

**EHB 2299** - S AMD 329

By Senators Hobbs, Delvin, Fairley

ADOPTED 04/16/2009

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 35.57.010 and 2007 c 486 s 1 are each amended to read  
4 as follows:

5 (1)(a) The legislative authority of any town or city located in a  
6 county with a population of less than one million may create a public  
7 facilities district.

8 (b) The legislative authorities of any contiguous group of towns or  
9 cities located in a county or counties each with a population of less  
10 than one million may enter an agreement under chapter 39.34 RCW for the  
11 creation and joint operation of a public facilities district.

12 (c) The legislative authority of any town or city, or any  
13 contiguous group of towns or cities, located in a county with a  
14 population of less than one million and the legislative authority of a  
15 contiguous county, or the legislative authority of the county or  
16 counties in which the towns or cities are located, may enter into an  
17 agreement under chapter 39.34 RCW for the creation and joint operation  
18 of a public facilities district.

19 (d) The legislative authority of a city located in a county with a  
20 population greater than one million may create a public facilities  
21 district, when the city has a total population of less than one hundred  
22 fifteen thousand but greater than eighty thousand and commences  
23 construction of a regional center prior to July 1, 2008.

24 (e) At least two legislative authorities, one or more of which  
25 previously created a public facilities district or districts under (b)  
26 or (c) of this subsection, may create an additional public facilities  
27 district notwithstanding the fact that one or more of those towns or  
28 cities, with or without a county or counties, previously have created  
29 one or more public facilities districts within the geographic  
30 boundaries of the additional public facilities district. Those

1 existing districts may continue their full corporate existence and  
2 activities notwithstanding the creation and existence of the additional  
3 district within all or part of the same geographic area. Additional  
4 public facilities districts formed under this subsection may be  
5 comprised of a maximum of three contiguous towns or cities separately  
6 or in combination with a maximum of two contiguous counties.

7 (2)(a) A public facilities district shall be coextensive with the  
8 boundaries of the city or town or contiguous group of cities or towns  
9 that created the district.

10 (b) A public facilities district created by an agreement between a  
11 town or city, or a contiguous group of towns or cities, and a  
12 contiguous county or the county in which they are located, shall be  
13 coextensive with the boundaries of the towns or cities, and the  
14 boundaries of the county or counties as to the unincorporated areas of  
15 the county or counties. The boundaries shall not include incorporated  
16 towns or cities that are not parties to the agreement for the creation  
17 and joint operation of the district.

18 (3)(a) A public facilities district created by a single city or  
19 town shall be governed by a board of directors consisting of five  
20 members selected as follows: (i) Two members appointed by the  
21 legislative authority of the city or town; and (ii) three members  
22 appointed by legislative authority based on recommendations from local  
23 organizations. The members appointed under (a)(i) of this subsection,  
24 shall not be members of the legislative authority of the city or town.  
25 The members appointed under (a)(ii) of this subsection, shall be based  
26 on recommendations received from local organizations that may include,  
27 but are not limited to the local chamber of commerce, local economic  
28 development council, and local labor council. The members shall serve  
29 four-year terms. Of the initial members, one must be appointed for a  
30 one-year term, one must be appointed for a two-year term, one must be  
31 appointed for a three-year term, and the remainder must be appointed  
32 for four-year terms.

33 (b) A public facilities district created by a contiguous group of  
34 cities and towns shall be governed by a board of directors consisting  
35 of seven members selected as follows: (i) Three members appointed by  
36 the legislative authorities of the cities and towns; and (ii) four  
37 members appointed by the legislative (~~authority~~) authorities of the  
38 cities and towns based on recommendations from local organizations.

