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**SENATE BILL 5823**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Das, Robinson, Keiser, Kuderer, Nguyen, and Nobles

AN ACT Relating to local infrastructure project areas; and amending RCW 39.108.120, 84.55.010, 84.55.015, 84.55.020, 84.55.030, 84.55.120, and 39.108.010.

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

**Sec.**  RCW 39.108.120 and 2011 c 318 s 601 are each amended to read as follows:

(1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must:

(a) Provide notice to the county assessor, county treasurer, and county within the proposed local infrastructure project area of the sponsoring city's intent to create one or more local infrastructure project areas. This notice must be provided at least one hundred eighty days in advance of the public hearing as required by (b) of this subsection;

(b) Hold a public hearing on the proposed formation of the local infrastructure project area.

(2) A sponsoring city may create one or more local infrastructure project areas by ordinance or resolution that:

(a) Describes the proposed public improvements, identified in the plan under RCW 39.108.080, to be financed in each local infrastructure project area;

(b) Describes the boundaries of each local infrastructure project area, subject to the limitations in RCW 39.108.130; and

(c) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts.

(3) The sponsoring city must deliver a certified copy of the adopted ordinance or resolution to the county assessor, county treasurer, and each other participating taxing district within which the local infrastructure project area is located.

(4) The sponsoring city must adopt the department of commerce transfer of development rights interlocal terms and conditions in WAC 365-198-040 and 365-198-060, or its successors, and, if required by an eligible county, enter into a superseding interlocal agreement prior to the date when the use of local property tax allocation revenues will commence for any local infrastructure project area formed after the effective date of this section. An interlocal agreement under this subsection shall define the roles and responsibilities of the parties with respect to the transfer of development rights as determined by the parties.

**Sec.**  RCW 84.55.010 and 2021 c 207 s 10 are each amended to read as follows:

(1) Except as provided in this chapter, the levy for a taxing district in any year must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the amount of regular property taxes lawfully levied for such district in the highest of the three most recent years in which such taxes were levied for such district, excluding any increase due to (e) of this subsection, unless the highest levy was the statutory maximum rate amount, plus an additional dollar amount calculated by multiplying the regular property tax levy rate of that district for the preceding year by the increase in assessed value in that district resulting from:

(a) New construction;

(b) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(c) Improvements to property;

(d) Any increase in the assessed value of state-assessed property; ((~~and~~))

(e) Any increase in the assessed value of real property, as that term is defined in RCW 39.114.010, within an increment area as designated by any local government in RCW 39.114.020 provided that such increase is not included elsewhere under this section. This subsection (1)(e) does not apply to levies by the state or by port districts and public utility districts for the purpose of making required payments of principal and interest on general indebtedness; and

(f) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under (a) through (e) of this subsection.

(2) The requirements of this section do not apply to:

(a) State property taxes levied under RCW 84.52.065(1) for collection in calendar years 2019 through 2021; and

(b) State property taxes levied under RCW 84.52.065(2) for collection in calendar years 2018 through 2021.

**Sec.**  RCW 84.55.015 and 2014 c 4 s 2 are each amended to read as follows:

If a taxing district has not levied since 1985 and elects to restore a regular property tax levy subject to applicable statutory limitations then such first restored levy must be set so that the regular property tax payable does not exceed the amount which was last levied, plus an additional dollar amount calculated by multiplying the property tax rate which is proposed to be restored, or the maximum amount which could be lawfully levied in the year such a restored levy is proposed, by the increase in assessed value in the district since the last levy resulting from:

(1) New construction;

(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(3) Improvements to property; ((~~and~~))

(4) Any increase in the assessed value of state-assessed property; and

(5) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under subsections (1) through (4) of this section.

