
SENATE BILL 5512

State of Washington 60th Legislature 2007 Regular Session

By Senators Kilmer, Regala, Hobbs, Eide, Pridemore and Rasmussen

Read first time 01/22/2007. Referred to Committee on Ways & Means.

1 AN ACT Relating to financing for hospital benefit zones; amending
2 RCW 39.100.010, 39.100.020, 39.100.030, 39.100.040, 39.100.050,
3 82.14.465, 82.14.470, and 82.32.700; creating new sections; providing
4 an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that local governments
7 need flexible financing for public improvements that do not increase
8 the combined state and local sales tax rate.

9 **Sec. 2.** RCW 39.100.010 and 2006 c 111 s 1 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Benefit zone" means the geographic zone from which taxes are
14 to be appropriated to finance public improvements authorized under this
15 chapter and in which a hospital that has received a certificate of need
16 is to be constructed.

17 (2) "Department" means the department of revenue.

1 (3) "Local government" means any city, town, county, or any
2 combination thereof.

3 (4) "Ordinance" means any appropriate method of taking legislative
4 action by a local government.

5 (5) "Participating taxing authority" means a taxing authority that
6 has entered into a written agreement with a local government for the
7 use of hospital benefit zone financing to the extent of allocating
8 excess local excise taxes to the local government for the purpose of
9 financing all or a portion of the costs of designated public
10 improvements.

11 (6) "Public improvements" means infrastructure improvements within
12 the benefit zone that include:

- 13 (a) Street and road construction and maintenance;
- 14 (b) Water and sewer system construction and improvements;
- 15 (c) Sidewalks and streetlights;
- 16 (d) Parking, terminal, and dock facilities;
- 17 (e) Park and ride facilities of a transit authority;
- 18 (f) Park facilities and recreational areas; and
- 19 (g) Storm water and drainage management systems.

20 (7) "Public improvement costs" means the costs of: (a) Design,
21 planning, acquisition including land acquisition, site preparation
22 including land clearing, construction, reconstruction, rehabilitation,
23 improvement, and installation of public improvements; (b) demolishing,
24 relocating, maintaining, and operating property pending construction of
25 public improvements; (c) relocating utilities as a result of public
26 improvements; and (d) financing public improvements, including interest
27 during construction, legal and other professional services, taxes,
28 insurance, principal and interest costs on indebtedness issued to
29 finance public improvements, and any necessary reserves for
30 indebtedness; and administrative expenses and feasibility studies
31 reasonably necessary and related to these costs, including related
32 costs that may have been incurred before adoption of the ordinance
33 authorizing the public improvements and the use of hospital benefit
34 zone financing to fund the costs of the public improvements.

35 (8) "Tax allocation revenues" means those tax revenues derived from
36 the receipt of excess local excise taxes under RCW 39.100.050 and
37 distributed by a local government, participating taxing authority, or
38 both, to finance public improvements.

1 (9) "Taxing authority" means a governmental entity that imposes a
2 sales or use tax under chapter 82.14 RCW upon the occurrence of any
3 taxable event within a proposed or approved benefit zone.

4 **Sec. 3.** RCW 39.100.020 and 2006 c 111 s 2 are each amended to read
5 as follows:

6 A local government may finance public improvements using hospital
7 benefit zone financing subject to the following conditions:

8 (1) The local government adopts an ordinance designating a benefit
9 zone within its boundaries and specifying the public improvements
10 proposed to be financed in whole or in part with the use of hospital
11 benefit zone financing;

12 (2) The public improvements proposed to be financed in whole or in
13 part using hospital benefit zone financing are expected both to
14 encourage private development within the benefit zone and to support
15 the development of a hospital that has received a certificate of need;

16 (3) Private development that is anticipated to occur within the
17 benefit zone, as a result of the public improvements, will be
18 consistent with the county-wide planning policy adopted by the county
19 under RCW 36.70A.210 and the local government's comprehensive plan and
20 development regulations adopted under chapter 36.70A RCW; ~~((and))~~

21 (4) The governing body of the local government finds that the
22 public improvements proposed to be financed in whole or in part using
23 hospital benefit zone financing are reasonably likely to:

