
SUBSTITUTE HOUSE BILL 2933

State of Washington 61st Legislature 2010 Regular Session

By House Finance (originally sponsored by Representatives Ericks, Morrell, and Dammeier)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to modifying sales and use tax provisions for the
2 local infrastructure financing tool program; amending RCW 82.14.475;
3 reenacting and amending RCW 39.102.020; and providing an expiration
4 date.

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

6 **Sec. 1.** RCW 39.102.020 and 2009 c 267 s 1 are each reenacted and
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Annual state contribution limit" means seven million five
11 hundred thousand dollars statewide per fiscal year.

12 (2) "Assessed value" means the valuation of taxable real property
13 as placed on the last completed assessment roll.

14 (3) "Board" means the community economic revitalization board under
15 chapter 43.160 RCW.

16 (4) "Demonstration project" means one of the following projects:

17 (a) Bellingham waterfront redevelopment project;

18 (b) Spokane river district project at Liberty Lake; and

19 (c) Vancouver riverwest project.

- 1 (5) "Department" means the department of revenue.
- 2 (6) "Fiscal year" means the twelve-month period beginning July 1st
3 and ending the following June 30th.
- 4 (7) "Local excise tax allocation revenue" means an amount of local
5 excise taxes equal to some or all of the sponsoring local government's
6 local excise tax increment, amounts of local excise taxes equal to some
7 or all of any participating local government's excise tax increment as
8 agreed upon in the written agreement under RCW 39.102.080(1), or both,
9 and dedicated to local infrastructure financing.
- 10 (8) "Local excise tax increment" means an amount equal to the
11 estimated annual increase in local excise taxes in each calendar year
12 following the approval of the revenue development area by the board
13 from taxable activity within the revenue development area, as set forth
14 in the application provided to the board under RCW 39.102.040, and
15 updated in accordance with RCW 39.102.140(1)(f).
- 16 (9) "Local excise taxes" means local revenues derived from the
17 imposition of sales and use taxes authorized in RCW 82.14.030.
- 18 (10) "Local government" means any city, town, county, port
19 district, and any federally recognized Indian tribe.
- 20 (11) "Local infrastructure financing" means the use of revenues
21 received from local excise tax allocation revenues, local property tax
22 allocation revenues, other revenues from local public sources, and
23 revenues received from the local option sales and use tax authorized in
24 RCW 82.14.475, dedicated to pay either the principal and interest on
25 bonds authorized under RCW 39.102.150 or to pay public improvement
26 costs on a pay-as-you-go basis subject to RCW 39.102.195, or both.
- 27 (12) "Local property tax allocation revenue" means those tax
28 revenues derived from the receipt of regular property taxes levied on
29 the property tax allocation revenue value and used for local
30 infrastructure financing.
- 31 (13) "Low-income housing" means residential housing for low-income
32 persons or families who lack the means which is necessary to enable
33 them, without financial assistance, to live in decent, safe, and
34 sanitary dwellings, without overcrowding. For the purposes of this
35 subsection, "low income" means income that does not exceed eighty
36 percent of the median family income for the standard metropolitan
37 statistical area in which the revenue development area is located.

1 (14) "Ordinance" means any appropriate method of taking legislative
2 action by a local government.

3 (15) "Participating local government" means a local government
4 having a revenue development area within its geographic boundaries that
5 has entered into a written agreement with a sponsoring local government
6 as provided in RCW 39.102.080 to allow the use of all or some of its
7 local excise tax allocation revenues or other revenues from local
8 public sources dedicated for local infrastructure financing.

9 (16) "Participating taxing district" means a local government
10 having a revenue development area within its geographic boundaries that
11 has entered into a written agreement with a sponsoring local government
12 as provided in RCW 39.102.080 to allow the use of some or all of its
13 local property tax allocation revenues or other revenues from local
14 public sources dedicated for local infrastructure financing.

15 (17) "Property tax allocation revenue base value" means the
16 assessed value of real property located within a revenue development
17 area less the property tax allocation revenue value.

