
SECOND SUBSTITUTE HOUSE BILL 2354

State of Washington

68th Legislature

2024 Regular Session

By House Finance (originally sponsored by Representatives Street, Orcutt, Bronoske, Robertson, Chambers, Callan, Bateman, Doglio, and Reed)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to creating an option for impacted taxing
2 districts to provide a portion of their new revenue to support any
3 tax increment area proposed within their jurisdiction and clarifying
4 that a tax increment area must be dissolved when all bond obligations
5 are paid; amending RCW 39.114.010, 39.114.020, 39.114.040, and
6 39.114.050; and creating a new section.

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

8 **Sec. 1.** RCW 39.114.010 and 2023 c 354 s 1 are each amended to
9 read as follows:

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

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

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

18 (3) "Increment value" means 100 percent of any increase in the
19 true and fair value of real property in an increment area that is
20 placed on the tax rolls after the increment area takes effect. The
21 increment value shall not be less than zero.

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

3 (5) "Ordinance" means any appropriate method of taking
4 legislative action by a local government, including a resolution
5 adopted by a port district organized under Title 53 RCW.

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

7 (a) Design, planning, acquisition, required permitting, required
8 environmental studies and mitigation, seismic studies or surveys,
9 archaeological studies or surveys, land surveying, site acquisition,
10 including appurtenant rights and site preparation, construction,
11 reconstruction, rehabilitation, improvement, expansion, and
12 installation of public improvements, and other directly related
13 costs;

14 (b) Relocating, maintaining, and operating property pending
15 construction of public improvements;

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

17 (d) Financing public improvements, including capitalized interest
18 for up to six months following completion of construction, legal and
19 other professional services, taxes, insurance, principal and interest
20 costs on general indebtedness issued to finance public improvements,
21 and any necessary debt service reserves;

22 (e) Expenses incurred in revaluing real property for the purpose
23 of determining the tax allocation base value by a county assessor
24 under chapter 84.41 RCW and expenses incurred by a county treasurer
25 under chapter 84.56 RCW in apportioning the taxes and complying with
26 this chapter and other applicable law. For purposes of this
27 subsection (6)(e), "expenses incurred" means actual staff and
28 software costs directly related to the implementation and ongoing
29 administration of increment areas under this chapter; (~~and~~)

30 (f) Administrative expenses and feasibility studies reasonably
31 necessary and related to these costs, including related costs that
32 may have been incurred before adoption of the ordinance authorizing
33 the public improvements and the use of tax increment financing to
34 fund the costs of the public improvements; and

35 (g) Funding for mitigation to impacted taxing districts as
36 allowed in RCW 39.114.020.

37 (7) "Public improvements" means:

38 (a) Infrastructure improvements owned by a state or local
39 government within or outside of and serving the increment area and

1 real property owned or acquired by a local government within the
2 increment area including:

3 (i) Street and road construction;

4 (ii) Water and sewer system construction, expansion, and
5 improvements;

6 (iii) Sidewalks and other nonmotorized transportation
7 improvements and streetlights;

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

9 (v) Park and ride facilities or other transit facilities;

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

11 (vii) Stormwater and drainage management systems;

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

13 (ix) Mitigation of brownfields; or

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

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

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

21 (iii) Providing maintenance and security for the public
22 improvements;

23 (iv) Historic preservation activities authorized under RCW
24 35.21.395; or

25 (v) Relocation and construction of a government-owned facility,
26 with written permission from the agency owning the facility and the
27 office of financial management.

28 (8) "Real property" means:

29 (a) Real property as defined in RCW 84.04.090; and

30 (b) Privately owned or used improvements located on publicly
31 owned land that are subject to property taxation or leasehold excise
32 tax.

33 (9) "Regular property taxes" means regular property taxes as
34 defined in RCW 84.04.140, except: (a) Regular property taxes levied
35 by port districts or public utility districts to the extent necessary
36 for the payments of principal and interest on general obligation
37 debt; and (b) regular property taxes levied by the state for the
38 support of the common schools under RCW 84.52.065. Regular property
39 taxes do not include excess property tax levies that are exempt from
40 the aggregate limits for junior and senior taxing districts as

1 provided in RCW 84.52.043. "Regular property taxes" does not include
2 excess property taxes levied by local school districts.

3 (10) "Tax allocation base value" means the assessed value of real
4 property located within an increment area for taxes imposed in the
5 year in which the increment area takes effect.