24 (a) Increase private investment within the benefit zone;

25 (b) Increase employment within the benefit zone; and

26 (c) Generate, over the period of time that the local sales and use
27 tax will be imposed under RCW 82.14.465, excess state ~~((and local sales
28 and use tax revenues))~~ excise taxes that are equal to or greater than
29 the ~~((respective))~~ state ~~((and local))~~ contributions made under this
30 chapter;

31 (5) The boundaries of a hospital benefit zone may not overlap any
32 part of the boundaries of another hospital benefit zone or a revenue
33 development area defined in chapter 39.102 RCW; and

34 (6) The boundaries of a hospital benefit zone may not change once
35 the hospital benefit zone is established and approved by the
36 department.

1 **Sec. 4.** RCW 39.100.030 and 2006 c 111 s 3 are each amended to read
2 as follows:

3 (1) Before adopting an ordinance creating the benefit zone, a local
4 government must:

5 (a) Obtain written agreement for the use of hospital benefit zone
6 financing to finance all or a portion of the costs of the designated
7 public improvements from any taxing authority that imposes a sales or
8 use tax under chapter 82.14 RCW within the benefit zone if the taxing
9 authority chooses to participate in the public improvements to the
10 extent of providing limited funding under hospital benefit zone
11 financing authorized under this chapter. The agreement must be
12 authorized by the governing body of such participating taxing
13 authorities; and

14 (b) Hold a public hearing on the proposed financing of the public
15 improvement in whole or in part with hospital benefit zone financing.

16 (i) Notice of the public hearing must be published in a legal
17 newspaper of general circulation within the proposed benefit zone at
18 least ten days before the public hearing and posted in at least six
19 conspicuous public places located in the proposed benefit zone.

20 (ii) Notices must describe the contemplated public improvements,
21 estimate the costs of the public improvements, describe the portion of
22 the costs of the public improvements to be borne by hospital benefit
23 zone financing, describe any other sources of revenue to finance the
24 public improvements, describe the boundaries of the proposed benefit
25 zone, and estimate the period during which hospital benefit zone
26 financing is contemplated to be used. The public hearing may be held
27 by either the governing body of the local government, or a committee of
28 the governing body that includes at least a majority of the whole
29 governing body.

30 (2) In order to create a benefit zone, a local government must
31 adopt an ordinance establishing the benefit zone that:

32 (a) Describes the public improvements;

33 (b) Describes the boundaries of the benefit zone;

34 (c) Estimates the cost of the public improvements and the portion
35 of these costs to be financed by hospital benefit zone financing;

36 (d) Estimates the time during which excess local excise taxes are
37 to be used to finance public improvement costs associated with the

1 public improvements financed in whole or in part by hospital benefit
2 zone financing;

3 (e) Estimates the average amount of tax revenue to be received in
4 all fiscal years through the imposition of a sales and use tax under
5 RCW 82.14.465;

6 (f) Provides the date when the use of excess local excise taxes
7 will commence; and

8 (g) Finds that the conditions of RCW 39.100.020 are met.

9 (3) For purposes of this section, "fiscal year" means the year
10 beginning July 1st and ending the following June 30th.

11 **Sec. 5.** RCW 39.100.040 and 2006 c 111 s 4 are each amended to read
12 as follows:

13 (1) A local government that adopts an ordinance creating a benefit
14 zone under this chapter shall, within ninety days of adopting the
15 ordinance:

16 ~~((+1))~~ (a) Publish notice in a legal newspaper of general
17 circulation within the benefit zone that describes the public
18 improvement, describes the boundaries of the benefit zone, and
19 identifies the location and times where the ordinance and other public
20 information concerning the public improvement may be inspected; and

21 ~~((+2))~~ (b) Deliver a certified copy of the ordinance to the county
22 treasurer, the county assessor, the department of revenue, and the
23 governing body of each participating taxing authority within which the
24 benefit zone is located.

25 (2) Any challenge to the formation shall be brought within sixty
26 days of its formation. All parties, including the holders of bonds
27 payable from tax revenue under this act, may rely upon the presumption
28 of validity of formation of the benefit zone following the expiration
29 of the sixty-day period following formation.

