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**SUBSTITUTE SENATE BILL 6316**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Government Operations & Security (originally sponsored by Senator Parlette)

AN ACT Relating to designated disaster area financing; adding a new section to chapter 82.14 RCW; and adding a new chapter to Title 39 RCW.

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

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means five million dollars statewide per fiscal year.

(2) "Bond" means a bond, a note, or other evidence of indebtedness, including but not limited to a lease-purchase agreement or an executory conditional sales contract.

(3) "Department" means the department of commerce.

(4) "Dedicated disaster area financing" means the use of revenues from local public sources and revenues received from the local option sales and use tax authorized in section 12 of this act dedicated to pay the principal and interest on bonds authorized under section 8 of this act and public improvement costs within the designated disaster area on a pay-as-you-go basis.

(5) "Designated disaster area" means the geographic area adopted by a sponsoring local government and approved by the department, from which local sales and use tax increments are estimated for designated disaster area financing.

(6) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(7) "Local government" means any city, town, county, or port district.

(8) "Local sales and use tax increment" means the estimated annual increase in local sales and use taxes as determined by the local government in the calendar years following the approval of the designated disaster area by the department from taxable activity within the designated disaster area.

(9) "Local sales and use taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

(10) "Ordinance" means any appropriate method of taking legislative action by a local government.

(11) "Participating local government" means a local government having a designated disaster area within its geographic boundaries that has taken action as provided in section 5 of this act to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources for dedicated disaster area financing.

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

(a) Design, planning, acquisition, including land acquisition, site preparation, including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

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

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of dedicated disaster area financing to fund the costs of the public improvements.

(13) "Public improvements" means:

(a) Infrastructure improvements within the designated disaster area that include:

(i) Street, road, bridge, and rail construction and maintenance;

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks, streetlights, landscaping, and streetscaping;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities, recreational areas, and environmental remediation;

(vii) Storm water and drainage management systems;

(viii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the designated disaster area, including the management and promotion of retail trade activities in the designated disaster area;

(ii) Providing maintenance and security for common or public areas in the designated disaster area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

(14) "Qualifying disaster" means a disaster that reaches such a dimension or degree of destructiveness as to warrant the governor proclaiming a state of emergency pursuant to RCW 43.06.010.

(15) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(16)(a) "Revenues from local public sources" means:

(i) The local sales and use tax amounts received as a result of an interlocal agreement and local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, which are dedicated by a sponsoring local government and participating local governments, for payment of bonds issued under section 8 of this act or public improvement costs within the designated disaster area on a pay-as-you-go basis; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources, which are dedicated for the payment of bonds issued under section 8 of this act or public improvement costs within the designated disaster area on a pay-as-you-go basis.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(17) "Sponsoring local government" means a city, town, county, or any combination thereof, that adopts a designated disaster area.

(18) "State contribution" means the lesser of:

(a) Five hundred thousand dollars;

(b) The project award amount approved by the department as provided in section 7 of this act; or

(c) The total amount of revenues from local public sources dedicated in the preceding calendar year to the payment of principal and interest on bonds issued under section 8 of this act and public improvement costs within the designated disaster area on a pay-as-you-go basis. Revenues from local public sources dedicated in the preceding calendar year that are in excess of the project award may be carried forward and used in later years for the purpose of this subsection (18)(c).

NEW SECTION. **Sec.**  CONDITIONS. A local government may finance public improvements using designated disaster area financing subject to the following conditions:

(1) Structural damage to real property within the local government's boundaries directly caused by a qualifying disaster totals at least ten million dollars.

(2) The local government has adopted an ordinance designating a designated disaster area within its boundaries and specified the public improvements proposed to be financed in whole or in part with the use of designated disaster area financing.

(3) The public improvements proposed to be financed in whole or in part using designated disaster area financing are expected to encourage private development within the designated disaster area and to increase the fair market value of real property within the designated disaster area.

