
SUBSTITUTE HOUSE BILL 1189

State of Washington

67th Legislature

2021 Regular Session

By House Finance (originally sponsored by Representatives Duerr, Boehnke, Bateman, Sullivan, Fitzgibbon, Walen, Ramel, Springer, Wicks, Slatter, Pollet, Callan, and Harris-Talley)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to tax increment financing; amending RCW
2 84.55.010 and 84.55.120; and adding a new chapter to Title 39 RCW.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Assessed value of real property" means the valuation of
8 taxable real property as placed on the last completed assessment roll
9 prepared pursuant to Title 84 RCW.

10 (2) "Increment area" means the geographic area within which
11 regular property tax revenues are to be apportioned to pay public
12 improvement costs, as authorized under this chapter.

13 (3) "Increment value" means 100 percent of any increase in the
14 true and fair value of real property in an increment area that is
15 placed on the tax rolls after the increment area is created.

16 (4) "Local government" means any city, town, county, port
17 district, or any combination thereof.

18 (5) "Ordinance" means any appropriate method of taking
19 legislative action by a local government.

20 (6) "Public improvement costs" means the costs of:

1 (a) Design, planning, acquisition, required permitting, required
2 environmental studies and mitigation, seismic studies or surveys,
3 archaeological studies or surveys, land surveying, site preparation,
4 construction, reconstruction, rehabilitation, improvement, and
5 installation of public improvements and other directly related costs;

6 (b) Relocating, maintaining, and operating property pending
7 construction of public improvements;

8 (c) Relocating utilities as a result of public improvements;

9 (d) Financing public improvements, including capitalized interest
10 for up to six months following completion of construction, legal and
11 other professional services, taxes, insurance, principal and interest
12 costs on general indebtedness issued to finance public improvements,
13 and any necessary debt service reserves;

14 (e) Expenses incurred in revaluing real property for the purpose
15 of determining the tax allocation base value by a county assessor
16 under chapter 84.41 RCW and expenses incurred by a county treasurer
17 under chapter 84.56 RCW in apportioning the taxes and complying with
18 this chapter and other applicable law. For purposes of this
19 subsection (6)(e), "expenses incurred" means actual staff and
20 software costs directly related to the implementation and ongoing
21 administration of increment areas under this chapter; and

22 (f) Administrative expenses and feasibility studies reasonably
23 necessary and related to these costs, including related costs that
24 may have been incurred before adoption of the ordinance authorizing
25 the public improvements and the use of tax increment financing to
26 fund the costs of the public improvements.

27 (7) "Public improvements" means:

28 (a) Infrastructure improvements owned by a local government
29 within or outside of and serving the increment area that include:

30 (i) Street and road construction and maintenance;

31 (ii) Water and sewer system construction and improvements;

32 (iii) Sidewalks and other nonmotorized transportation
33 improvements and streetlights;

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

35 (v) Park and ride facilities supportive of transit facilities;

36 (vi) Park and community facilities and recreational areas;

37 (vii) Stormwater and drainage management systems;

38 (viii) Electric, broadband, or rail service;

39 (ix) Mitigation of brownfields; or

40 (b) Expenditures for any of the following purposes:

1 (i) Purchasing, rehabilitating, retrofitting for energy
2 efficiency, and constructing housing for the purpose of creating or
3 preserving long-term affordable housing;

4 (ii) Purchasing, rehabilitating, retrofitting for energy
5 efficiency, and constructing child care facilities serving children
6 and youth that are low-income, homeless, or in foster care;

7 (iii) Providing maintenance and security for the public
8 improvements; or

9 (iv) Historic preservation activities authorized under RCW
10 35.21.395.

11 (8) "Regular property taxes" means regular property taxes as
12 defined in RCW 84.04.140, except: (a) Regular property taxes levied
13 by port districts or public utility districts specifically for the
14 purpose of making required payments of principal and interest on
15 general indebtedness; and (b) regular property taxes levied by the
16 state for the support of the common schools under RCW 84.52.065.
17 Regular property taxes do not include excess property tax levies that
18 are exempt from the aggregate limits for junior and senior taxing
19 districts as provided in RCW 84.52.043. "Regular property taxes" does
20 not include excess property taxes levied by local school districts.