6 (11) "Tax allocation revenues" means those revenues derived from
7 the imposition of regular property taxes on the increment value.

8 (12) "Taxing district" means a governmental entity that levies or
9 has levied for it regular property taxes upon real property located
10 within a proposed or approved increment area.

11 **Sec. 2.** RCW 39.114.020 and 2023 c 354 s 2 are each amended to
12 read as follows:

13 (1) A local government may designate an increment area under this
14 chapter and use the tax allocation revenues to pay public improvement
15 costs, subject to the following conditions:

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

20 (b) The local government may not designate increment area
21 boundaries such that the entirety of its territory falls within an
22 increment area;

23 (c) The increment area may not have an assessed valuation of more
24 than \$200,000,000 or more than 20 percent of the sponsoring
25 jurisdiction's total assessed valuation, whichever is less, when the
26 ordinance is passed. If a sponsoring jurisdiction creates two
27 increment areas, the total combined assessed valuation in both of the
28 two increment areas may not equal more than \$200,000,000 or more than
29 20 percent of the sponsoring jurisdiction's total assessed valuation,
30 whichever is less, when the ordinances are passed creating the
31 increment areas;

32 (d) A local government can create no more than two active
33 increment areas at any given time and they may not physically overlap
34 by including the same land in more than one increment area at any
35 time;

36 (e) The ordinance must set a sunset date for the increment area,
37 which may be no more than 25 years after the first year in which tax
38 allocation revenues are collected from the increment area, except
39 that the increment area expires prior to the sunset date if tax

1 allocation revenues are no longer necessary or obligated to pay any
2 bonded indebtedness issued solely to fund the public improvement
3 costs pursuant to RCW 39.114.050;

4 (f) The ordinance must identify the public improvements to be
5 financed and indicate whether the local government intends to issue
6 bonds or other obligations, payable in whole or in part, from tax
7 allocation revenues to finance the public improvement costs, and must
8 estimate the maximum amount of obligations contemplated;

9 (g) The ordinance must provide that the increment area takes
10 effect on June 1st following the adoption of the ordinance in (a) of
11 this subsection;

12 (h) The sponsoring jurisdiction may not add additional public
13 improvements to the project after adoption of the ordinance creating
14 the increment area or change the boundaries of the increment area.
15 The sponsoring jurisdiction may expand, alter, or add to the original
16 public improvements when doing so is necessary to assure the
17 originally approved improvements can be constructed or operated;

18 (i) The ordinance must impose a deadline by which commencement of
19 construction of the public improvements shall begin, which deadline
20 must be at least five years into the future and for which extensions
21 shall be made available for good cause; and

22 (j) The local government must make a finding that:

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

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

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

34 (iv) The increased assessed value within the increment area that
35 could reasonably be expected to occur without the proposed public
36 improvements would be less than the increase in the assessed value
37 estimated to result from the proposed development with the proposed
38 public improvements.

39 (2) In considering whether to designate an increment area, the
40 legislative body of the local government must prepare a project

1 analysis that shall include, but need not be limited to, the
2 following:

3 (a) A statement of objectives of the local government for the
4 designated increment area;

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

7 (c) The duration of the increment area;

8 (d) Identification of all parcels to be included in the area;

9 (e) A description of the expected private development within the
10 increment area, including a comparison of scenarios with the proposed
11 public improvements and without the proposed public improvements;

12 (f) A description of the public improvements, estimated public
13 improvement costs, and the estimated amount of bonds or other
14 obligations expected to be issued to finance the public improvement
15 costs and repaid with tax allocation revenues;

16 (g) The assessed value of real property listed on the tax roll as
17 certified by the county assessor under RCW 84.52.080 from within the
18 increment area and an estimate of the increment value and tax
19 allocation revenues expected to be generated;

20 (h) An estimate of the job creation reasonably expected to result
21 from the public improvements and the private development expected to
22 occur in the increment area; and

23 (i) An assessment of any impacts and any necessary mitigation to
24 address the impacts identified on the following:

25 (i) Affordable and low-income housing;

26 (ii) The local business community;

27 (iii) The local school districts; and

28 (iv) The local fire service, public hospital service, and
29 emergency medical services.

30 (3) The local government may charge a private developer, who
31 agrees to participate in creating the increment area, a fee
32 sufficient to cover the cost of the project analysis and establishing
33 the increment area, including staff time, professionals and
34 consultants, and other administrative costs related to establishing
35 the increment area.

