

# HOUSE BILL REPORT

## SHB 2458

---

**As Passed House:**  
February 10, 2012

**Title:** An act relating to the existing authority to impose a sales and use tax for public facilities districts by providing flexibility in the submittal of the sales and use tax to voters by distressed public facilities districts.

**Brief Description:** Concerning the existing authority to impose a sales and use tax for public facilities districts by providing flexibility in the submittal of the sales and use tax to voters by distressed public facilities districts.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Armstrong, Ross and Johnson).

**Brief History:**

**Committee Activity:**

Ways & Means: 1/24/12, 2/1/12 [DPS].

**Floor Activity:**

Passed House: 2/10/12, 92-4.

**Brief Summary of Substitute Bill**

- Authorizes a city that is one of the forming jurisdictions of a public facilities district that has defaulted on a debt obligation to seek voter approval for a 0.2 percent sales and use tax.

---

### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 27 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

**Staff:** Jeffrey Mitchell (786-7139).

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

Public facilities districts (PFDs) are municipal corporations with independent taxing authority and are taxing districts under the Washington Constitution. There are two enabling statutes, one for counties and another for cities or joint arrangements between a group of cities or a county and one or more cities.

A PFD may charge fees for the use of its facilities, levy an admissions tax not exceeding 5 percent, and impose a vehicle parking tax not exceeding 10 percent. In addition to these revenue sources, state law allows PFDs to impose two different types of sales and use taxes:

1. Public facilities districts may impose a local sales and use tax of up to 0.033 percent to finance regional centers. Regional centers are defined to include convention and conference centers and special events facilities, such as facilities for community events, sporting events, trade shows, and artistic performances. This tax is not an additional tax for consumers, and it does not change the overall retail sales or use tax rate. Rather, the receipts are credited against the state 6.5 percent tax, and therefore the burden is shifted to the State General Fund. Authority to levy the tax is limited to districts that were created by certain dates and that commenced the construction, improvement, or rehabilitation of eligible projects prior to certain dates. This tax does not require voter approval. Once imposed, the local sales and use tax may remain in place until bonds that finance the construction of the facility are retired, but in no case may the tax be levied for longer than 25 years. In order to utilize the state-credited tax receipts, the statute requires that public or private matching funds must be obtained for the project. First levied in August 2000, the tax is currently utilized to fund 22 projects throughout the state.
2. With voter approval, PFDs may also impose a local sales and use tax up to 0.2 percent to finance, design, construct, remodel, maintain, or operate public facilities. The tax is not credited against the state sales and use tax and therefore increases the aggregate sales and use tax rate. Also, unlike the 0.033 percent sales and use tax, the 0.2 percent is not limited in duration. Currently, the Spokane County Public Facilities District is the only jurisdiction imposing the voter-approved 0.2 percent tax.

In 2006 legislation was passed that extended the 0.033 percent local sales and use tax to the Greater Wenatchee Regional Events Center Public Facilities District (Wenatchee PFD), formed by Chelan and Douglas counties and the cities of Wenatchee, East Wenatchee, Entiat, Chelan, Waterville, Cashmere, and Rock Island. The local sales and use tax is used to finance a multi-purpose events center located in the city of Wenatchee, which has been open since 2008.

In 2008 the Wenatchee PFD issued \$41,770,000 in short-term bonds. The bonds were due on December 1, 2011. The Wenatchee PFD was unable to refinance the short-term bonds and defaulted on its December 1 obligation. Several factors contributed to the PFD's inability to secure long-term financing on the facility. First, operating revenues were substantially overestimated. Second, a superior court decision invalidated a contingent loan agreement where the city of Wenatchee guaranteed the repayment of the Wenatchee PFD short-term

bonds. The court held that by pledging its full faith and credit to the repayment of the Wenatchee PFD debt, the city had exceeded its debt limit.

**Summary of Substitute Bill:**

The voter-approved 0.2 percent sales and use tax for PFDs is extended to a city that is one of the forming jurisdictions of a distressed PFD. In other words, the city may impose the 0.2 percent tax if it is approved by the voters of the city. The proposition must be submitted to the voters by July 1, 2013. The tax expires on December 1 of the year in which the debt is retired. A "distressed public facilities district" means a PFD that has defaulted on a debt obligation on or before June 30, 2012. The Wenatchee PFD meets this requirement.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on February 10, 2012.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) The Wenatchee PFD went into default in December. The Wenatchee PFD has talked to the bondholders and the bondholders have given the Wenatchee PFD a little extra time to come up with a way to pay the bondholders back. When the Wenatchee PFD was formed, the jurisdictions signed an agreement where all jurisdictions would have to approve a PFD tax. There is a lot of heartburn from some of the cities. This bill does not take any state money. There is no councilmanic authority to impose a tax. This bill would allow separate jurisdictions to ask their voters for a sales tax increase. Wenatchee accepts the fact that a majority of the responsibility rests with them and is willing to put a proposition out to the voters. There are municipalities that want to address the issue and others that do not. This bill would allow the flexibility to accommodate this reality. There is a proposed substitute bill being drafted that provides some technical clarifications.

(Opposed) None.

**Persons Testifying:** Representative Armstrong, prime sponsor.

**Persons Signed In To Testify But Not Testifying:** None.