
SUBSTITUTE SENATE BILL 5636

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Economic Development & Telecommunications
(originally sponsored by Senators T. Sheldon, Franklin and Rasmussen;
by request of Governor Locke)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to using state sales and use tax revenues
2 generated within a benefited jurisdiction as a funding source for
3 community development infrastructure improvements not to exceed
4 one million dollars of funding per fiscal year; amending RCW
5 43.135.080; adding new sections to chapter 82.14 RCW; adding a new
6 section to chapter 82.32 RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that:

9 It is in the best interest of the state of Washington to
10 promote private investment in many areas for the purpose of
11 stimulating economic vitality and promoting economic stability. In
12 many urban areas, urban decay, abandoned buildings, and
13 environmental contamination pose a barrier to redevelopment.
14 Public investment is needed to reclaim brownfields, update
15 infrastructure, and improve the condition of public areas. In the
16 absence of public investment, urban redevelopment projects often
17 cannot pay a return sufficient to attract private investment. These

1 urban areas need private investment to create employment
2 opportunities and to generally improve the economic stability of
3 many neighborhoods.

4 In other areas, the public infrastructure necessary to attract
5 new business or to facilitate the growth and expansion of existing
6 industry is inadequate. Industry expects that basic infrastructure
7 such as sewer, roads, power, natural gas, and telecommunications
8 services will be available at potential industrial and commercial
9 sites. Private investment is necessary to diversify and strengthen
10 many economies throughout the state; however the private sector is
11 unlikely to invest in areas in which public infrastructure is
12 lacking.

13 In 1999, the state of Washington local government
14 infrastructure study identified a gap in infrastructure financing
15 well over three billion dollars. The legislature finds that with
16 existing local resources, counties, cities, or Indian tribes
17 cannot finance needed public infrastructure projects. The
18 legislature further finds that a partnership between the state,
19 and counties, cities, or Indian tribes, and private industry can
20 make strategic investments in public infrastructure that will
21 stimulate the private investment needed to spur economic
22 development and create jobs.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.14
24 RCW to read as follows:

25 (1) A county, city, or Indian tribe that obtains approval under
26 section 3 of this act shall receive a monthly distribution from
27 the infrastructure improvement account, hereby created in the
28 state treasury, subject to the limitations in this section and
29 section 3 of this act. The distribution shall be equal to the
30 proceeds from the state share of the sales tax and use tax upon
31 taxable events under chapters 82.08 and 82.12 RCW, within the
32 boundaries of the county or city, or within Indian country of the
33 tribe, subject to the funding limitations in this section. The
34 proceeds shall be from a portion of the state share of the sales
35 and use tax from within the specific county, city, or Indian
36 country of the tribe, and shall be deposited as directed in
37 section 5 of this act. For the purposes of the distribution under

1 this section, proceeds distributed to a tribe shall be based on
2 estimates of taxable events taking place in the tribal
3 jurisdiction. The department shall, in consultation with the tribe,
4 calculate the estimate and provide the information to the state
5 treasurer. No more than five hundred thousand dollars are available
6 for any one project in any fiscal year, and no one city, county,
7 or tribe may receive more than one million dollars in any fiscal
8 year.

9 (2) The funding provided in this section shall expire when the
10 debt obligation for the infrastructure improvement project, as
11 approved under section 3 of this act, is repaid, but in no event
12 may the funding be received for more than twenty years after the
13 first distribution under this section.

14 (3) The proceeds received under this section shall be used for
15 the purpose of payments on the infrastructure improvement project
16 debt obligations to cover infrastructure improvements and related
17 infrastructure expenses. This revenue is the state's share of the
18 debt obligation repayment, and it may not exceed thirty percent of
19 the total public sector project budget. At least seventy percent of
20 the funding must come from other public or private sources.

21 (4) The definitions in this subsection apply to this section
22 and sections 3 and 5 of this act.

23 (a) "Indian country" has the meaning given in RCW 82.24.010.

24 (b) "Indian tribe" means an Indian nation, tribe, band,
25 community, or other entity recognized as a federally recognized
26 Indian tribe by the United States department of the interior.

27 (c) "Infrastructure improvements" means the construction,
28 renovation, or expansion of publicly owned infrastructure
29 improvements such as dock facilities, park and recreation
30 facilities and areas, parking facilities, public transit
31 facilities, sewer systems, sidewalks, lighting, and pedestrian
32 improvements and amenities, telecommunications systems, water
33 systems, and wastewater systems, including demolition and clean-up
34 activities related to the improvements.

35 (d) "Private partner" does not include any government or any
36 government enterprise, corporation, or other similar entity.