1 The members appointed under (b)(i) of this subsection shall not be  
2 members of the legislative authorities of the cities and towns. The  
3 members appointed under (b)(ii) of this subsection, shall be based on  
4 recommendations received from local organizations that include, but are  
5 not limited to the local chamber of commerce, local economic  
6 development council, local labor council, and a neighborhood  
7 organization that is directly affected by the location of the regional  
8 center in their area. The members of the board of directors shall be  
9 appointed in accordance with the terms of the agreement under chapter  
10 39.34 RCW for the joint operation of the district and shall serve four-  
11 year terms. Of the initial members, one must be appointed for a one-  
12 year term, one must be appointed for a two-year term, one must be  
13 appointed for a three-year term, and the remainder must be appointed  
14 for four-year terms.

15 (c) A public facilities district created by a town or city, or a  
16 contiguous group of towns or cities, and a contiguous county or the  
17 county or counties in which they are located, shall be governed by a  
18 board of directors consisting of seven members selected as follows:

19 (i) Three members appointed by the legislative authorities of the  
20 cities, towns, and county; and (ii) four members appointed by the  
21 legislative (~~authority~~) authorities of the cities, towns, and county  
22 based on recommendations from local organizations. The members  
23 appointed under (c)(i) of this subsection shall not be members of the  
24 legislative authorities of the cities, towns, or county. The members  
25 appointed under (c)(ii) of this subsection shall be based on  
26 recommendations received from local organizations that include, but are  
27 not limited to, the local chamber of commerce, the local economic  
28 development council, the local labor council, and a neighborhood  
29 organization that is directly affected by the location of the regional  
30 center in their area. The members of the board of directors shall be  
31 appointed in accordance with the terms of the agreement under chapter  
32 39.34 RCW for the joint operation of the district and shall serve four-  
33 year terms. Of the initial members, one must be appointed for a one-  
34 year term, one must be appointed for a two-year term, one must be  
35 appointed for a three-year term, and the remainder must be appointed  
36 for four-year terms.

37 (d)(i) A public facilities district created under subsection (1)(e)  
38 of this section may provide, in the agreement providing for its

1 creation and operation, that the district must be governed by a board  
2 of directors appointed under (b) or (c) of this subsection, or by a  
3 board of directors of not more than nine members who are also members  
4 of the legislative authorities that created the public facilities  
5 district or of the governing boards of the public facilities district  
6 or districts, or both, previously created by those legislative  
7 authorities.

8 (ii) A board of directors formed under this subsection must have an  
9 equal number of members representing each city, town, or county  
10 participating in the public facilities district. If a public  
11 facilities district is created by an even number of legislative  
12 authorities, the members representing or appointed by those legislative  
13 authorities shall appoint an additional board member. For a board  
14 formed under this subsection to approve a proposition, the proposition  
15 must be approved by a majority of the members representing or appointed  
16 by each legislative authority participating in the public facilities  
17 district.

18 (4) A public facilities district is a municipal corporation, an  
19 independent taxing "authority" within the meaning of Article VII,  
20 section 1 of the state Constitution, and a "taxing district" within the  
21 meaning of Article VII, section 2 of the state Constitution.

22 (5) A public facilities district shall constitute a body corporate  
23 and shall possess all the usual powers of a corporation for public  
24 purposes as well as all other powers that may now or hereafter be  
25 specifically conferred by statute, including, but not limited to, the  
26 authority to hire employees, staff, and services, to enter into  
27 contracts, and to sue and be sued.

28 (6) A public facilities district may acquire and transfer real and  
29 personal property by lease, sublease, purchase, or sale. No direct or  
30 collateral attack on any public facilities district purported to be  
31 authorized or created in conformance with this chapter may be commenced  
32 more than thirty days after creation by the city and/or county  
33 legislative authority.