18 (18)(a)(i) "Property tax allocation revenue value" means
19 seventy-five percent of any increase in the assessed value of real
20 property in a revenue development area resulting from:

21 (A) The placement of new construction, improvements to property, or
22 both, on the assessment roll, where the new construction and
23 improvements are initiated after the revenue development area is
24 approved by the board;

25 (B) The cost of new housing construction, conversion, and
26 rehabilitation improvements, when such cost is treated as new
27 construction for purposes of chapter 84.55 RCW as provided in RCW
28 84.14.020, and the new housing construction, conversion, and
29 rehabilitation improvements are initiated after the revenue development
30 area is approved by the board;

31 (C) The cost of rehabilitation of historic property, when such cost
32 is treated as new construction for purposes of chapter 84.55 RCW as
33 provided in RCW 84.26.070, and the rehabilitation is initiated after
34 the revenue development area is approved by the board.

35 (ii) Increases in the assessed value of real property in a revenue
36 development area resulting from (a)(i)(A) through (C) of this
37 subsection are included in the property tax allocation revenue value in

1 the initial year. These same amounts are also included in the property
2 tax allocation revenue value in subsequent years unless the property
3 becomes exempt from property taxation.

4 (b) "Property tax allocation revenue value" includes seventy-five
5 percent of any increase in the assessed value of new construction
6 consisting of an entire building in the years following the initial
7 year, unless the building becomes exempt from property taxation.

8 (c) Except as provided in (b) of this subsection, "property tax
9 allocation revenue value" does not include any increase in the assessed
10 value of real property after the initial year.

11 (d) There is no property tax allocation revenue value if the
12 assessed value of real property in a revenue development area has not
13 increased as a result of any of the reasons specified in (a)(i)(A)
14 through (C) of this subsection.

15 (e) For purposes of this subsection, "initial year" means:

16 (i) For new construction and improvements to property added to the
17 assessment roll, the year during which the new construction and
18 improvements are initially placed on the assessment roll;

19 (ii) For the cost of new housing construction, conversion, and
20 rehabilitation improvements, when such cost is treated as new
21 construction for purposes of chapter 84.55 RCW, the year when such cost
22 is treated as new construction for purposes of levying taxes for
23 collection in the following year; and

24 (iii) For the cost of rehabilitation of historic property, when
25 such cost is treated as new construction for purposes of chapter 84.55
26 RCW, the year when such cost is treated as new construction for
27 purposes of levying taxes for collection in the following year.

28 (19) "Public improvement costs" means the cost of: (a) Design,
29 planning, acquisition including land acquisition, site preparation
30 including land clearing, construction, reconstruction, rehabilitation,
31 improvement, and installation of public improvements; (b) demolishing,
32 relocating, maintaining, and operating property pending construction of
33 public improvements; (c) the local government's portion of relocating
34 utilities as a result of public improvements; (d) financing public
35 improvements, including interest during construction, legal and other
36 professional services, taxes, insurance, principal and interest costs
37 on general indebtedness issued to finance public improvements, and any
38 necessary reserves for general indebtedness; (e) assessments incurred

1 in revaluing real property for the purpose of determining the property
2 tax allocation revenue base value that are in excess of costs incurred
3 by the assessor in accordance with the revaluation plan under chapter
4 84.41 RCW, and the costs of apportioning the taxes and complying with
5 this chapter and other applicable law; (f) administrative expenses and
6 feasibility studies reasonably necessary and related to these costs;
7 and (g) any of the above-described costs that may have been incurred
8 before adoption of the ordinance authorizing the public improvements
9 and the use of local infrastructure financing to fund the costs of the
10 public improvements.

11 (20) "Public improvements" means:

12 (a) Infrastructure improvements within the revenue development area
13 that include:

14 (i) Street, bridge, and road construction and maintenance,
15 including highway interchange construction;

16 (ii) Water and sewer system construction and improvements,
17 including wastewater reuse facilities;

18 (iii) Sidewalks, traffic controls, and streetlights;

19 (iv) Parking, terminal, and dock facilities;

20 (v) Park and ride facilities of a transit authority;

21 (vi) Park facilities and recreational areas, including trails; and

22 (vii) Storm water and drainage management systems;

23 (b) Expenditures for facilities and improvements that support
24 affordable housing as defined in RCW 43.63A.510.

25 (21) "Real property" has the same meaning as in RCW 84.04.090 and
26 also includes any privately owned improvements located on publicly
27 owned land that are subject to property taxation.

28 (22) "Regular property taxes" means regular property taxes as
29 defined in RCW 84.04.140, except: (a) Regular property taxes levied by
30 public utility districts specifically for the purpose of making
31 required payments of principal and interest on general indebtedness;
32 (b) regular property taxes levied by the state for the support of the
33 common schools under RCW 84.52.065; and (c) regular property taxes
34 authorized by RCW 84.55.050 that are limited to a specific purpose.
35 "Regular property taxes" do not include excess property tax levies that
36 are exempt from the aggregate limits for junior and senior taxing
37 districts as provided in RCW 84.52.043.

