
SUBSTITUTE SENATE BILL 5525

State of Washington

62nd Legislature

2011 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kilmer and Carrell)

READ FIRST TIME 02/25/11.

1 AN ACT Relating to hospital benefit zones that have already formed;
2 and amending RCW 39.100.010, 39.100.020, 82.14.465, and 82.14.470.

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

4 **Sec. 1.** RCW 39.100.010 and 2007 c 266 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

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

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

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

17 (5) "Participating taxing authority" means a taxing authority that
18 has entered into a written agreement with a local government for the
19 use of hospital benefit zone financing to the extent of allocating

1 excess local excise taxes to the local government for the purpose of
2 financing all or a portion of the costs of designated public
3 improvements.

4 (6) "Public improvements" means:

5 (a) Infrastructure improvements within the benefit zone that
6 include:

7 ~~((a))~~ (i) Street and road construction and maintenance;

8 ~~((b))~~ (ii) Water and sewer system construction and improvements;

9 ~~((c))~~ (iii) Sidewalks and streetlights;

10 ~~((d))~~ (iv) Parking, terminal, and dock facilities;

11 ~~((e))~~ (v) Park and ride facilities of a transit authority;

12 ~~((f))~~ (vi) Park facilities and recreational areas; and

13 ~~((g))~~ (vii) Storm water and drainage management systems; and

14 (b) The construction, maintenance, and improvement of state
15 highways that are connected to the benefit zone, including interchanges
16 connected to the benefit zone.

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

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

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

1 **Sec. 2.** RCW 39.100.020 and 2007 c 266 s 3 are each amended to read
2 as follows:

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

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

9 **(b) A local government may modify the public improvements to be**
10 **financed in whole or in part with the use of hospital benefit zone**
11 **financing by amending the ordinance adopted under (a) of this**
12 **subsection and holding a public hearing consistent with RCW**
13 **39.100.030(1)(b); provided that the total cost of the public**
14 **improvements is not increased;**

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

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

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

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

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

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

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

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

1 **Sec. 3.** RCW 82.14.465 and 2009 c 535 s 1109 are each amended to
2 read as follows:

3 (1) A city, town, or county that creates a benefit zone and
4 finances public improvements pursuant to chapter 39.100 RCW may impose
5 a sales and use tax in accordance with the terms of this chapter and
6 subject to the criteria set forth in this section. Except as provided
7 in this section, the tax is in addition to other taxes authorized by
8 law and (~~shall~~) must be collected from those persons who are taxable
9 by the state under chapters 82.08 and 82.12 RCW upon the occurrence of
10 any taxable event within the taxing jurisdiction of the city, town, or
11 county. The rate of tax (~~shall~~) may not exceed the rate provided in
12 RCW 82.08.020(1) in the case of a sales tax or a use tax, less the
13 aggregate rates of any other taxes imposed on the same events that are
14 credited against the state taxes imposed under chapters 82.08 and 82.12
15 RCW. The tax rate (~~shall~~) may be no higher than what is reasonably
16 necessary for the local government to receive its entire annual state
17 contribution in a ten-month period of time.

18 (2) The tax imposed under subsection (1) of this section (~~shall~~)
19 must be deducted from the amount of tax otherwise required to be
20 collected or paid over to the department under chapter 82.08 or 82.12
21 RCW. The department (~~shall~~) must perform the collection of such
22 taxes on behalf of the city, town, or county at no cost to the city,
23 town, or county.

24 (3) No tax may be imposed under this section before July 1, 2007.
25 Before imposing a tax under this section, the city, town, or county
26 shall first have received tax allocation revenues during the preceding
27 calendar year. The tax imposed under this section (~~shall~~) expires on
28 the earlier of the date: (a) The tax allocation revenues are no longer
29 used for public improvements and public improvement costs; (b) the
30 bonds issued (~~under the authority of chapter 39.100 RCW are retired~~)
31 to finance or refinance the improvements are no longer outstanding, if
32 the bonds are issued; or (c) that is thirty years after the tax is
33 first imposed.

34 (4) An ordinance adopted by the legislative authority of a city,
35 town, or county imposing a tax under this section (~~shall~~) must
36 provide that:

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

1 (b) The amount of tax received by the local government in any
2 fiscal year (~~shall~~) may not exceed the amount of the state
3 contribution;

4 (c) The tax (~~shall~~) must cease to be distributed for the
5 remainder of any fiscal year in which either:

6 (i) The amount of tax distributions totals the amount of the state
7 contribution;

8 (ii) The amount of tax distributions totals the amount of local
9 public sources, dedicated in the previous calendar year to finance
10 public improvements authorized under chapter 39.100 RCW, expended in
11 the previous year for public improvement costs, or used to pay for
12 other bonds issued to pay for public improvements. Revenues from local
13 public sources, including hospital sources identified in RCW
14 82.14.465(7)(k), dedicated in the preceding calendar year that are in
15 excess of the project award may be carried forward and used in later
16 years for the purpose of this subsection; or

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

20 (d) The tax (~~shall~~) must be distributed again, should it cease to
21 be distributed for any of the reasons provided in (c) of this
22 subsection, at the beginning of the next fiscal year, subject to the
23 restrictions in this section; and

24 (e) Any revenue generated by the tax in excess of the amounts
25 specified in (b) and (c) of this subsection (~~shall~~) belong to the
26 state of Washington.