21 (9) "Tax allocation base value" means the assessed value of real
22 property located within an increment area for taxes imposed in the
23 year in which the increment area is first designated.

24 (10) "Tax allocation revenues" means those revenues derived from
25 the imposition of regular property taxes on the increment value.

26 (11) "Taxing district" means a governmental entity that levies or
27 has levied for it regular property taxes upon real property located
28 within a proposed or approved increment area.

29 NEW SECTION. **Sec. 2.** (1) A local government may designate an
30 increment area under this chapter and use the tax allocation revenues
31 to pay public improvement costs, subject to the following conditions:

32 (a) The local government must adopt an ordinance designating an
33 increment area within its boundaries and describing the public
34 improvements proposed to be paid for, or financed with, tax
35 allocation revenues;

36 (b) The local government may not designate increment area
37 boundaries such that the entirety of its territory falls within an
38 increment area;

1 (c) A local government can create no more than three active
2 increment areas at any given time and they may not physically overlap
3 by including the same land in more than one increment area at any
4 time;

5 (d) The ordinance must set a sunset date for the increment area,
6 which may be no more than 25 years after the adoption of the
7 ordinance designating the increment area;

8 (e) The ordinance must indicate whether the local government
9 intends to issue bonds or other obligations, payable in whole or in
10 part, from tax allocation revenues to finance the public improvement
11 costs, and must estimate the maximum amount of obligations
12 contemplated;

13 (f) The ordinance must provide that the increment takes effect on
14 June 1st following the adoption of the ordinance in (a) of this
15 subsection; and

16 (g) The local government must make a finding that:

17 (i) The public improvements proposed to be paid or financed with
18 tax allocation revenues are expected to encourage private development
19 within the increment area and to increase the assessed value of real
20 property within the increment area;

21 (ii) Private development that is anticipated to occur within the
22 increment area as a result of the proposed public improvements will
23 be permitted consistent with the permitting jurisdiction's applicable
24 zoning and development standards;

25 (iii) The private development would not reasonably be expected to
26 occur solely through private investment within the reasonably
27 foreseeable future without the proposed public improvements; and

28 (iv) The increased assessed value within the increment area that
29 could reasonably be expected to occur without the proposed public
30 improvements would be less than the increase in the assessed value
31 estimated to result from the proposed development with the proposed
32 public improvements.

33 (2) In considering whether to designate an increment area, the
34 legislative body of the local government must consider a project
35 analysis that shall include, but need not be limited to, the
36 following:

37 (a) A statement of objectives of the local government for the
38 designated increment area;

39 (b) A statement as to the property within the increment area, if
40 any, that the local government may intend to acquire;

- 1 (c) The duration of the increment area;
- 2 (d) Identification of all parcels to be included in the area;
- 3 (e) A description of the expected private development within the
4 increment area, including a comparison of scenarios with the proposed
5 public improvements and without the proposed public improvements;
- 6 (f) A description of the public improvements, estimated public
7 improvement costs, and the estimated amount of bonds or other
8 obligations expected to be issued to finance the public improvement
9 costs and repaid with tax allocation revenues;
- 10 (g) The assessed value of real property listed on the tax roll as
11 certified by the county assessor under RCW 84.52.080 from within the
12 increment area and an estimate of the increment value and tax
13 allocation revenues expected to be generated;
- 14 (h) An estimate of the job creation reasonably expected to result
15 from the public improvements and the private development expected to
16 occur in the increment area; and
- 17 (i) An assessment of any impacts and any necessary mitigation to
18 address the impacts identified on the following:
- 19 (i) Affordable and low-income housing;
- 20 (ii) The local business community;
- 21 (iii) The local school districts; and
- 22 (iv) The local fire service.
- 23 (3) The local government may charge a private developer a fee
24 sufficient to cover the cost of the project analysis and establishing
25 the increment area, including staff time, professionals and
26 consultants, and other administrative costs related to establishing
27 the increment area.
- 28 (4) Nothing in this section prohibits a local government from
29 entering into an agreement under chapter 39.34 RCW with another local
30 government for the administration or other activities related to tax
31 increment financing authorized under this section.
- 32 (5) If the project analysis indicates that an increment area will
33 impact at least 20 percent of the assessed value in a fire district,
34 the local government must negotiate a mitigation plan with the fire
35 district prior to implementing the increment area.
- 36 (6) The local government may reimburse the assessor and treasurer
37 for their costs as provided in section 1(6)(e) of this act.
- 38 (7) Prior to the adoption of an ordinance authorizing creation of
39 an increment area, the local government must submit the project
40 analysis to the office of the treasurer for review. The treasurer

1 shall conduct the review within 90 days and may consult with other
2 agencies as necessary.