**Sec.**  RCW 84.55.020 and 2014 c 4 s 3 are each amended to read as follows:

Notwithstanding the limitation set forth in RCW 84.55.010, the first levy for a taxing district created from consolidation of similar taxing districts must be set so that the regular property taxes payable in the following year do not exceed the limit factor multiplied by the sum of the amount of regular property taxes lawfully levied for each component taxing district in the highest of the three most recent years in which such taxes were levied for such district plus the additional dollar amount calculated by multiplying the regular property tax rate of each component district for the preceding year by the increase in assessed value in each component district resulting from:

(1) New construction;

(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(3) Improvements to property; ((~~and~~))

(4) Any increase in the assessed value of state-assessed property; and

(5) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under subsections (1) through (4) of this section.

**Sec.**  RCW 84.55.030 and 2014 c 4 s 4 are each amended to read as follows:

For the first levy for a taxing district following annexation of additional property, the limitation set forth in RCW 84.55.010 must be increased by an amount equal to the aggregate assessed valuation of the newly annexed property as shown by the current completed and balanced tax rolls of the county or counties within which such property lies, multiplied by the dollar rate that would have been used by the annexing unit in the absence of such annexation, plus the additional dollar amount calculated by multiplying the regular property tax levy rate of that annexing taxing district for the preceding year by the increase in assessed value in the annexing district resulting from:

(1) New construction;

(2) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(3) Improvements to property; ((~~and~~))

(4) Any increase in the assessed value of state-assessed property; and

(5) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under subsections (1) through (4) of this section.

**Sec.**  RCW 84.55.120 and 2021 c 207 s 11 are each amended to read as follows:

(1) A taxing district, other than the state, that collects regular levies must hold a public hearing on revenue sources for the district's following year's current expense budget. The hearing must include consideration of possible increases in property tax revenues and must be held prior to the time the taxing district levies the taxes or makes the request to have the taxes levied. The county legislative authority, or the taxing district's governing body if the district is a city, town, or other type of district, must hold the hearing. For purposes of this section, "current expense budget" means that budget which is primarily funded by taxes and charges and reflects the provision of ongoing services. It does not mean the capital, enterprise, or special assessment budgets of cities, towns, counties, or special purpose districts.

(2) If the taxing district is otherwise required to hold a public hearing on its proposed regular tax levy, a single public hearing may be held on this matter.

(3)(a) Except as provided in (b) of this subsection (3), no increase in property tax revenue may be authorized by a taxing district, other than the state, except by adoption of a separate ordinance or resolution, pursuant to notice, specifically authorizing the increase in terms of both dollars and percentage. The ordinance or resolution may cover a period of up to two years, but the ordinance must specifically state for each year the dollar increase and percentage change in the levy from the previous year.

(b) Exempt from the requirements of (a) of this subsection are increases in revenue resulting from the addition of:

(i) New construction;

(ii) Increases in assessed value due to construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under this section for purposes of providing an additional dollar amount. The property may be classified as real or personal property;

(iii) Improvements to property;

(iv) Any increase in the value of state‑assessed property; ((~~and~~))

(v) Any increase in the assessed value of real property, as that term is defined in RCW 39.114.010, within an increment area as designated by any local government in RCW 39.114.020 provided that such increase is not included elsewhere under this section. This subsection (3)(b)(v) does not apply to levies by the state or by port districts and public utility districts for the purpose of making required payments of principal and interest on general indebtedness; and

(vi) For taxing districts defined in RCW 39.108.010(23) in any year in which distributions may be made under RCW 39.108.150, any increase in the assessed value within any local infrastructure project area, as defined in RCW 39.108.010(5), to the extent that such increase in assessed value is not included under (b)(i) through (v) of this subsection.

**Sec.**  RCW 39.108.010 and 2011 c 318 s 201 are each amended to read as follows:

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

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

(2) "Eligible county" means any county that borders Puget Sound, that has a population of six hundred thousand or more, and that has an established program for transfer of development rights.

(3) "Employment" means total employment in a county or city, as applicable, estimated by the office of financial management.

(4) "Exchange rate" means an increment of development beyond what base zoning allows that is assigned to a development right by a sponsoring city for use in a receiving area.

(5) "Local infrastructure project area" means the geographic area identified by a sponsoring city under RCW 39.108.120.

(6) "Local infrastructure project financing" means the use of local property tax allocation revenue distributed to the sponsoring city to pay or finance public improvement costs within the local infrastructure project area in accordance with RCW 39.108.150.