37 (e) "Related infrastructure expenses" includes expenditures for
38 activities such as design, planning, environmental analysis, land

1 and materials acquisition, and site preparation, as well as
2 expenditures for the financing of the infrastructure improvement,
3 such as legal fees, insurance fees, financing fees, principal and
4 interest costs on general indebtedness including reserves, and
5 administrative costs.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.14
7 RCW to read as follows:

8 (1) The department of community, trade, and economic
9 development shall review and approve or deny applications from
10 counties, cities, or Indian tribes for infrastructure improvement
11 projects, consistent with the criteria in this section. Counties,
12 cities, and tribes may develop proposals with other government
13 entities such as port districts, special purpose districts,
14 municipal corporations, and public development authorities, but
15 the county, city, or tribe remains the only entity eligible under
16 this section and section 2 of this act. Applications shall be in a
17 form and manner as required by the department of community, trade,
18 and economic development. Funding is available on a first-come
19 basis, with priority based on the date and time an application is
20 received. In the event that a subsequent application is received
21 from a taxing jurisdiction that has overlapping jurisdiction with
22 a jurisdiction with a priority application, the subsequent
23 application shall be approved only if there are sufficient
24 revenues expected to be generated to cover the state's share of
25 the project. All qualifying projects shall be funded until the
26 fiscal funding cap is met. At the point the fiscal funding cap is
27 reached, no proposals may be evaluated until the following fiscal
28 year. Applications denied due to the program funding cap being met
29 must be resubmitted the following fiscal year in order to be
30 reconsidered. The department of community, trade, and economic
31 development shall provide a response to a proposal within sixty
32 days of receipt.

33 (a) During each fiscal year, the department of community,
34 trade, and economic development may approve no more than one
35 million dollars in new projects for each fiscal year.

36 (b) A county, city, or Indian tribe may have no more than two

1 ongoing infrastructure improvement projects at any one time and
2 may not be approved for more than one project in any one year.

3 (c) The funds received under section 3 of this act may not
4 exceed five hundred thousand dollars for any one project per year.

5 (2) A county, city, or Indian tribe may finance infrastructure
6 improvements and related infrastructure expenses in part by using
7 tax revenue dedicated under section 5 of this act, subject to
8 providing the department of community, trade, and economic
9 development with documentation regarding the following conditions
10 and requirements:

11 (a) The county, city, or Indian tribe must certify to the
12 department that an analysis has been made of the value to the
13 state of the private portion of the project, and that over a
14 thirty-year term the projected state revenue, such as sales and
15 use tax and business and occupation tax, from all state taxes
16 directly associated with the private portion of the project will
17 at least equal the dollar value of the state's funding of the
18 project;

19 (b) The county, city, or Indian tribe must identify the source
20 of funds through which it will fund its share of the
21 infrastructure improvement project;

22 (c) The county, city, or Indian tribe must have received an
23 agreement in writing from a private entity committing to a
24 privately funded private project that will directly benefit from
25 the infrastructure improvements and must provide a copy of such
26 agreement to the department; and

27 (d) A project proposed by a county or city must be consistent
28 with the comprehensive plan and development regulations it has
29 adopted in conformance with chapter 36.70A RCW.

30 (3) The department of community, trade, and economic
31 development may give an approval conditioned on the county, city,
32 or Indian tribe satisfying the conditions and requirements in this
33 section, but in no circumstances may funds be received under
34 section 2 of this act before the conditions in subsection (2) of
35 this section are satisfied, at which point final approval may be
36 given. Upon final approval under this section, the department of
37 community, trade, and economic development shall notify the
38 applicant and the department of revenue.

1 (4) No projects may be approved under this section after June
2 30, 2006.

3 **Sec. 4.** RCW 43.135.080 and 1998 c 321 s 14 are each amended to
4 read as follows:

5 (1) Initiative Measure No. 601 (chapter 43.135 RCW, as amended
6 by chapter 321, Laws of 1998 and the amendatory changes enacted by
7 section 6, chapter 2, Laws of 1994) is hereby reenacted and
8 reaffirmed. The legislature also adopts chapter 321, Laws of 1998
9 to continue the general fund revenue and expenditure limitations
10 contained in this chapter 43.135 RCW after this one-time transfer
11 of funds.

12 (2) RCW 43.135.035(4) does not apply to sections 5 through 13,
13 chapter 321, Laws of 1998.

14 (3) RCW 43.135.035(4) does not apply to sections 2 and 3 of
15 this act.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.32
17 RCW to read as follows:

18 The department shall deposit into the infrastructure
19 improvement account, created in section 2 of this act, proceeds
20 from the state share of the sales tax and use tax upon taxable
21 events, for those counties, cities, or Indian tribes that have
22 been approved under section 3 of this act. The proceeds shall be
23 from the state share of the sales and use tax from within the
24 specific county, city, or Indian country of the tribe and shall be
25 limited to that portion of the proceeds necessary to finance the
26 projects approved under the terms of sections 2 and 3 of this
27 act. Pursuant to section 2 of this act, no more than five hundred
28 thousand dollars shall be for any one project in any fiscal year,
29 and any one jurisdiction may receive not more than one million
30 dollars in any fiscal year. If the department has received notice
31 of final approval from the department of community, trade, and
32 economic development under section 3(3) of this act and the sale
33 of bonds or other debt instruments is complete, the department
34 shall notify the state treasurer regarding the monthly
35 distributions under section 2(1) of this act.

1 NEW SECTION. **Sec. 6.** The state incurs no obligation or
2 liability regarding an infrastructure improvement project under
3 section 3 of this act, other than the funding provided through the
4 sales and use tax under section 2 of this act.

5 NEW SECTION. **Sec. 7.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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