1 (23) "Relocating a business" means the closing of a business and
2 the reopening of that business, or the opening of a new business that
3 engages in the same activities as the previous business, in a different
4 location within a one-year period, when an individual or entity has an
5 ownership interest in the business at the time of closure and at the
6 time of opening or reopening. "Relocating a business" does not include
7 the closing and reopening of a business in a new location where the
8 business has been acquired and is under entirely new ownership at the
9 new location, or the closing and reopening of a business in a new
10 location as a result of the exercise of the power of eminent domain.

11 (24) "Revenue development area" means the geographic area adopted
12 by a sponsoring local government and approved by the board, from which
13 local excise and property tax allocation revenues are derived for local
14 infrastructure financing.

15 (25)(a) "Revenues from local public sources" means:

16 (i) Amounts of local excise tax allocation revenues and local
17 property tax allocation revenues, dedicated by sponsoring local
18 governments, participating local governments, and participating taxing
19 districts, for local infrastructure financing; and

20 (ii) Any other local revenues, except as provided in (b) of this
21 subsection, including revenues derived from federal and private
22 sources.

23 (b) Revenues from local public sources do not include any local
24 funds derived from state grants, state loans, or any other state moneys
25 including any local sales and use taxes credited against the state
26 sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

27 (26) "Small business" has the same meaning as provided in RCW
28 19.85.020.

29 (27) "Sponsoring local government" means a city, town, or county,
30 and for the purpose of this chapter a federally recognized Indian tribe
31 or any combination thereof, that adopts a revenue development area and
32 applies to the board to use local infrastructure financing.

33 (28) "State contribution" means the lesser of:

34 (a) One million dollars;

35 (b) The total amount of local excise tax allocation revenues, local
36 property tax allocation revenues, and other revenues from local public
37 sources, that are dedicated by a sponsoring local government, any
38 participating local governments, and participating taxing districts, in

1 the preceding calendar year to the payment of principal and interest on
2 bonds issued under RCW 39.102.150 or to pay public improvement costs on
3 a pay-as-you-go basis subject to RCW 39.102.195, or both; (~~or~~)

4 (c) The amount of project award granted by the board in the notice
5 of approval to use local infrastructure financing under RCW 39.102.040;
6 or

7 (d) The highest amount of state excise tax allocation revenues and
8 state property tax allocation revenues for any one calendar year as
9 determined by the sponsoring local government and reported to the board
10 and the department as required by RCW 39.102.140.

11 (29) "State excise tax allocation revenue" means an amount equal to
12 the annual increase in state excise taxes estimated to be received by
13 the state in each calendar year following the approval of the revenue
14 development area by the board, from taxable activity within the revenue
15 development area as set forth in the application provided to the board
16 under RCW 39.102.040 and periodically updated and reported as required
17 in RCW 39.102.140(1)(f).

18 (30) "State excise taxes" means revenues derived from state retail
19 sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate
20 provided in RCW 82.08.020(1), less the amount of tax distributions from
21 all local retail sales and use taxes, other than the local sales and
22 use taxes authorized by RCW 82.14.475 for the applicable revenue
23 development area, imposed on the same taxable events that are credited
24 against the state retail sales and use taxes under chapters 82.08 and
25 82.12 RCW.

26 (31) "State property tax allocation revenue" means an amount equal
27 to the estimated tax revenues derived from the imposition of property
28 taxes levied by the state for the support of common schools under RCW
29 84.52.065 on the property tax allocation revenue value, as set forth in
30 the application submitted to the board under RCW 39.102.040 and updated
31 annually in the report required under RCW 39.102.140(1)(f).

32 (32) "Taxing district" means a government entity that levies or has
33 levied for it regular property taxes upon real property located within
34 a proposed or approved revenue development area.

35 **Sec. 2.** RCW 82.14.475 and 2009 c 267 s 8 are each amended to read
36 as follows:

37 (1) A sponsoring local government, and any cosponsoring local

1 government, that has been approved by the board to use local
2 infrastructure financing may impose a sales and use tax in accordance
3 with the terms of this chapter and subject to the criteria set forth in
4 this section. Except as provided in this section, the tax is in
5 addition to other taxes authorized by law and (~~shall be~~) is collected
6 from those persons who are taxable by the state under chapters 82.08
7 and 82.12 RCW upon the occurrence of any taxable event within the
8 taxing jurisdiction of the sponsoring local government or cosponsoring
9 local government.

