

ESHB 1189 - S COMM AMD

By Committee on Business, Financial Services & Trade

ADOPTED AND ENGROSSED 4/5/21

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

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply  
4 throughout this chapter unless the context clearly requires  
5 otherwise.

6 (1) "Assessed value of real property" means the valuation of  
7 taxable real property as placed on the last completed assessment roll  
8 prepared pursuant to Title 84 RCW.

9 (2) "Increment area" means the geographic area within which  
10 regular property tax revenues are to be apportioned to pay public  
11 improvement costs, as authorized under this chapter.

12 (3) "Increment value" means 100 percent of any increase in the  
13 true and fair value of real property in an increment area that is  
14 placed on the tax rolls after the increment area is created. The  
15 increment value shall not be less than zero.

16 (4) "Local government" means any city, town, county, port  
17 district, or any combination thereof.

18 (5) "Ordinance" means any appropriate method of taking  
19 legislative action by a local government, including a resolution  
20 adopted by a port district organized under Title 53 RCW.

21 (6) "Public improvement costs" means the costs of:

22 (a) Design, planning, acquisition, required permitting, required  
23 environmental studies and mitigation, seismic studies or surveys,  
24 archaeological studies or surveys, land surveying, site preparation,  
25 construction, reconstruction, rehabilitation, improvement, and  
26 installation of public improvements and other directly related costs;

27 (b) Relocating, maintaining, and operating property pending  
28 construction of public improvements;

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

30 (d) Financing public improvements, including capitalized interest  
31 for up to six months following completion of construction, legal and  
32 other professional services, taxes, insurance, principal and interest

1 costs on general indebtedness issued to finance public improvements,  
2 and any necessary debt service reserves;

3 (e) Expenses incurred in revaluing real property for the purpose  
4 of determining the tax allocation base value by a county assessor  
5 under chapter 84.41 RCW and expenses incurred by a county treasurer  
6 under chapter 84.56 RCW in apportioning the taxes and complying with  
7 this chapter and other applicable law. For purposes of this  
8 subsection (6)(e), "expenses incurred" means actual staff and  
9 software costs directly related to the implementation and ongoing  
10 administration of increment areas under this chapter; and

11 (f) Administrative expenses and feasibility studies reasonably  
12 necessary and related to these costs, including related costs that  
13 may have been incurred before adoption of the ordinance authorizing  
14 the public improvements and the use of tax increment financing to  
15 fund the costs of the public improvements.

16 (7) "Public improvements" means:

17 (a) Infrastructure improvements owned by a local government  
18 within or outside of and serving the increment area that include:

19 (i) Street and road construction;

20 (ii) Water and sewer system construction and improvements;

21 (iii) Sidewalks and other nonmotorized transportation  
22 improvements and streetlights;

23 (iv) Parking, terminal, and dock facilities;

24 (v) Park and ride facilities or other transit facilities;

25 (vi) Park and community facilities and recreational areas;

26 (vii) Stormwater and drainage management systems;

27 (viii) Electric, broadband, or rail service;

28 (ix) Mitigation of brownfields; or

29 (b) Expenditures for any of the following purposes:

30 (i) Purchasing, rehabilitating, retrofitting for energy  
31 efficiency, and constructing housing for the purpose of creating or  
32 preserving long-term affordable housing;

33 (ii) Purchasing, rehabilitating, retrofitting for energy  
34 efficiency, and constructing child care facilities serving children  
35 and youth that are low-income, homeless, or in foster care;

36 (iii) Providing maintenance and security for the public  
37 improvements; or

38 (iv) Historic preservation activities authorized under RCW  
39 35.21.395.

1 (8) "Regular property taxes" means regular property taxes as  
2 defined in RCW 84.04.140, except: (a) Regular property taxes levied  
3 by port districts or public utility districts to the extent necessary  
4 for the payments of principal and interest on general obligation  
5 debt; and (b) regular property taxes levied by the state for the  
6 support of the common schools under RCW 84.52.065. Regular property  
7 taxes do not include excess property tax levies that are exempt from  
8 the aggregate limits for junior and senior taxing districts as  
9 provided in RCW 84.52.043. "Regular property taxes" does not include  
10 excess property taxes levied by local school districts.

11 (9) "Tax allocation base value" means the assessed value of real  
12 property located within an increment area for taxes imposed in the  
13 year in which the increment area is first designated.

14 (10) "Tax allocation revenues" means those revenues derived from  
15 the imposition of regular property taxes on the increment value.

16 (11) "Taxing district" means a governmental entity that levies or  
17 has levied for it regular property taxes upon real property located  
18 within a proposed or approved increment area.