3 NEW SECTION. **Sec. 3.** (1) Public improvements that are financed
4 under this chapter may be undertaken and coordinated with other
5 programs or efforts undertaken by the local government and other
6 taxing districts and may be funded in part from revenue sources other
7 than tax allocation revenues.

8 (2) Public improvements that are constructed by a private
9 developer must meet all applicable state and local laws.

10 NEW SECTION. **Sec. 4.** The local government designating the
11 increment area must:

12 (1) Publish notice in a legal newspaper of general circulation
13 within the jurisdiction of the local government that describes the
14 public improvements, describes the boundaries of the increment area,
15 and identifies the location and times where the ordinance and other
16 public information concerning the public improvement may be
17 inspected; and

18 (2) Deliver a certified copy of the ordinance to the county
19 treasurer, the county assessor, and the governing body of each taxing
20 district within which the increment area is located.

21 NEW SECTION. **Sec. 5.** Apportionment of taxes shall be as
22 follows:

23 (1) Commencing in the calendar year following the passage of the
24 ordinance, the county treasurer shall distribute receipts from
25 regular property taxes imposed on real property located in the
26 increment area as follows:

27 (a) Each taxing district shall receive that portion of its
28 regular property taxes produced by the rate of tax levied by or for
29 the taxing district on the tax allocation base value for that
30 increment area;

31 (b) The local government that designated the increment area shall
32 be entitled to receive an additional amount equal to the amount
33 derived from the regular property taxes levied by or for each taxing
34 district upon the increment value within the increment area. The
35 local government that designated the increment area may agree to
36 receive less than the full amount of this portion, as long as bond
37 debt service, reserve, and other bond covenant requirements are

1 satisfied, in which case the balance of these tax receipts shall be
2 allocated to the taxing districts that imposed regular property
3 taxes, or have regular property taxes imposed for them, in the
4 increment area for collection that year in proportion to their
5 regular tax levy rates for collection that year. The local government
6 may request that the treasurer transfer this additional portion of
7 the property taxes to its designated agent. The portion of the tax
8 receipts distributed to the local government or its agent under this
9 subsection (1)(b) may only be expended to finance public improvement
10 costs associated with the public improvements financed in whole or in
11 part by tax increment financing; and

12 (c) This section shall not apply to any receipts from the regular
13 property taxes levied by:

14 (i) The state for the support of the common schools under RCW
15 84.52.065;

16 (ii) Local school district excess levies; and

17 (iii) Port districts or public utility districts specifically for
18 the purpose of making required payments of principal and interest or
19 general indebtedness.

20 (2) The apportionment of tax allocation revenues must cease when
21 the taxing district certifies to the county assessor in writing that
22 tax allocation revenues are no longer necessary or obligated to pay
23 public improvement costs, but in no event shall the apportionment of
24 tax allocation revenues continue beyond the sunset date established
25 pursuant to section 2(1)(d) of this act. Any excess tax allocation
26 revenues and earnings on the tax allocation revenues remaining at the
27 time the apportionment of tax receipts terminates must be returned to
28 the county treasurer and distributed to the taxing districts that
29 imposed regular property taxes, or had regular property taxes imposed
30 for it, in the increment area for collection that year, in proportion
31 to the rates of their regular property tax levies for collection that
32 year.

33 (3) The apportionment and distribution of portions of the regular
34 property taxes levied by or for each taxing district upon the
35 increment value within the increment area pursuant to and subject to
36 the requirements of this chapter is declared to be a public purpose
37 of and benefit each such taxing district.

38 (4) The apportionment and distribution of portions of the regular
39 property taxes levied by or for each taxing district upon the
40 increment value within the increment area pursuant to this section

1 shall not affect or be deemed to affect the rate of taxes levied by
2 or within any such taxing district or the consistency of any such
3 levies with the uniformity requirement of Article VII, section 1 of
4 the state Constitution.