30 **Sec. 6.** RCW 39.100.050 and 2006 c 111 s 5 are each amended to read
31 as follows:

32 (1) A local government that creates a benefit zone and has received
33 approval from the department under RCW 82.32.700 to impose the local
34 option sales and use tax authorized in RCW 82.14.465 may use annually
35 any excess local excise taxes received by it from taxable activity
36 within the benefit zone to finance public improvement costs associated

1 with the public improvements financed in whole or in part by hospital
2 benefit zone financing. The use of excess local excise taxes must
3 cease when tax allocation revenues are no longer necessary or obligated
4 to pay the costs of the public improvements. Any participating taxing
5 authority is authorized to allocate excess local excise taxes to the
6 local government as long as the local government has received approval
7 from the department under RCW 82.32.700 to impose the local option
8 sales and use tax authorized in RCW 82.14.465. The legislature
9 declares that it is a proper purpose of a local government or
10 participating taxing authority to allocate excess local excise taxes
11 for purposes of financing public improvements under this chapter.

12 (2) A local government shall provide the department accurate
13 information describing the geographical boundaries of the benefit zone
14 at least seventy-five days before the effective date of the ordinance
15 creating the benefit zone. The local government shall ensure that the
16 boundary information provided to the department is kept current.

17 (3) The department shall provide the necessary information to
18 calculate excess local excise taxes to each local government that has
19 provided boundary information to the department as provided in this
20 section and that has received approval from the department under RCW
21 82.32.700 to impose the local option sales and use tax authorized in
22 RCW 82.14.465.

23 (4) The definitions in this subsection apply throughout this
24 section unless the context clearly requires otherwise.

25 (a) "Base year" means the calendar year immediately following the
26 creation of a benefit zone.

27 (b) "Excess local excise taxes" means the amount of local excise
28 taxes received by the local government during the measurement year from
29 taxable activity within the benefit zone over and above the amount of
30 local excise taxes received by the local government during the base
31 year from taxable activity within the benefit zone. However, if a
32 local government creates the benefit zone and reasonably determines
33 that no activity subject to tax under chapters 82.08 and 82.12 RCW
34 occurred in the twelve months immediately preceding the creation of the
35 benefit zone within the boundaries of the area that became the benefit
36 zone, "excess local excise taxes" means the entire amount of local
37 excise taxes received by the local government during a calendar year

1 period beginning with the calendar year immediately following the
2 creation of the benefit zone and continuing with each measurement year
3 thereafter.

4 (c) "Local excise taxes" means local (~~(retail)~~) revenues derived
5 from the imposition of sales and use taxes authorized in RCW 82.14.030
6 at the tax rate that was in effect at the time the hospital benefit
7 zone is approved by the department, except that if a local government
8 reduces the rate of such tax after the revenue development area was
9 approved, "local excise taxes" means the local revenues derived from
10 the imposition of the sales and use taxes authorized in RCW 82.14.030
11 at the lower tax rate.

12 (d) "Measurement year" means a calendar year, beginning with the
13 calendar year following the base year and each calendar year
14 thereafter, that is used annually to measure the amount of excess state
15 excise taxes and excess local excise taxes required to be used to
16 finance public improvement costs associated with public improvements
17 financed in whole or in part by hospital benefit zone financing.

18 **Sec. 7.** RCW 82.14.465 and 2006 c 111 s 7 are each amended to read
19 as follows:

20 (1) A city, town, or county that creates a benefit zone and
21 finances public improvements pursuant to chapter 39.100 RCW may impose
22 a sales and use tax in accordance with the terms of this chapter and
23 subject to the criteria set forth in this section. Except as provided
24 in this section, the tax is in addition to other taxes authorized by
25 law and shall be collected from those persons who are taxable by the
26 state under chapters 82.08 and 82.12 RCW upon the occurrence of any
27 taxable event within the taxing jurisdiction of the city, town, or
28 county. The rate of tax shall not exceed the rate provided in RCW
29 82.08.020(1) in the case of a sales tax or the rate provided in RCW
30 82.12.020(5) in the case of a use tax, less the aggregate rates of any
31 other taxes imposed on the same events that are credited against the
32 state taxes imposed under chapters 82.08 and 82.12 RCW. The tax rate
33 shall be no higher than what is reasonably necessary for the local
34 government to receive its entire annual state contribution in a ten-
35 month period of time.