34 **Sec. 2.** RCW 35.57.020 and 2002 c 363 s 2 and 2002 c 218 s 25 are  
35 each reenacted and amended to read as follows:

36 (1)(a) Except for a public facilities district created under RCW  
37 35.57.010(1)(e), a public facilities district is authorized to acquire,

1 construct, own, remodel, maintain, equip, reequip, repair, finance, and  
2 operate one or more regional centers. For purposes of this chapter,  
3 "regional center" means a convention, conference, or special events  
4 center, or any combination of facilities, and related parking  
5 facilities, serving a regional population constructed, improved, or  
6 rehabilitated after July 25, 1999, at a cost of at least ten million  
7 dollars, including debt service. "Regional center" also includes an  
8 existing convention, conference, or special events center, and related  
9 parking facilities, serving a regional population, that is improved or  
10 rehabilitated after July 25, 1999, where the costs of improvement or  
11 rehabilitation are at least ten million dollars, including debt  
12 service. A "special events center" is a facility, available to the  
13 public, used for community events, sporting events, trade shows, and  
14 artistic, musical, theatrical, or other cultural exhibitions,  
15 presentations, or performances. A regional center is conclusively  
16 presumed to serve a regional population if state and local government  
17 investment in the construction, improvement, or rehabilitation of the  
18 regional center is equal to or greater than ten million dollars.

19 (b) A public facilities district created under RCW 35.57.010(1)(e)  
20 is authorized to acquire, construct, own, remodel, maintain, equip,  
21 reequip, repair, finance, and operate one or more recreational  
22 facilities other than a ski area.

23 (2) A public facilities district may enter into contracts with any  
24 city or town for the purpose of exercising any powers of a community  
25 renewal agency under chapter 35.81 RCW.

26 (3) A public facilities district may impose charges and fees for  
27 the use of its facilities, and may accept and expend or use gifts,  
28 grants, and donations for the purpose of a regional center.

29 (4) A public facilities district may impose charges, fees, and  
30 taxes authorized in RCW 35.57.040, and use revenues derived therefrom  
31 for the purpose of paying principal and interest payments on bonds  
32 issued by the public facilities district to construct a regional  
33 center.

34 (5) Notwithstanding the establishment of a career, civil, or merit  
35 service system, a public facilities district may contract with a public  
36 or private entity for the operation or management of its public  
37 facilities.

1 (6) A public facilities district is authorized to use the  
2 supplemental alternative public works contracting procedures set forth  
3 in chapter 39.10 RCW in connection with the design, construction,  
4 reconstruction, remodel, or alteration of any regional center.

5 (7) A city or town in conjunction with any special agency,  
6 authority, or other district established by a county or any other  
7 governmental agency is authorized to use the supplemental alternative  
8 public works contracting procedures set forth in chapter 39.10 RCW in  
9 connection with the design, construction, reconstruction, remodel, or  
10 alteration of any regional center funded in whole or in part by a  
11 public facilities district.

12 **Sec. 3.** RCW 82.14.048 and 2008 c 86 s 103 are each amended to read  
13 as follows:

14 (1) The governing board of a public facilities district under  
15 chapter 36.100 or 35.57 RCW may submit an authorizing proposition to  
16 the voters of the district, and if the proposition is approved by a  
17 majority of persons voting, impose a sales and use tax in accordance  
18 with the terms of this chapter.

19 (2) The tax authorized in this section shall be in addition to any  
20 other taxes authorized by law and shall be collected from those persons  
21 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
22 the occurrence of any taxable event within the public facilities  
23 district. The rate of tax shall not exceed two-tenths of one percent  
24 of the selling price in the case of a sales tax, or value of the  
25 article used, in the case of a use tax. A public facilities district  
26 formed under RCW 35.57.010(1)(e) may not impose the tax authorized  
27 under this subsection at a rate that exceeds two-tenths of one percent  
28 minus the rate of the highest tax authorized by this subsection that is  
29 imposed by any other public facilities district within its boundaries.  
30 If a public facilities district formed under RCW 35.57.010(1)(e) has  
31 imposed a tax under this subsection and issued or incurred obligations  
32 pledging that tax, so long as those obligations are outstanding no  
33 other public facilities district within its boundaries may thereafter  
34 impose a tax under this subsection at a rate that would reduce the rate  
35 of the tax that was pledged to the repayment of those obligations. A  
36 public facilities district that imposes a tax under this subsection is  
37 responsible for the payment of any costs incurred for the purpose of

1 administering the provisions of this subsection, RCW 35.57.010(1)(e),  
2 and 35.57.020(1)(b), including any administrative costs associated with  
3 the imposition of a tax under this subsection incurred by either the  
4 department of revenue or local government, or both.