5 NEW SECTION. **Sec. 6.** (1) A local government designating an
6 increment area may incur general indebtedness, and issue general
7 obligation bonds or notes to finance the public improvements and
8 retire the indebtedness, in whole or in part, from tax allocation
9 revenues it receives.

10 (2) The general indebtedness incurred under subsection (1) of
11 this section may be payable from tax allocation revenues and any
12 other sources available to the local government for payment of the
13 public improvement costs, including without limitation: Other tax
14 revenues; the full faith and credit of the local government; nontax
15 income, revenues, fees, and rents from the public improvements; and
16 contributions, grants, and nontax resources.

17 (3) In addition to the requirements in subsection (1) of this
18 section, a local government designating an increment area and
19 authorizing the use of tax increment financing may require the
20 nonpublic participant to provide adequate security to protect the
21 public investment in the public improvement within the increment
22 area.

23 NEW SECTION. **Sec. 7.** A direct or collateral attack on the
24 designation of the increment area or the allocation of regular
25 property tax revenues in conformance with applicable legal
26 requirements, including this chapter, may not be commenced more than
27 30 days after publication of notice as required by section 4 of this
28 act.

29 NEW SECTION. **Sec. 8.** (1) A local government may issue revenue
30 bonds to fund revenue-generating public improvements, or portions of
31 public improvements, that are located within an increment area and
32 that it is authorized to provide or operate. Whenever revenue bonds
33 are to be issued, the legislative authority of the local government
34 shall create or have created a special fund or funds from which,
35 along with any reserves created pursuant to RCW 39.44.140, the
36 principal and interest on these revenue bonds shall exclusively be
37 payable. The legislative authority of the local government may

1 obligate the local government to set aside and pay into the special
2 fund or funds a fixed proportion or a fixed amount of the revenues
3 from the public improvements that are funded by the revenue bonds.
4 This amount or proportion is a lien and charge against these
5 revenues, subject only to operating and maintenance expenses. The
6 local government shall have due regard for the cost of operation and
7 maintenance of the public improvements that are funded by the revenue
8 bonds, and shall not set aside into the special fund or funds a
9 greater amount or proportion of the revenues that in its judgment
10 will be available over and above the cost of maintenance and
11 operation and the amount or proportion, if any, of the revenue
12 previously pledged. The local government may also provide that
13 revenue bonds payable out of the same source or sources of revenue
14 may later be issued on a parity with any revenue bonds being issued
15 and sold.

16 (2) Revenue bonds issued under this section are not an
17 indebtedness of the local government issuing the bonds, and the
18 interest and principal on the bonds shall only be payable from the
19 revenues lawfully pledged to meet the principal and interest
20 requirements and any reserves created pursuant to RCW 39.44.140. The
21 owner or bearer of a revenue bond or any interest coupon issued under
22 this section shall not have any claim against the local government
23 arising from the bond or coupon except for payment from the revenues
24 lawfully pledged to meet the principal and interest requirements and
25 any reserves created pursuant to RCW 39.44.140. The substance of the
26 limitations included in this subsection shall be plainly printed,
27 written, or engraved on each bond issued under this section.

28 (3) Revenue bonds with a maturity in excess of 25 years shall not
29 be issued under this section.

30 (4) The legislative authority of the local government shall by
31 resolution determine for each revenue bond issue the amount, date,
32 form, terms, conditions, denominations, maximum fixed or variable
33 interest rate or rates, maturity or maturities, redemption rights,
34 registration privileges, manner of execution, manner of sale,
35 callable provisions, if any, and covenants including the refunding of
36 existing revenue bonds. Facsimile signatures may be used on the bonds
37 and any coupons. Refunding revenue bonds may be issued in the same
38 manner as revenue bonds are issued.

39 (5) The authority to issue revenue bonds under this section is
40 supplementary and in addition to any authority otherwise existing.

1 Nothing in this section limits a local government in the issuance of
2 revenue bonds that are otherwise authorized by law for the
3 construction of additions, betterments, or extensions of utilities
4 within the increment area.

5 (6) Notwithstanding anything to the contrary in this section,
6 revenue bonds issued to finance public improvements may be issued in
7 accordance with chapter 39.46 RCW.

8 NEW SECTION. **Sec. 9.** This chapter supplements and neither
9 restricts nor limits any powers that the state or any local
10 government might otherwise have under any laws of this state.

