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**HOUSE BILL 2804**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Duerr, Ryu, Pollet, Slatter, and Boehnke

AN ACT Relating to local government infrastructure; and amending RCW 39.104.020 and 39.104.100.

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

**Sec.**  RCW 39.104.020 and 2016 c 207 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means two million five hundred thousand dollars statewide per fiscal year for projects approved prior to January 1, 2020, plus the additional amounts approved for demonstration projects in RCW 82.14.505. For projects approved after January 1, 2021, the annual state contribution limit means up to fifteen million dollars statewide per fiscal year for no more than thirty years.

(2) "Approving agency" means the department of revenue for project awards approved before June 9, 2016, and the department of commerce for project awards approved after June 9, 2016.

(3) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(4) "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.

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

(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, and port district.

(8) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local revitalization financing.

(9) "Local revitalization financing" means the use of revenues from local public sources, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, and revenues received from the local option sales and use tax authorized in RCW 82.14.510, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110.

(10) "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 revitalization area by the department from taxable activity within the revitalization area.

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

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

(13) "Participating local government" means a local government having a revitalization area within its geographic boundaries that has taken action as provided in RCW 39.104.070(1) to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources dedicated for local revitalization financing.

(14) "Participating taxing district" means a taxing district that:

(a) Has a revitalization area wholly or partially within its geographic boundaries;

(b) Levies or has levied for it regular property taxes as defined in this section; and

(c) Has not taken action as provided in RCW 39.104.060(2).

(15) "Property tax allocation revenue base value" means the assessed value of real property located within a revitalization area, less the property tax allocation revenue value.

(16)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revitalization area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revitalization area is approved;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revitalization area is approved;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revitalization area is approved.

(ii) Increases in the assessed value of real property in a revitalization area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revitalization area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

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

(a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, environmental remediation, 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 local revitalization financing to fund the costs of the public improvements.

(18) "Public improvements" means:

(a) Infrastructure improvements within the revitalization 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) Stormwater and drainage management systems;

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

(ix) Site stabilization to allow for higher density construction;

(b) Expenditures for any of the following purposes:

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

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

(iii) Historic preservation activities authorized under RCW 35.21.395.

(19) "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.

(20)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (i) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose.

(b) "Regular property taxes" do not include:

(i) Excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043; and

(ii) Property taxes that are specifically excluded through an interlocal agreement between the sponsoring local government and a participating taxing district as set forth in RCW 39.104.060(3).

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

(i) The local sales and use tax amounts received as a result of interlocal agreement, local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, and local property tax allocation revenues, which are dedicated by a sponsoring local government, participating local governments, and participating taxing districts, for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization 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 and amounts received by taxing districts as set forth by an interlocal agreement as described in RCW 39.104.060(4), which are dedicated for the payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization 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.

(22) "Revitalization area" means the geographic area adopted by a sponsoring local government and approved by the approving agency, from which local sales and use tax increments are estimated and property tax allocation revenues are derived for local revitalization financing.

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

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

(a) Five hundred thousand dollars;

(b) The project award amount approved by the approving agency as provided in RCW 39.104.100 or 82.14.505; 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 RCW 39.104.110 and public improvement costs within the revitalization 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 (24)(c).

(25) "State property tax increment" means the estimated amount of annual tax revenues estimated to be received by the state from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

(26) "State sales and use tax increment" means the estimated amount of annual increase in state sales and use taxes to be received by the state from taxable activity within the revitalization area in the years following the approval of the revitalization area as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

(27) "State sales and use taxes" means state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.510 for the applicable revitalization area, imposed on the same taxable events that are credited against the state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020.

(28) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revitalization area.

**Sec.**  RCW 39.104.100 and 2016 c 207 s 2 are each amended to read as follows:

(1) Prior to applying to receive a state contribution, a sponsoring local government must adopt a revitalization area within the limitations in RCW 39.104.050 and in accordance with RCW 39.104.040.

(2)(a) As a condition to imposing a sales and use tax under RCW 82.14.510, a sponsoring local government must apply and be approved for a project award amount. The application must be in a form and manner prescribed by the approving agency 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 RCW 82.14.510, increases in state and local property, sales, and use tax revenues as a result of public improvements in the revitalization 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) Information demonstrating that the project would not proceed but for use of a revitalization financing award;

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

((~~(iv)~~)) (v) The anticipated effective date for imposing the tax under RCW 82.14.510;

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

((~~(vi)~~)) (vii) The anticipated rate of tax to be imposed under RCW 82.14.510, subject to the rate-setting conditions in RCW 82.14.510(3), should the sponsoring local government be approved for a project award; and

((~~(vii)~~)) (viii) The anticipated date when bonds under RCW 39.104.110 will be issued.

(b) The approving agency must make available electronic forms to be used for this purpose. As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the revitalization area as required in RCW 39.104.040, copies of any adopted interlocal agreements from participating local governments, and any notices from taxing districts that elect not to be a participating taxing district.

(3)(a) Project awards must be determined on:

(i) The availability of a state contribution;

(ii) Whether the sponsoring local government would be able to generate enough tax revenue under RCW 82.14.510 to generate the amount of project award requested;

(iii) The number of jobs created;

(iv) The fit of the expected business creation or expansion within the region's preferred economic growth strategy;

(v) The speed with which the project can begin construction; and

(vi) The extent to which the project leverages nonstate funds.

(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 approving agency 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 approving agency.

(e)(i) Except as provided in (e)(ii) of this subsection, once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(ii) Any city or county that has been approved for a project award by the department prior to January 1, 2011, and has not imposed a sales and use tax under RCW 82.14.510 by December 31, 2016, must forfeit their project award. However, amounts will not be forfeited if a city or county has sent the department a letter indicating its intent to impose the sales and use tax by July 1, 2022, before July 1, 2016. Amounts forfeited under this section must be made available for new applications under subsection (5) of this section.

(f) If the annual contribution limit is increased by making additional funds available for applicants or if funds become available from project awards forfeited under (e)(ii) of this subsection, applications will be accepted again as described in subsection (5) of this section.

(4) The approving agency must notify the sponsoring local government of approval or denial of a project award within sixty days of the approving agency's receipt of the sponsoring local government's application. Determination of a project award by the approving agency is final. Notification must include the earliest date when the tax authorized under RCW 82.14.510 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 RCW 82.14.510. The department of commerce must consult with the department of revenue in determining the amount of a project award.

(5) The department of commerce must begin accepting applications and approving project awards under this section on and after ((~~June 9~~)) January 1, ((~~2016~~)) 2021. The department of commerce must notify the department of all approved project awards under this section. The department of commerce must also provide to the department any information necessary to implement the tax authorized under RCW 82.14.510.

(a) For project awards approved on and after January 1, 2021, the department of commerce shall use the following criteria to evaluate and make awards:

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

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

(iii) The project's ability to redevelop a brownfield;

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

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

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

(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) The speed at which the project can begin construction;

(x) The extent to which the project leverages nonstate funds; and

(xi) The likelihood that the project would proceed forward without the use of state funds.

(b) State funding for the projects approved under this section is provided through a credit against the state sales and use tax. The maximum state contribution a sponsoring local government may receive each year is limited to the lesser of one million dollars per year for twenty years; eight hundred thousand dollars per year for twenty-five years; or six hundred sixty-five thousand dollars per year for thirty years.

(c) Projects must begin no later than December 31, 2026, to qualify to receive funding.

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