27 (5) If both a county and a city or town impose a tax under this
28 section, the tax imposed by the city, town, or county (~~shall be~~) is
29 credited as follows:

30 (a) If the county has created a benefit zone before the city or
31 town, the tax imposed by the county (~~shall be~~) is credited against
32 the tax imposed by the city or town, the purpose of such credit is to
33 give priority to the county tax; and

34 (b) If the city or town has created a benefit zone before the
35 county, the tax imposed by the city or town (~~shall be~~) is credited
36 against the tax imposed by the county, the purpose of such credit is to
37 give priority to the city or town tax.

1 (6) The department (~~shall~~) must determine the amount of tax
2 distributions attributable to each city, town, and county imposing a
3 sales and use tax under this section and (~~shall~~) must advise a city,
4 town, or county when the tax will cease to be distributed for the
5 remainder of the fiscal year as provided in subsection (4)(c) of this
6 section. Determinations by the department of the amount of taxes
7 attributable to a city, town, or county are final and (~~shall~~) may not
8 be used to challenge the validity of any tax imposed under this
9 section. The department (~~shall~~) must remit any tax revenues in
10 excess of the amounts specified in subsection (4)(b) and (c) of this
11 section to the state treasurer who (~~shall~~) must deposit the moneys in
12 the general fund.

13 (7) The definitions in this subsection apply throughout this
14 section and RCW 82.14.470 unless the context clearly requires
15 otherwise.

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

18 (b) "Benefit zone" has the same meaning as provided in RCW
19 39.100.010.

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

22 (d) "Excess state excise taxes" means the amount of excise taxes
23 received by the state during the measurement year from taxable activity
24 within the benefit zone over and above the amount of excise taxes
25 received by the state during the base year from taxable activity within
26 the benefit zone. However, if a local government creates the benefit
27 zone and reasonably determines that no activity subject to tax under
28 chapters 82.08 and 82.12 RCW occurred in the twelve months immediately
29 preceding the creation of the benefit zone within the boundaries of the
30 area that became the benefit zone, "excess state excise taxes" means
31 the entire amount of state excise taxes the state receives during a
32 calendar year period beginning with the calendar year immediately
33 following the creation of the benefit zone and continuing with each
34 measurement year thereafter.

35 (e) "State excise taxes" means revenues derived from state retail
36 sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount
37 of tax distributions from all local retail sales and use taxes imposed

1 on the same taxable events that are credited against the state retail
2 sales and use taxes under chapters 82.08 and 82.12 RCW except for the
3 local tax authorized in this section.

4 (f) "Fiscal year" has the same meaning as provided in RCW
5 39.100.030.

6 (g) "Measurement year" means a calendar year, beginning with the
7 calendar year following the base year and each calendar year
8 thereafter, that is used annually to measure the amount of excess state
9 excise taxes and excess local excise taxes.

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

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

15 (j) "Public improvements" and "public improvement costs" have the
16 same meanings as provided in RCW 39.100.010.

17 (k) "Local public sources" includes, but is not limited to, private
18 monetary contributions, assessments, dedicated local government funds,
19 ~~((and))~~ tax allocation revenues, and federal funds. "Local public
20 sources" does not include local government funds derived from the
21 state-subsidized portion of any state loan or state grant, any local
22 tax that is credited against the state sales and use taxes, or any
23 other state funds. Local public sources may include amounts expended
24 by a hospital in the zone since the date of formation of the zone and
25 may be applied to the year or years designated by the local government.

26 **Sec. 4.** RCW 82.14.470 and 2007 c 266 s 8 are each amended to read
27 as follows:

28 (1)(a)(i) Moneys collected from the taxes imposed under RCW
29 82.14.465 ~~((shall))~~ may be used only for the following purposes:

30 (A) Principal and interest payments on bonds issued to finance or
31 refinance public improvements in a benefit zone under the authority of
32 RCW 39.100.060;

33 (B) Principal and interest payments on other bonds issued by the
34 local government to finance public improvements; or

35 (C) Payments for public improvement costs.

36 (ii) Moneys collected and used as provided in (a)(i) of this
37 subsection must be matched with an amount from local public sources

1 dedicated, as further provided in RCW 82.14.465 (4)(c)(ii) and (7)(k),
2 through December 31st of the previous calendar year to finance public
3 improvements authorized under chapter 39.100 RCW.

4 (b) Local public sources are dedicated to finance public
5 improvements if they: (i) Are actually expended to pay public
6 improvement costs or debt service on bonds issued for public
7 improvements; or (ii) are required by law or an agreement to be used
8 exclusively to pay public improvement costs or debt service on bonds
9 issued for public improvements.

10 (c) A city, town, or county is not required to expend taxes imposed
11 under RCW 82.14.465 in the fiscal year in which the taxes are received.

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

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

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

23 (b) The report (~~shall~~) must contain the following information:

24 (~~(a)~~) (i) 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)~~) (ii) The names of any businesses 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 (5) The department (~~shall~~) must make a report available to the
33 public and the legislature by June 1st of each year. The report
34 (~~shall~~) must include a list of public improvements undertaken by
35 local governments and financed in whole or in part with hospital
36 benefit zone financing, and it (~~shall~~) must also include a summary of

1 the information provided to the department by local governments under
2 subsection (4) of this section.

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