(4) The local government has entered into a contract with a private developer relating to the development of private improvements within the designated disaster area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the designated disaster area.

(5) Private development that is anticipated to occur within the designated disaster area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW.

(6) The local government may not use dedicated disaster area financing to finance the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of public facilities funded with taxes collected under RCW 82.14.048 or 82.14.390.

(7) The governing body of the local government must make a finding that designated disaster area financing:

(a) Will not be used for the purpose of relocating a business from outside the designated disaster area, but within this state, into the designated disaster area unless convincing evidence is provided that the firm being relocated would otherwise leave the state;

(b) Will improve the viability of existing business entities within the designated disaster area; and

(c) Will be used exclusively in areas within the jurisdiction of the local government directly damaged by a qualifying disaster and deemed in need of either economic development or redevelopment, or both, and absent the financing available under this chapter and section 12 of this act the proposed economic development or redevelopment would more than likely not occur.

(8) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using designated disaster area financing are reasonably likely to:

(a) Increase private investment within the designated disaster area;

(b) Increase employment within the designated disaster area; and

(c) Generate, over the period of time that the local sales and use tax will be imposed under section 12 of this act, increases in state and local property, sales, and use tax revenues that are equal to or greater than the respective state and local contributions made under this chapter.

NEW SECTION. **Sec.**  CREATION OF DESIGNATED DISASTER AREA. (1) Before adopting an ordinance creating the designated disaster area, a sponsoring local government must:

(a) Provide notice to all local governments with geographic boundaries within the proposed designated disaster area of the sponsoring local government's intent to create a designated disaster area. Notice must be provided in writing to the governing body of the local governments at least sixty days in advance of the public hearing as required by (b) of this subsection. The notice must include at least the following information:

(i) The name of the proposed designated disaster area;

(ii) The date for the public hearing as required by (b) of this subsection;

(iii) The earliest anticipated date when the sponsoring local government will take action to adopt the proposed designated disaster area; and

(iv) The name of a contact person with the phone number of the sponsoring local government and mailing address where a copy of an ordinance adopted under this section may be sent; and

(b) Hold a public hearing on the proposed financing of the public improvements in whole or in part with designated disaster area financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed designated disaster area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed designated disaster area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by designated disaster area financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed designated disaster area, and estimate the period during which designated disaster area financing is contemplated to be used. The public hearing may be held by either the governing body of the sponsoring local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) To create a designated disaster area, a sponsoring local government must adopt an ordinance establishing the designated disaster area that:

(a) Describes the public improvements proposed to be made in the designated disaster area;

(b) Describes the boundaries of the designated disaster area, subject to the limitations in section 4 of this act;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by designated disaster area financing;

(d) Estimates the time during which revenues from local public sources, such as amounts of local sales and use taxes from participating local governments, are to be used for designated disaster area financing;

(e) Finds that all of the requirements in section 2 of this act are met;

(f) Provides the anticipated date when the criteria for the sales and use tax in section 12 of this act will be met and the anticipated date when the sales and use tax in section 12 of this act will be imposed.

(3) The sponsoring local government must deliver a certified copy of the adopted ordinance to the county treasurer, county assessor, the department of revenue, and the department.

NEW SECTION. **Sec.**  LIMITATIONS ON DESIGNATED DISASTER AREAS. A designated disaster area is subject to the following limitations:

(1) A designated disaster area may be located within the boundaries of more than one participating local government. Within the boundaries of a participating local government, the total area of the designated disaster area cannot be more than fifty percent greater than the portion of the affected area that is located within the boundaries of the participating local government.

(2)(a) Except as provided in (b) of this subsection, no designated disaster area may have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW, any part of a revenue development area created under chapter 39.102 RCW, any part of a revitalization area under chapter 39.104 RCW, any part of an increment area under chapter 39.89 RCW, or any part of another designated disaster area under this chapter.