10 (2) The tax authorized under subsection (1) of this section (~~shall~~
11 ~~be~~) is credited against the state taxes imposed under RCW 82.08.020(1)
12 and 82.12.020 at the rate provided in RCW 82.08.020(1). The department
13 (~~shall~~) must perform the collection of such taxes on behalf of the
14 sponsoring local government or cosponsoring local government at no cost
15 to the sponsoring local government or cosponsoring local government and
16 (~~shall~~) must remit the taxes as provided in RCW 82.14.060.

17 (3) The aggregate rate of tax imposed by the sponsoring local
18 government, and any cosponsoring local government, must not exceed the
19 lesser of:

20 (a) The rate provided in RCW 82.08.020(1) less:

21 (i) The aggregate rates of all other local sales and use taxes
22 imposed by any taxing authority on the same taxable events;

23 (ii) The aggregate rates of all taxes under RCW 82.14.465 and this
24 section that are authorized to be imposed on the same taxable events
25 but have not yet been imposed by a sponsoring local government or
26 cosponsoring local government that has been approved by the department
27 or the community economic revitalization board to receive a state
28 contribution under chapter(~~s~~-~~chapter~~) 39.100 or 39.102 RCW; and

29 (iii) The percentage amount of distributions required under RCW
30 82.08.020(5) multiplied by the rate of state taxes imposed under RCW
31 82.08.020(1); and

32 (b) The rate, as determined by the sponsoring local government, and
33 any cosponsoring local government, in consultation with the department,
34 reasonably necessary to receive the state contribution over ten months.

35 (4) Sponsoring local governments that have been approved before
36 October 1, 2008, by the community economic revitalization board for a
37 state contribution must select the rate of tax under this section no
38 later than September 1, 2009.

1 (5) The department, upon request, must assist a sponsoring local
2 government and cosponsoring local government in establishing their tax
3 rate in accordance with subsection (3) of this section. Once the rate
4 of tax is selected, it may not be increased.

5 (6)(a) No tax may be imposed under the authority of this section:

6 (i) ~~((Before July 1, 2008;~~

7 ~~(ii)))~~ Before July 1st of the second calendar year following the
8 year approval by the board under RCW 39.102.040 was made; and

9 ~~((iii) Before the state excise tax allocation revenues and state
10 property tax allocation revenues for the preceding calendar year equal
11 or exceed the amount of project award approved by the board under RCW
12 39.102.040))~~

13 (ii) Until a sponsoring local government reports to the board and
14 the department as required by RCW 39.102.140 that the state has
15 benefited through the receipt of state excise tax allocation revenues
16 or state property tax allocation revenues, or both.

17 (b) The tax imposed under this section ~~((shall))~~ expires when all
18 indebtedness issued under the authority of RCW 39.102.150 is retired
19 and all other contractual obligations relating to the financing of
20 public improvements under chapter 39.102 RCW are satisfied, but not
21 more than twenty-five years after the tax is first imposed.

22 (7) An ordinance adopted by the legislative authority of a
23 sponsoring local government or cosponsoring local government imposing
24 a tax under this section ~~((shall))~~ must provide that:

25 (a) The tax ~~((shall))~~ is first ~~((be))~~ imposed on the first day of
26 a fiscal year;

27 (b) The cumulative amount of tax received by the sponsoring local
28 government, and any cosponsoring local government, in any fiscal year
29 ~~((shall))~~ may not exceed the amount of the state contribution;

30 (c) The tax ~~((shall))~~ will cease to be distributed for the
31 remainder of any fiscal year in which either:

32 (i) The amount of tax received by the sponsoring local government,
33 and any cosponsoring local government, equals the amount of the state
34 contribution;

35 (ii) The amount of revenue from taxes imposed under this section by
36 all sponsoring and cosponsoring local governments equals the annual
37 state contribution limit; or

1 (iii) The amount of tax received by the sponsoring local government
2 equals the amount of project award granted in the approval notice
3 described in RCW 39.102.040;

4 (d) Neither the local excise tax allocation revenues nor the local
5 property tax allocation revenues may constitute more than eighty
6 percent of the total local funds as described in RCW 39.102.020(28)(b).
7 This requirement applies beginning January 1st of the fifth calendar
8 year after the calendar year in which the sponsoring local government
9 begins allocating local excise tax allocation revenues under RCW
10 39.102.110;

11 (e) The tax (~~shall~~) must be distributed again, should it cease to
12 be distributed for any of the reasons provided in (c) of this
13 subsection, at the beginning of the next fiscal year, subject to the
14 restrictions in this section; and

15 (f) Any revenue generated by the tax in excess of the amounts
16 specified in (c) of this subsection (~~shall~~) belongs to the state of
17 Washington.