36 (2) The tax imposed under subsection (1) of this section shall be
37 deducted from the amount of tax otherwise required to be collected or

1 paid over to the department under chapter 82.08 or 82.12 RCW. The
2 department shall perform the collection of such taxes on behalf of the
3 city, town, or county at no cost to the city, town, or county.

4 (3) No tax may be imposed under this section before July 1, 2007.
5 Before imposing a tax under this section, the city, town, or county
6 shall first have received tax allocation revenues (~~((derived from excess
7 exeise taxes))~~) during the preceding calendar year. The tax imposed
8 under this section shall expire (~~((when))~~) on the earlier of the date:

9 (a) The tax allocation revenues are no longer used for public
10 improvements and public improvement costs; (b) the bonds issued under
11 the authority of chapter 39.100 RCW are retired, (~~((but not more than))~~)
12 if the bonds are issued; or (c) that is thirty years after the tax is
13 first imposed.

14 (4) An ordinance adopted by the legislative authority of a city,
15 town, or county imposing a tax under this section shall provide that:

16 (a) The tax shall first be imposed on the first day of a fiscal
17 year;

18 (b) The amount of tax received by the local government in any
19 fiscal year shall not exceed the amount of the state contribution;

20 (c) The tax shall cease to be (~~((imposed))~~) distributed for the
21 remainder of any fiscal year in which either:

22 (i) The amount of tax (~~((receipts))~~) distributions totals the amount
23 of the state contribution;

24 (ii) The amount of tax (~~((receipts))~~) distributions totals the amount
25 of "local public sources," as that term is used in RCW 82.14.470,
26 dedicated in the previous calendar year to finance public improvements
27 authorized under chapter 39.100 RCW, expended in the previous year for
28 public improvement costs within the hospital benefit zone, or used to
29 pay for other bonds issued to pay for public improvements in the
30 hospital benefit zone; or

31 (iii) The amount of revenue from taxes imposed under this section
32 by all cities, towns, and counties totals the annual state credit limit
33 as provided in RCW 82.32.700(3);

34 (d) The tax shall be (~~((reimposed))~~) distributed again, should it
35 cease to be (~~((imposed))~~) distributed for any of the reasons provided in
36 (c) of this subsection, at the beginning of the next fiscal year,
37 subject to the restrictions in this section; and

1 (e) Any revenue generated by the tax in excess of the amounts
2 specified in ~~((a))~~ (b)~~((c))~~ and (c) of this subsection shall belong
3 to the state of Washington.

4 (5) If both a county and a city or town impose a tax under this
5 section, the tax imposed by the city, town, or county shall be credited
6 as follows:

7 (a) If the county has created a benefit zone before the city or
8 town, the tax imposed by the county shall be credited against the tax
9 imposed by the city or town, the purpose of such credit is to give
10 priority to the county tax; and

11 (b) If the city or town has created a benefit zone before the
12 county, the tax imposed by the city or town shall be credited against
13 the tax imposed by the county, the purpose of such credit is to give
14 priority to the city or town tax.

15 (6) The department shall determine the amount of tax ~~((receipts))~~
16 distributions attributable to each city, town, and county imposing a
17 sales and use tax under this section and shall advise a city, town, or
18 county when ~~((it must cease imposing))~~ the tax will cease to be
19 distributed for the remainder of the fiscal year as provided in
20 subsection (4)(c) of this section. Determinations by the department of
21 the amount of taxes attributable to a city, town, or county are final
22 and shall not be used to challenge the validity of any tax imposed
23 under this section. The department shall remit any tax ~~((receipts))~~
24 revenues in excess of the amounts specified in subsection (4)~~((a))~~
25 (b)~~((c))~~ and (c) of this section to the state treasurer who shall
26 deposit the moneys in the general fund.

27 (7) The definitions in this subsection apply throughout this
28 section unless the context clearly requires otherwise.