(b) A designated disaster area's boundaries may include all or a portion of an existing increment area if:

(i) The state of Washington has loaned money for environmental cleanup on such an area in order to stimulate redevelopment of brownfields;

(ii) The environmental cleanup, for which the state's loans were intended, has been completed; and

(iii) The sponsoring local government determines the creation of the designated disaster area is necessary for redevelopment and protecting the state's investment by increasing property tax revenue.

(3) A designated disaster area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the designated disaster area.

(4) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur.

(5) The public improvements financed through bonds issued under section 8 of this act and public improvements made on a pay-as-you-go basis must be located in the designated disaster area.

(6) A designated disaster area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government at the time the designated disaster area is created.

(7) The boundaries of the designated disaster area may not be changed for the time period that local sales and use taxes of participating local governments, and the local sales and use tax under section 12 of this act, are used to pay bonds issued under section 8 of this act and public improvement costs within the designated disaster area on a pay-as-you-go basis, as provided under this chapter.

(8) A designated disaster area must be geographically restricted to the location of the public improvement and adjacent locations that the sponsoring local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block.

NEW SECTION. **Sec.**  OPTING IN OR OUT AS A PARTICIPATING LOCAL GOVERNMENT. (1) A participating local government must enter into an interlocal agreement as provided in chapter 39.34 RCW to participate in designated disaster area financing with the sponsoring local government.

(2)(a) If a local government that imposes a sales and use tax under RCW 82.14.030 does not want to participate in the designated disaster area financing of public improvements in a designated disaster area, its governing body must adopt an ordinance and notify the sponsoring local government that the taxing authority will not be a participating local government.

(b) The local government must provide a copy of the adopted ordinance and the notice to the sponsoring local government creating the designated disaster area before the anticipated date that the sponsoring local government proposes to adopt an ordinance creating the designated disaster area as provided in the notice required by section 3 of this act.

NEW SECTION. **Sec.**  LOCAL SALES AND USE TAX INCREMENTS. (1) A sponsoring local government may use annually local sales and use tax amounts equal to some or all of its local sales and use tax increments to finance public improvements in the designated disaster area. The amounts of local sales and use tax dedicated by a participating local government must begin and cease on the dates specified in an interlocal agreement authorized in chapter 39.34 RCW. Participating local governments are authorized to allocate some or all of their local sales and use tax increment to the sponsoring local government as provided by section 5 of this act.

(2) Upon request, the department, with the assistance of the department of revenue, must assist sponsoring local governments in estimating sales and use tax revenues from estimated taxable activity in the proposed or adopted designated disaster area. The sponsoring local government must provide the department with accurate information describing the geographical boundaries of the designated disaster area in an electronic format or in a manner as otherwise prescribed by the department.

NEW SECTION. **Sec.**  APPLICATION PROCESS. (1) Prior to applying to the department to receive a state contribution, a sponsoring local government must adopt a designated disaster area within the limitations in section 4 of this act and in accordance with section 3 of this act.

(2)(a) As a condition to imposing a sales and use tax under section 12 of this act, a sponsoring local government must apply to the department and be approved for a project award amount. The application must be in a form and manner prescribed by the department and include, but not be limited to:

(i) Information establishing that over the period of time that the local sales and use tax will be imposed under section 12 of this act, increases in state and local property, sales and use tax revenues as a result of public improvements in the designated disaster area will be equal to or greater than the respective state and local contributions made under this chapter;

(ii) Information demonstrating that the sponsoring local government will meet the requirements necessary to receive the full amount of state contribution it is requesting on an annual basis;

(iii) The amount of state contribution it is requesting;

(iv) The anticipated effective date for imposing the tax under section 12 of this act;

(v) The estimated number of years that the tax will be imposed;

(vi) The anticipated rate of tax to be imposed under section 12 of this act, subject to the rate-setting conditions in section 12(3) of this act, should the sponsoring local government be approved for a project award;

(vii) The anticipated date when bonds issued under section 8 of this act will be issued; and

(viii) Any other information required by the department to evaluate the merits of the application.