18 (8) If a county and city cosponsor a revenue development area, the
19 combined amount of distributions received by both the city and county
20 may not exceed the state contribution.

21 (9) The department (~~shall~~) must determine the amount of tax
22 receipts distributed to each sponsoring local government, and any
23 cosponsoring local government, imposing sales and use tax under this
24 section and shall advise a sponsoring or cosponsoring local government
25 when tax distributions for the fiscal year equal the amount of state
26 contribution for that fiscal year as provided in subsection (11) of
27 this section. Determinations by the department of the amount of tax
28 distributions attributable to each sponsoring or cosponsoring local
29 government are final and (~~shall~~) may not be used to challenge the
30 validity of any tax imposed under this section. The department
31 (~~shall~~) must remit any tax receipts in excess of the amounts
32 specified in subsection (7)(c) of this section to the state treasurer
33 who (~~shall~~) must deposit the money in the general fund.

34 (10) If a sponsoring or cosponsoring local government fails to
35 comply with RCW 39.102.140, no tax may be distributed in the subsequent
36 fiscal year until such time as the sponsoring or cosponsoring local
37 government complies and the department calculates the state
38 contribution amount for such fiscal year.

1 (11) Each year, the amount of taxes approved by the department for
2 distribution to a sponsoring or cosponsoring local government in the
3 next fiscal year (~~shall~~) must be equal to the state contribution and
4 (~~shall~~) may be no more than the total local funds as described in RCW
5 39.102.020(28)(b). The department (~~shall~~) must consider information
6 from reports described in RCW 39.102.140 when determining the amount of
7 state contributions for each fiscal year. A sponsoring or cosponsoring
8 local government (~~shall~~) may not receive, in any fiscal year, more
9 revenues from taxes imposed under the authority of this section than
10 the amount approved annually by the department. The department
11 (~~shall~~) may not approve the receipt of more distributions of sales
12 and use tax under this section to a sponsoring or cosponsoring local
13 government than is authorized under subsection (7) of this section.

14 (12) The amount of tax distributions received from taxes imposed
15 under the authority of this section by all sponsoring and cosponsoring
16 local governments is limited annually to not more than seven million
17 five hundred thousand dollars.

18 (13) The definitions in RCW 39.102.020 apply to this section unless
19 the context clearly requires otherwise.

20 (14) If a sponsoring local government is a federally recognized
21 Indian tribe, the distribution of the sales and use tax authorized
22 under this section (~~shall~~) must be authorized through an interlocal
23 agreement pursuant to chapter 39.34 RCW.

24 (15) Subject to RCW 39.102.195, the tax imposed under the authority
25 of this section may be applied either to provide for the payment of
26 debt service on bonds issued under RCW 39.102.150 by the sponsoring
27 local government or to pay public improvement costs on a pay-as-you-go
28 basis, or both.

29 (16) The tax imposed under the authority of this section (~~shall~~)
30 must cease to be imposed if the sponsoring local government or
31 cosponsoring local government fails to issue indebtedness under the
32 authority of RCW 39.102.150, and fails to commence construction on
33 public improvements, by June 30th of the fifth fiscal year in which the
34 local tax authorized under this section is imposed.

35 (17) For purposes of this section, the following definitions apply:

36 (a) "Local sales and use taxes" means sales and use taxes imposed
37 by cities, counties, public facilities districts, and other local

1 governments under the authority of this chapter, chapter 67.28 or
2 67.40 RCW, or any other chapter, and that are credited against the
3 state sales and use taxes.

4 (b) "State sales and use taxes" means the tax imposed in RCW
5 82.08.020(1) and the tax imposed in RCW 82.12.020 at the rate provided
6 in RCW 82.08.020(1).

7 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act expire June 30,
8 2039.

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