29 (a) "Base year" means the calendar year immediately following the
30 creation of a benefit zone.

31 (b) "Benefit zone" has the same meaning as provided in RCW
32 39.100.010.

33 (c) "Excess local excise taxes" has the same meaning as provided in
34 RCW 39.100.050.

35 (d) "Excess state excise taxes" means the amount of excise taxes
36 received by the state during the measurement year from taxable activity
37 within the benefit zone over and above the amount of excise taxes
38 received by the state during the base year from taxable activity within

1 the benefit zone. However, if a local government creates the benefit
2 zone and reasonably determines that no activity subject to tax under
3 chapters 82.08 and 82.12 RCW occurred in the twelve months immediately
4 preceding the creation of the benefit zone within the boundaries of the
5 area that became the benefit zone, "excess state excise taxes" means
6 the entire amount of state excise taxes (~~((received by))~~) the state
7 receives during a calendar year period beginning with the calendar year
8 immediately following the creation of the benefit zone and continuing
9 with each measurement year thereafter.

10 (e) "State excise taxes" means (~~((the))~~) revenues derived from state
11 retail sales and use taxes (~~((imposed))~~) under chapters 82.08 and 82.12
12 RCW, less the amount of tax distributions from all local retail sales
13 and use taxes imposed on the same taxable events that are credited
14 against the state retail sales and use taxes under chapters 82.08 and
15 82.12 RCW except for the local tax authorized in this section.

16 (f) "Fiscal year" has the same meaning as provided in RCW
17 39.100.030.

18 (g) "Measurement year" means a calendar year, beginning with the
19 calendar year following the base year and each calendar year
20 thereafter, that is used annually to measure the amount of excess state
21 excise taxes and excess local excise taxes (~~((required to be used to~~
22 ~~finance public improvement costs associated with public improvements~~
23 ~~financed in whole or in part by hospital benefit zone financing))~~).

24 (h) "State contribution" means the lesser of two million dollars or
25 an amount equal to excess state excise taxes received by the state
26 during the preceding calendar year.

27 (i) "Tax allocation revenues" has the same meaning as provided in
28 RCW 39.100.010.

29 **Sec. 8.** RCW 82.14.470 and 2006 c 111 s 8 are each amended to read
30 as follows:

31 (1) Moneys collected from the taxes imposed under RCW 82.14.465
32 shall be used only for the purpose of principal and interest payments
33 on bonds issued under the authority of RCW 39.100.060, other bonds
34 issued by the local government to finance public improvements within
35 the hospital benefit zone, or to pay the public improvement costs and
36 must be matched with an amount from local public sources dedicated
37 through December 31st of the previous calendar year to finance public

1 improvements authorized under chapter 39.100 RCW. Such local public
2 sources include but are not limited to private monetary contributions,
3 assessments, dedicated local government funds, and tax allocation
4 revenues. Local public sources are dedicated to finance public
5 improvements if they are actually expended to pay public improvement
6 costs (~~(or are)~~), debt service on bonds issued for public improvements
7 within the hospital benefit zone, required by law or an agreement to be
8 used exclusively to pay public improvement costs, or debt service on
9 bonds issued for public improvements within the hospital benefit zone.
10 Such local public sources do not include local government funds derived
11 from any state loan, state grant, any local tax that is credited
12 against the state sales and use taxes, and any other state funds.

13 (2) A local government shall inform the department by the first day
14 of March of the amount of local public sources dedicated in the
15 preceding calendar year to finance public improvements authorized under
16 chapter 39.100 RCW.

17 (3) If a local government fails to comply with subsection (2) of
18 this section, no tax may be imposed under RCW 82.14.465 in the
19 subsequent fiscal year.

20 (4) A local government shall provide a report to the department by
21 March 1st of each year. A local government shall make a good faith
22 effort to provide information required for the report.