(b) As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the designated disaster area as required in section 3 of this act and copies of any adopted interlocal agreements from participating local governments.

(3)(a) Project awards must be determined through a competitive process. In evaluating applications for a project award, the department must develop the relative weight to be assigned to the following criteria:

(i) The project's potential to enhance the sponsoring local government's regional and/or international competitiveness;

(ii) The project's ability to encourage mixed use and transit-oriented development and the redevelopment of a geographic area;

(iii) Achieving an overall distribution of projects statewide that reflect geographic diversity;

(iv) The estimated wages and benefits for the project are greater than the average labor market area;

(v) The estimated state and local net employment change over the life of the project;

(vi) The current economic health and vitality of the proposed designated disaster area and the contiguous community and the estimated impact of the proposed project on the proposed dedicated disaster area and contiguous community;

(vii) The estimated state and local net property tax change over the life of the project;

(viii) The estimated state and local sales and use tax increase over the life of the project;

(ix) If a project is located within an urban growth area, evidence that the project utilizes existing urban infrastructure and that the transportation needs of the project will be adequately met through the use of dedicated disaster area financing or other sources.

(b) The total of all project awards may not exceed the annual state contribution limit.

(c) If the level of available state contribution is less than the amount requested by the next available applicant, the applicant must be given the first opportunity to accept the lesser amount of state contribution but only if the applicant produces a new application within sixty days of being notified by the department and the application describes the impact on the proposed project as a result of the lesser award in addition to new application information outlined in subsection (2) of this section.

(d) Applications that are not approved for a project award due to lack of available state contribution must be retained on file by the department in order of the date of their receipt.

(e) Once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(f) If the annual contribution limit is increased by making additional funds available for applicants that apply through a competitive process, applications will be accepted again beginning sixty days after the effective date of the increase. However, in the time period before any new applications are accepted, all sponsoring local governments with a complete application already on file with the department must be provided an opportunity to either withdraw their application or update the information in the application. The updated application must be for a project that is substantially the same as the project in the original application. The department must consider these applications for project awards prior to considering any new applications.

(4) The department must notify the sponsoring local government of approval or denial of a project award within sixty days of the department's receipt of the sponsoring local government's application. Determination of a project award by the department is final. Notification must include the earliest date when the tax authorized under section 12 of this act may be imposed, subject to conditions in chapter 82.14 RCW. The project award notification must specify the rate requested in the application and any adjustments to the rate that would need to be made based on the project award and rate restrictions in section 12 of this act.

(5) The department must begin accepting applications on July 1, 2016.

NEW SECTION. **Sec.**  ISSUANCE OF GENERAL OBLIGATION BONDS. (1) A sponsoring local government creating a designated disaster area and authorizing the use of designated disaster area financing may incur general indebtedness, including issuing general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from designated disaster area financing it receives, subject to the following requirements:

(a)(i) The ordinance adopted by the sponsoring local government creating the designated disaster area and authorizing the use of designated disaster area financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(ii) The sponsoring local government includes this statement of intent in all notices required by section 3 of this act; or

(b) The sponsoring local government adopts a resolution, after opportunity for public comment, that indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government creating a designated disaster area and authorizing the use of designated disaster area financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the designated disaster area.

(4) Bonds issued under this section must be authorized by ordinance of the sponsoring local government and may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates, be in a denomination or denominations, be in a form either coupon or registered as provided in RCW 39.46.030, carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics, as may be provided by an ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may:

(a) Annually pay into the special fund established pursuant to this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under section 12 of this act, such payment to continue until all bonds payable from the fund are paid in full; and

(b) Issue revenue bonds payable from any or all revenues deposited in the special fund established pursuant to this section.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter cease to be the officials before the delivery of the bonds, the signatures must, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until the delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

NEW SECTION. **Sec.**  USE OF TAX REVENUE FOR BOND REPAYMENT. A sponsoring local government that issues bonds issued under section 8 of this act to finance public improvements may pledge for the payment of such bonds all or part of any revenues derived from taxes imposed under section 12 of this act and held in connection with the public improvements.