11 **Sec. 10.** RCW 84.55.010 and 2017 3rd sp.s. c 13 s 302 are each
12 amended to read as follows:

13 (1) Except as provided in this chapter, the levy for a taxing
14 district in any year must be set so that the regular property taxes
15 payable in the following year do not exceed the limit factor
16 multiplied by the amount of regular property taxes lawfully levied
17 for such district in the highest of the three most recent years in
18 which such taxes were levied for such district, excluding any
19 increase due to (e) of this subsection, unless the highest levy was
20 the statutory maximum rate amount, plus an additional dollar amount
21 calculated by multiplying the regular property tax levy rate of that
22 district for the preceding year by the increase in assessed value in
23 that district resulting from:

24 (a) New construction;

25 (b) Increases in assessed value due to construction of wind
26 turbine, solar, biomass, and geothermal facilities, if such
27 facilities generate electricity and the property is not included
28 elsewhere under this section for purposes of providing an additional
29 dollar amount. The property may be classified as real or personal
30 property;

31 (c) Improvements to property; ~~((and))~~

32 (d) Any increase in the assessed value of state-assessed
33 property; and

34 (e) Any increase in the assessed value of real property, as that
35 term is defined in section 1 of this act, within an increment area as
36 designated by any local government in section 2 of this act provided
37 that such increase is not included elsewhere under this section. This
38 subsection (1)(e) does not apply to levies by the state or by port

1 districts and public utility districts for the purpose of making
2 required payments of principal and interest on general indebtedness.

3 (2) The requirements of this section do not apply to:

4 (a) State property taxes levied under RCW 84.52.065(1) for
5 collection in calendar years 2019 through 2021; and

6 (b) State property taxes levied under RCW 84.52.065(2) for
7 collection in calendar years 2018 through 2021.

8 **Sec. 11.** RCW 84.55.120 and 2014 c 4 s 5 are each amended to read
9 as follows:

10 (1) A taxing district, other than the state, that collects
11 regular levies must hold a public hearing on revenue sources for the
12 district's following year's current expense budget. The hearing must
13 include consideration of possible increases in property tax revenues
14 and must be held prior to the time the taxing district levies the
15 taxes or makes the request to have the taxes levied. The county
16 legislative authority, or the taxing district's governing body if the
17 district is a city, town, or other type of district, must hold the
18 hearing. For purposes of this section, "current expense budget" means
19 that budget which is primarily funded by taxes and charges and
20 reflects the provision of ongoing services. It does not mean the
21 capital, enterprise, or special assessment budgets of cities, towns,
22 counties, or special purpose districts.

23 (2) If the taxing district is otherwise required to hold a public
24 hearing on its proposed regular tax levy, a single public hearing may
25 be held on this matter.

26 (3)(a) Except as provided in (b) of this subsection (3), no
27 increase in property tax revenue may be authorized by a taxing
28 district, other than the state, except by adoption of a separate
29 ordinance or resolution, pursuant to notice, specifically authorizing
30 the increase in terms of both dollars and percentage. The ordinance
31 or resolution may cover a period of up to two years, but the
32 ordinance must specifically state for each year the dollar increase
33 and percentage change in the levy from the previous year.

34 (b) Exempt from the requirements of (a) of this subsection are
35 increases in revenue resulting from the addition of:

36 (i) New construction;

37 (ii) Increases in assessed value due to construction of wind
38 turbine, solar, biomass, and geothermal facilities, if such
39 facilities generate electricity and the property is not included

1 elsewhere under this section for purposes of providing an additional
2 dollar amount. The property may be classified as real or personal
3 property;

4 (iii) Improvements to property; (~~and~~)

5 (iv) Any increase in the value of state-assessed property; and

6 (v) Any increase in the assessed value of real property, as that
7 term is defined in section 1 of this act, within an increment area as
8 designated by any local government in section 2 of this act provided
9 that such increase is not included elsewhere under this section. This
10 subsection (3)(b)(v) does not apply to levies by the state or by port
11 districts and public utility districts for the purpose of making
12 required payments of principal and interest on general indebtedness.

13 NEW SECTION. Sec. 12. Sections 1 through 9 of this act
14 constitute a new chapter in Title 39 RCW.

15 NEW SECTION. Sec. 13. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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