36 (4) Nothing in this section prohibits a local government from
37 entering into an agreement under chapter 39.34 RCW with another local
38 government for the administration or other activities related to tax
39 increment financing authorized under this section.

1 (5)(a) If the project analysis indicates that an increment area
2 will impact at least 20 percent of the assessed value in a public
3 hospital district, fire protection district, or regional fire
4 protection service authority, or if the public hospital district's or
5 the fire service agency's annual report, or other governing board-
6 adopted capital facilities plan, demonstrates an increase in the
7 level of service directly related to the increased development in the
8 increment area, the local government must (~~negotiate~~) enter into
9 negotiations for a mitigation plan with the impacted public hospital
10 district, fire protection district, or regional fire protection
11 service authority to address level of service issues in the increment
12 area.

13 (b) If the parties cannot agree pursuant to (a) of this
14 subsection (5), the parties must proceed to arbitration to determine
15 the appropriate mitigation plan. The board of arbitrators must
16 consist of three persons: One appointed by the local government
17 seeking to designate the increment area and one appointed by the
18 junior taxing district, both of whom must be appointed within 60 days
19 of the date when arbitration is requested, and a third arbitrator who
20 must be appointed by agreement of the other two arbitrators within 90
21 days of the date when arbitration is requested. If the two are unable
22 to agree on the appointment of the third arbitrator within this 90-
23 day period, then the third arbitrator must be appointed by a judge in
24 the superior court of the county within which the largest portion of
25 the increment area is located. The determination by the board of
26 arbitrators is binding on both the local government seeking to impose
27 the increment area and the junior taxing district.

28 (6) The local government may reimburse the assessor and treasurer
29 for their costs as provided in RCW 39.114.010(6)(e).

30 (7) Prior to the adoption of an ordinance authorizing creation of
31 an increment area, the local government must:

32 (a) Hold at least two public briefings for the community solely
33 on the tax increment project that include the description of the
34 increment area, the public improvements proposed to be financed with
35 the tax allocation revenues, and a detailed estimate of tax revenues
36 for the participating local governments and taxing districts,
37 including the amounts allocated to the increment public improvements.
38 The briefings must be announced at least two weeks prior to the date
39 being held, including publishing in a legal newspaper of general

1 circulation and posting information on the local government website
2 and all local government social media sites; and

3 (b) Submit the project analysis to the office of the treasurer
4 for review and consider any comments that the treasurer may provide
5 upon completion of their review of the project analysis as provided
6 under this subsection. The treasurer must complete the review within
7 90 days of receipt of the project analysis and may consult with other
8 agencies and outside experts as necessary. Upon completing their
9 review, the treasurer must promptly provide to the local government
10 any comments regarding suggested revisions or enhancements to the
11 project analysis that the treasurer deems appropriate based on the
12 requirements in subsection (2) of this section.

13 **Sec. 3.** RCW 39.114.040 and 2023 c 354 s 3 are each amended to
14 read as follows:

15 The local government designating the increment area must:

16 (1) Provide written notice to the governing body of each taxing
17 district within which the increment area is located a minimum of 90
18 days before submitting the project analysis to the office of the
19 treasurer as required in RCW 39.114.020(7)(b).

20 (2) Publish notice in a legal newspaper of general circulation
21 within the jurisdiction of the local government at least two weeks
22 before the date on which the ordinance authorizing creation of an
23 increment area is adopted that describes the public improvements,
24 describes the boundaries of the increment area, and identifies the
25 location and times where the ordinance and other public information
26 concerning the public improvement may be inspected; and

27 ~~((+2))~~ (3) Deliver a certified copy of the adopted ordinance to
28 the county treasurer, the county assessor, and the governing body of
29 each taxing district within which the increment area is located at
30 the respective addresses specified pursuant to RCW 42.56.040 within
31 10 days of the date on which the ordinance was adopted.