NEW SECTION. **Sec.**  LIMITATION ON BONDS ISSUED. The bonds issued by a local government under section 8 of this act to finance public improvements do not constitute an obligation of the state of Washington, either general or special.

NEW SECTION. **Sec.**  REPORTING REQUIREMENTS. (1) A sponsoring local government receiving a project award under section 7 of this act must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds issued under section 8 of this act and public improvement costs within the designated disaster area on a pay-as-you-go basis in the preceding calendar year;

(b) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds issued under section 8 of this act and public improvement costs within the designated disaster area on a pay-as-you-go basis in the preceding calendar year;

(c) The amounts, other than those listed in (a) and (b) of this subsection, from local public sources, broken down by type or source, used for payment of bonds issued under section 8 of this act or public improvement costs within the designated disaster area on a pay-as-you-go basis in the preceding calendar year;

(d) The anticipated date when bonds issued under section 8 of this act are expected to be retired;

(e) The names of any businesses locating within the designated disaster area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with designated disaster area financing;

(f) An estimate of the cumulative number of permanent jobs created in the designated disaster area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with designated disaster area financing;

(g) An estimate of the average wages and benefits received by all employees of businesses locating within the designated disaster area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with designated disaster area financing;

(h) A list of public improvements financed by bonds issued under section 8 of this act and public improvements made on a pay-as-you-go basis within the designated disaster area;

(i) That the sponsoring local government is in compliance with section 2 of this act;

(j) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments received since the approval by the department of the project award under section 7 of this act;

(k) The amount of revenues from local public sources that (i) were expended in prior years for the payment of bonds issued under section 8 of this act and public improvement costs within the designated disaster area on a pay-as-you-go basis in prior calendar years that were in excess of the project award amount for that year and are carried forward for dedication in future years, (ii) are deemed dedicated to payment of bonds or public improvement costs in the calendar year for which the report is prepared, and (iii) remain available for dedication in future years; and

(l) Any other information required by the department to (i) enable the department to fulfill its duties under this chapter and (ii) enable the department of revenue to fulfill its duties under section 12 of this act.

(2) The department must make a report available to the public and the legislature by June 1st of each year. The report must include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

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

(1) Any city or county that has been approved for a project award under section 7 of this act may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465, 82.14.475, 82.14.510, and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department, the department of commerce, or the community economic revitalization board under chapter 39.--- (the new chapter created in section 13 of this act), 39.100, 39.102, or 39.104 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under section 7 of this act over ten months.

(4) Upon request, the department of commerce, with assistance from the department, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under section 7 of this act, it may not be increased.

(5)(a) No tax may be imposed under the authority of this section before July 1st of the calendar year immediately following the year in which the department of commerce approved the application made under section 7 of this act;

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of section 8 of this act are retired or thirty years after the tax is first imposed.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue distributed to all sponsoring and cosponsoring local governments from taxes imposed under this section equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one designated disaster area within its jurisdiction, the city or county may impose a sales and use tax under this section for each designated disaster area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with section 11 of this act, no tax may be distributed in the subsequent fiscal year until such time as the city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

(10) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

(a) The state contribution;

(b) The amount of project award granted by the department of commerce as provided in section 7 of this act; or

(c) The total amount of revenues from local public sources dedicated or, in the case of carry forward revenues, deemed dedicated in the preceding calendar year, as reported in the required annual report under section 11 of this act.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in section 1 of this act apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

(13) For purposes of this section, the following definitions apply:

(a) "Department" means the department of revenue.

(b) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(c) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020.

NEW SECTION. **Sec.**  Sections 1 through 11 of this act constitute a new chapter in Title 39 RCW.

**--- END ---**