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**SENATE BILL 5636**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators T. Sheldon, Franklin and Rasmussen; by request of Governor Locke

Read first time 01/29/2001. Referred to Committee on Economic Development & Telecommunications.

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 the state share of the sales and use tax  
35 from within the specific county, city, or Indian country of the  
36 tribe, and shall be deposited as directed in section 5 of this  
37 act. No more than five hundred thousand dollars are available for

1 any one project in any fiscal year, and no one city, county, or  
2 tribe may receive more than one million dollars in any fiscal  
3 year.

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

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

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

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

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

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

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

32 (e) "Related infrastructure expenses" includes expenditures for  
33 activities such as design, planning, environmental analysis, land  
34 and materials acquisition, and site preparation, as well as  
35 expenditures for the financing of the infrastructure improvement,  
36 such as legal fees, insurance fees, financing fees, principal and  
37 interest costs on general indebtedness including reserves, and  
38 administrative costs.

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

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

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

32 (b) A county, city, or Indian tribe may have no more than two  
33 ongoing infrastructure improvement projects at any one time and  
34 may not be approved for more than one project in any one year.

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

37 (2) A county, city, or Indian tribe may finance infrastructure  
38 improvements and related infrastructure expenses in part by using

1 tax revenue dedicated under section 5 of this act, subject to  
2 providing the department of community, trade, and economic  
3 development with documentation regarding the following conditions  
4 and requirements:

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

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

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

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

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

33 (4) No projects may be approved under this section after June  
34 30, 2006.

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

37 (1) Initiative Measure No. 601 (chapter 43.135 RCW, as amended

1 by chapter 321, Laws of 1998 and the amendatory changes enacted by  
2 section 6, chapter 2, Laws of 1994) is hereby reenacted and  
3 reaffirmed. The legislature also adopts chapter 321, Laws of 1998  
4 to continue the general fund revenue and expenditure limitations  
5 contained in this chapter 43.135 RCW after this one-time transfer  
6 of funds.

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

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

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

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

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

33 NEW SECTION. **Sec. 7.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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