(7) "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 infrastructure project financing.

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

(a) Has a local infrastructure project area wholly or partially within the taxing district's geographic boundaries; and

(b) Levies, or has levied on behalf of the taxing district, regular property taxes as defined in this section.

(9) "Population" means the population of a city or county, as applicable, estimated by the office of financial management.

(10) "Property tax allocation revenue base value" means the assessed value of real property located within a local infrastructure project area, less the property tax allocation revenue value.

(11)(a)(i) "Property tax allocation revenue value" means an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of real property in a local infrastructure project 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 local infrastructure project area is created by the sponsoring city;

(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 local infrastructure project area is created by the sponsoring city;

(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 local infrastructure project area is created by the sponsoring city.

(ii) Increases in the assessed value of real property 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 an amount equal to the sponsoring city ratio multiplied by 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 local infrastructure project 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.

(12)(a) "Public improvements" means:

(i) Infrastructure improvements within the local infrastructure project area that include:

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

(B) Water and sewer system construction and improvements;

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

(D) Parking, terminal, and dock facilities;

(E) Park and ride facilities of a transit authority and other facilities that support transportation efficient development;

(F) Park facilities, recreational areas, bicycle paths, and environmental remediation;

(G) Stormwater and drainage management systems;

(H) Electric, gas, fiber, and other utility infrastructures; ((~~and~~))

(I) Affordable housing as defined in RCW 36.70A.030(2), either provided directly by the sponsoring city, or funded in part or in full by the sponsoring city through municipal governments or nonprofit organizations that fund or provide housing;

(ii) Expenditures for facilities and improvements that support affordable housing;

(iii) Providing maintenance and security for common or public areas in the local infrastructure project area; or

(iv) Historic preservation activities authorized under RCW 35.21.395.

(b) Public improvements do not include the acquisition by a sponsoring city of transferable development rights.

(13) "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.

(14)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (i) Regular property taxes levied by port districts or 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; and (iv) any regular property tax levy made for any specific statutory purpose other than use in the county current expense fund.

(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).

(15) "Receiving areas," for purposes of this chapter, are those designated lands within local infrastructure project areas in which transferable development rights from sending areas may be used.

(16) "Receiving city" means any incorporated city with population plus employment equal to twenty‑two thousand five hundred or greater within an eligible county.

(17) "Receiving city allocated share" means the total number of transferable development rights from agricultural and forestland of long‑term commercial significance and rural zoned lands designated under RCW 39.108.050 within the eligible counties allocated to a receiving city under RCW 39.108.070 (1) and (2).

(18) "Sending areas" means those lands within an eligible county that meet conservation criteria as described in RCW 39.108.030 and 39.108.050.

(19) "Sponsoring city" means a receiving city that accepts all or a portion of its receiving city allocated share, adopts a plan for development of infrastructure within one or more proposed local infrastructure project areas in accordance with RCW 39.108.080, and creates one or more local infrastructure project areas, as specified in RCW 39.108.070(4).

(20) "Sponsoring city allocated share" means the total number of transferable development rights a sponsoring city agrees to accept, under RCW 39.108.070(4), from agricultural and forestland of long‑term commercial significance and rural zoned lands designated under RCW 39.108.050 within the eligible counties, plus the total number of transferable development rights transferred to the sponsoring city from another receiving city under RCW 39.108.070(5).

(21) "Sponsoring city ratio" means the ratio of the sponsoring city specified portion to the sponsoring city allocated share.

(22) "Sponsoring city specified portion" means the portion of a sponsoring city allocated share which may be used within one or more local infrastructure project areas, as set forth in the sponsoring city's plan for development of infrastructure under RCW 39.108.080.

(23) "Taxing district" means a city or county that levies or has levied on behalf of the taxing district, regular property taxes upon real property located within a local infrastructure project area.

(24) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to one or more receiving areas for the purpose of increasing development density or intensity.

(25) "Transferable development rights" means a right to develop one or more residential units in a sending area that can be sold and transferred.

**--- END ---**