32 **Sec. 4.** RCW 39.114.050 and 2023 c 354 s 4 are each amended to
33 read as follows:

34 Apportionment of taxes shall be as follows:

35 (1) Commencing in the calendar year immediately following the
36 calendar year in which the increment area takes effect in accordance
37 with RCW 39.114.020, the county treasurer shall distribute receipts

1 from regular property taxes imposed on real property located in the
2 increment area as follows:

3 (a) Each taxing district shall receive that portion of its
4 regular property taxes produced by the rate of tax levied by or for
5 the taxing district on the tax allocation base value for that
6 increment area;

7 (b) The local government that designated the increment area shall
8 be entitled to receive an additional amount equal to the amount
9 derived from the regular property taxes levied by or for each taxing
10 district upon the increment value within the increment area. The
11 local government that designated the increment area shall receive no
12 more than is needed to pay or repay costs directly associated with
13 the public improvements identified in the approved ordinance and may
14 agree to receive less than the full amount of this portion, as long
15 as bond debt service, reserve, and other bond covenant requirements
16 are satisfied, in which case the balance of these tax receipts shall
17 be allocated to the taxing districts that imposed regular property
18 taxes, or have regular property taxes imposed for them, in the
19 increment area for collection that year in proportion to their
20 regular tax levy rates for collection that year. The local government
21 may request that the treasurer transfer this additional portion of
22 the property taxes to its designated agent. The portion of the tax
23 receipts distributed to the local government or its agent under this
24 subsection (1)(b) may only be expended to finance public improvement
25 costs associated with the public improvements financed in whole or in
26 part by tax increment financing; and

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

29 (i) The state for the support of the common schools under RCW
30 84.52.065;

31 (ii) Local school district excess levies; and

32 (iii) Port districts or public utility districts specifically for
33 the purpose of making required payments of principal and interest or
34 general indebtedness.

35 (2) The apportionment of tax allocation revenues must cease when
36 the taxing district certifies to the county assessor in writing that
37 tax allocation revenues are no longer necessary or obligated to pay
38 any bonded indebtedness issued solely to fund the public improvement
39 costs, but in no event shall the apportionment of tax allocation
40 revenues continue beyond the sunset date established pursuant to RCW

1 39.114.020(1)(e). Any excess tax allocation revenues and earnings on
2 the tax allocation revenues remaining at the time the apportionment
3 of tax receipts terminates must be returned to the county treasurer
4 and distributed to the taxing districts that imposed regular property
5 taxes, or had regular property taxes imposed for it, in the increment
6 area for collection that year, in proportion to the rates of their
7 regular property tax levies for collection that year.

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

13 (4) The apportionment and distribution of portions of the regular
14 property taxes levied by or for each taxing district upon the
15 increment value within the increment area pursuant to this section
16 shall not affect or be deemed to affect the rate of taxes levied by
17 or within any such taxing district or the consistency of any such
18 levies with the uniformity requirement of Article VII, section 1 of
19 the state Constitution.

20 (5)(a) For a local government having a designated increment area
21 under this chapter as of May 9, 2023, the county assessor must adjust
22 the tax allocation base value for that increment area to include the
23 assessed value of any privately owned improvements located on
24 publicly owned land for taxes imposed in the year in which the
25 increment area was first designated. However, no adjustment is
26 required if the increment area does not include any privately owned
27 improvements located on publicly owned land subject to property
28 taxation as of the date the increment area became effective.

29 (b) The adjusted tax allocation base value under this subsection
30 (5) does not impact any apportionment and distribution under this
31 section occurring in calendar years before calendar year 2024.

32 NEW SECTION. **Sec. 5.** (1) The office of the treasurer shall
33 compile a report to the legislature pursuant to RCW 43.01.036 by June
34 30, 2025, on tax increment financing as authorized in chapter 39.114
35 RCW. The report must include the following:

36 (a) The number and types of tax increment areas established and
37 proposed and related economic benefits and job growth resulting from
38 the areas;

1 (b) The number and types of special purpose districts including
2 in tax increment areas;
3 (c) The number of public hospital districts and agencies
4 providing fire and emergency medical services in tax increment areas;
5 (d) The frequency of mitigation plans and the mitigation measures
6 and agreement that are used with an emphasis on emergency response
7 demands created within the increment areas; and
8 (e) The impact of tax collections inside and outside the
9 increment area and service provision in the increment areas,
10 including new construction dollars and fire benefit charges.
11 (2) The report may include process improvement recommendations to
12 address any impacts on special purpose districts if needed.
13 (3) By March 31, 2025, any local government that has approved a
14 increment area pursuant to chapter 39.114 RCW must provide the office
15 of the treasurer with any requested information in such format as
16 directed by the office of the treasurer.

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