23 The report shall contain the following information:

24 (a) The amount of tax allocation revenues, taxes under RCW
25 82.14.465, and local public sources received by the local government
26 during the preceding calendar year, and a summary of how these revenues
27 were expended; and

28 (b) The names of any businesses (~~(locating)~~) known to the local
29 government that have located within the benefit zone as a result of the
30 public improvements undertaken by the local government and financed in
31 whole or in part with hospital benefit zone financing(~~(+~~

32 ~~(c) The total number of permanent jobs created as a result of the~~
33 ~~public improvements undertaken by the local government and financed in~~
34 ~~whole or in part with hospital benefit zone financing; and~~

35 ~~(d) The average wages and benefits received by all employees of~~
36 ~~businesses locating within the benefit zone as a result of the public~~
37 ~~improvements undertaken by the local government and financed in whole~~
38 ~~or in part with hospital benefit zone financing)).~~

1 (5) The department shall make a report available to the public and
2 the legislature by June 1st of each year. The report shall include a
3 list of public improvements undertaken by local governments and
4 financed in whole or in part with hospital benefit zone financing, and
5 it shall also include a summary of the information provided to the
6 department by local governments under subsection (4) of this section.

7 (6) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Public improvement costs" has the same meaning as in RCW
10 39.100.010.

11 (b) "Tax allocation revenues" has the same meaning as provided in
12 RCW 39.100.010.

13 **Sec. 9.** RCW 82.32.700 and 2006 c 111 s 9 are each amended to read
14 as follows:

15 (1) As a condition to imposing a sales and use tax under RCW
16 82.14.465, a city, town, or county must apply to the department at
17 least seventy-five days before the effective date of any such tax. The
18 application shall be in a form and manner prescribed by the department
19 and shall include but is not limited to information establishing that
20 the applicant is eligible to impose such a tax, the anticipated
21 effective date for imposing the tax, the estimated number of years that
22 the tax will be imposed, and the estimated amount of tax revenue to be
23 received in each fiscal year that the tax will be imposed. For
24 purposes of this section, "fiscal year" means the year beginning July
25 1st and ending the following June 30th. The department shall make
26 available forms to be used for this purpose. As part of the
27 application, a city, town, or county must provide to the department a
28 copy of the ordinance creating the benefit zone as required in RCW
29 39.100.040. The department shall rule on completed applications within
30 sixty days of receipt. The department may begin accepting and
31 approving applications August 1, 2006. No new applications shall be
32 considered by the department after the thirtieth day of September of
33 the third year following the year in which the first application was
34 received by the department.

35 (2) The authority to impose the local option sales and use taxes
36 under RCW 82.14.465 is on a first-come basis. Priority for collecting
37 the taxes authorized under RCW 82.14.465 among approved applicants

1 shall be based on the date that the approved application was received
2 by the department. As a part of the approval of applications under
3 this section, the department shall approve the amount of tax under RCW
4 82.14.465 that an applicant may impose. The amount of tax approved by
5 the department shall not exceed the lesser of two million dollars or
6 the average amount of tax revenue that the applicant estimates that it
7 will receive in all fiscal years through the imposition of a sales and
8 use tax under RCW 82.14.465. A city, town, or county shall not
9 receive, in any fiscal year, more revenues from taxes imposed under RCW
10 82.14.465 than the amount approved by the department. The department
11 shall not approve the receipt of more credit against the state sales
12 and use tax than is authorized under subsection (3) of this section.

13 (3) No more than two million dollars of credit against the state
14 sales and use tax provided for under RCW 82.14.465(2), may be received
15 in any fiscal year by all cities, towns, and counties imposing a tax
16 under RCW 82.14.465.

17 (4) The credit against the state sales and use tax shall be
18 available to any city, town, or county imposing a tax under RCW
19 82.14.465 only as long as the city, town, or county has outstanding
20 indebtedness under RCW 82.14.465. Local governments may pledge any
21 receipts from taxes levied and collected under this act to the
22 repayment of its bonds or bond anticipation notes. A local government
23 shall notify the department when all outstanding indebtedness secured
24 in whole or in part from receipts is no longer outstanding, and the
25 credit provided for under this act shall be terminated.

26 (5) The department may adopt any rules under chapter 34.05 RCW it
27 considers necessary for the administration of chapter 39.100 RCW.

28 NEW SECTION. Sec. 10. This act applies retroactively to July 1,
29 2006.

30 NEW SECTION. Sec. 11. This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 July 1, 2007.

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