5 (3) Moneys received from any tax imposed under the authority of  
6 this section shall be used for the purpose of providing funds for the  
7 costs associated with the financing, design, acquisition, construction,  
8 equipping, operating, maintaining, remodeling, repairing, and  
9 reequipping of its public facilities.

10 **Sec. 4.** RCW 36.100.180 and 1995 c 396 s 15 are each amended to  
11 read as follows:

12 (1) The public facilities district may secure services by means of  
13 an agreement with a service provider. The public facilities district  
14 shall publish notice, establish criteria, receive and evaluate  
15 proposals, and negotiate with respondents under requirements set forth  
16 by district resolution.

17 (2) For personal service contracts of one hundred fifty thousand  
18 dollars or greater not otherwise governed by chapter 39.80 RCW,  
19 contracts for architectural and engineering services, a competitive  
20 solicitation process is required. The district shall establish the  
21 process by resolution, which must at a minimum include the following:

22 (a) Notice. A notice inviting statements of either qualifications  
23 or proposals, or both, from interested parties must be published in a  
24 newspaper of general circulation throughout the county in which the  
25 district is located at least ten days before the date for submitting  
26 the statements of qualifications or proposals.

27 (b) Description of services required. The request for statements  
28 of either qualifications or proposals, or both published or provided to  
29 interested parties must describe the services required and list the  
30 types of information and data required of each proposal. It may also  
31 describe the evaluation criteria and state the relative importance of  
32 the criteria if then available.

33 (c) Review and evaluation. The district shall establish a process  
34 to review and evaluate statements of either qualifications or  
35 proposals, or both. That process may include a selection board  
36 identified by the district or some other panel of evaluators. If  
37 appropriate, the reviewers may hear oral presentations by proposers.

1       (d) Selection. The evaluators shall select and rank the most  
2 qualified proposers. In selecting and ranking such proposers, the  
3 selection board shall consider the evaluation criteria established by  
4 the district and may consider such other information as may be secured  
5 during the evaluation process related to a proposer's qualifications  
6 and experience.

7       (e) Negotiations. The district shall enter into contract  
8 negotiations with the top-ranked proposer or proposers identified in  
9 the selection process. Negotiations may be conducted concurrently or  
10 sequentially as may be allowed by law.

11       (f) Approval. When negotiations are complete, the proposed  
12 contract will be presented to the district's governing body at its next  
13 regularly scheduled meeting for approval or ratification.

14       (3) Exceptions. The requirements of this section need not be met  
15 in the following circumstances:

16       (a) Emergency. When the contracting authority makes a finding that  
17 an emergency requires the immediate execution of the work involved. As  
18 used in this subsection, "emergency" has the same meaning as provided  
19 in RCW 39.29.006;

20       (b) Contract amendment. Amendments to existing service contracts  
21 are exempt from these requirements; and

22       (c) Sole source. In the event that the services being sought can  
23 only be obtained from a single source, then the district shall make a  
24 formal written finding stating the factual basis for the exception and  
25 the solicitation requirements of this section do not apply. As used in  
26 this subsection, "sole source" has the same meaning as provided in RCW  
27 39.29.006.

28       (4) Prospective application. Nothing in this section affects the  
29 validity or effect of any district contract executed prior to the  
30 effective date of this act."



**EHB 2299** - S AMD

By Senators Hobbs, Delvin, Fairley

**ADOPTED 04/16/2009**

1        On page 1, line 2 of the title, after "districts;" strike the  
2 remainder of the title and insert "amending RCW 35.57.010, 82.14.048,  
3 and 36.100.180; and reenacting and amending RCW 35.57.020."

**--- END ---**