULE—*continued*

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- (c) If you elect to pay a lump sum capital contribution, you may not change your decision.
- (d) If you elect to pay by way of an annual rate (*or charge*), you may apply to the Council to change to a lump sum capital contribution before the loan is raised.

Dated this day of 19 .

.....
County Clerk *or*
County Manager

County Clerk (*or* County Manager),
Silverpeaks County Council

I hereby make an (**irrevocable**) election that if the above scheme proceeds—

I agree to pay the required lump sum capital contribution towards the cost
or

I agree that the above described property be rated for the annual charges on the loan raised to finance the scheme.

(Write “yes” in the box after the line which indicates your wishes.)

.....
[Ratepayer's Signature]

Form 2

To [Name and address of Ratepayer]

The estimated [*or* (**actual**) balance] lump sum capital contribution for works being, or to be, undertaken in the [*name of water supply or urban drainage area*] is now due by you in respect of the undermentioned property. The amount shown below is payable to the Silverpeaks County Council at [*Insert office*] on or before [*Insert date*].

An additional charge of [*Insert percentage*] will be added to any portion of the amount which is not paid by that date.

Dated this day of 19 .

.....
County Clerk *or*
County Manager

Description of property [*Insert description*]
Amount payable \$.....