19 NEW SECTION. **Sec. 2.** (1) A local government may designate an  
20 increment area under this chapter and use the tax allocation revenues  
21 to pay public improvement costs, subject to the following conditions:

22 (a) The local government must adopt an ordinance designating an  
23 increment area within its boundaries and describing the public  
24 improvements proposed to be paid for, or financed with, tax  
25 allocation revenues;

26 (b) The local government may not designate increment area  
27 boundaries such that the entirety of its territory falls within an  
28 increment area;

29 (c) The increment area may not have an assessed valuation of more  
30 than \$200,000,000 or more than 20 percent of the sponsoring  
31 jurisdiction's total assessed valuation, whichever is less, when the  
32 ordinance is passed. If a sponsoring jurisdiction creates two  
33 increment areas, the total combined assessed valuation in both of the  
34 two increment areas may not equal more than \$200,000,000 or more than  
35 20 percent of the sponsoring jurisdiction's total assessed valuation,  
36 whichever is less, when the ordinances are passed creating the  
37 increment areas;

38 (d) A local government can create no more than two active  
39 increment areas at any given time and they may not physically overlap

1 by including the same land in more than one increment area at any  
2 time;

3 (e) The ordinance must set a sunset date for the increment area,  
4 which may be no more than 25 years after the first year in which tax  
5 allocation revenues are collected from the increment area;

6 (f) The ordinance must identify the public improvements to be  
7 financed and indicate whether the local government intends to issue  
8 bonds or other obligations, payable in whole or in part, from tax  
9 allocation revenues to finance the public improvement costs, and must  
10 estimate the maximum amount of obligations contemplated;

11 (g) The ordinance must provide that the increment takes effect on  
12 June 1st following the adoption of the ordinance in (a) of this  
13 subsection;

14 (h) The sponsoring jurisdiction may not add additional public  
15 improvements to the project after adoption of the ordinance creating  
16 the increment area or change the boundaries of the increment area.  
17 The sponsoring jurisdiction may expand, alter, or add to the original  
18 public improvements when doing so is necessary to assure the  
19 originally approved improvements can be constructed or operated;

20 (i) The ordinance must impose a deadline by which commencement of  
21 construction of the public improvements shall begin, which deadline  
22 must be at least five years into the future and for which extensions  
23 shall be made available for good cause; and

24 (j) The local government must make a finding that:

25 (i) The public improvements proposed to be paid or financed with  
26 tax allocation revenues are expected to encourage private development  
27 within the increment area and to increase the assessed value of real  
28 property within the increment area;

29 (ii) Private development that is anticipated to occur within the  
30 increment area as a result of the proposed public improvements will  
31 be permitted consistent with the permitting jurisdiction's applicable  
32 zoning and development standards;

33 (iii) The private development would not reasonably be expected to  
34 occur solely through private investment within the reasonably  
35 foreseeable future without the proposed public improvements; and

36 (iv) The increased assessed value within the increment area that  
37 could reasonably be expected to occur without the proposed public  
38 improvements would be less than the increase in the assessed value  
39 estimated to result from the proposed development with the proposed  
40 public improvements.

1 (2) In considering whether to designate an increment area, the  
2 legislative body of the local government must prepare a project  
3 analysis that shall include, but need not be limited to, the  
4 following:

5 (a) A statement of objectives of the local government for the  
6 designated increment area;

7 (b) A statement as to the property within the increment area, if  
8 any, that the local government may intend to acquire;

9 (c) The duration of the increment area;

10 (d) Identification of all parcels to be included in the area;

11 (e) A description of the expected private development within the  
12 increment area, including a comparison of scenarios with the proposed  
13 public improvements and without the proposed public improvements;

14 (f) A description of the public improvements, estimated public  
15 improvement costs, and the estimated amount of bonds or other  
16 obligations expected to be issued to finance the public improvement  
17 costs and repaid with tax allocation revenues;

18 (g) The assessed value of real property listed on the tax roll as  
19 certified by the county assessor under RCW 84.52.080 from within the  
20 increment area and an estimate of the increment value and tax  
21 allocation revenues expected to be generated;

22 (h) An estimate of the job creation reasonably expected to result  
23 from the public improvements and the private development expected to  
24 occur in the increment area; and

25 (i) An assessment of any impacts and any necessary mitigation to  
26 address the impacts identified on the following:

27 (i) Affordable and low-income housing;

28 (ii) The local business community;

29 (iii) The local school districts; and

30 (iv) The local fire service.

31 (3) The local government may charge a private developer, who  
32 agrees to participate in creating the increment area, a fee  
33 sufficient to cover the cost of the project analysis and establishing  
34 the increment area, including staff time, professionals and  
35 consultants, and other administrative costs related to establishing  
36 the increment area.

37 (4) Nothing in this section prohibits a local government from  
38 entering into an agreement under chapter 39.34 RCW with another local  
39 government for the administration or other activities related to tax  
40 increment financing authorized under this section.

1 (5) If the project analysis indicates that an increment area will  
2 impact at least 20 percent of the assessed value in a fire protection  
3 district or regional fire protection service authority, or the fire  
4 service agency's annual report demonstrates an increase in the level  
5 of service directly related to the increment area, the local  
6 government must negotiate a mitigation plan with the fire protection  
7 district or regional fire protection service authority to address  
8 level of service issues in the increment area.

9 (6) The local government may reimburse the assessor and treasurer  
10 for their costs as provided in section 1(6)(e) of this act.

11 (7) Prior to the adoption of an ordinance authorizing creation of  
12 an increment area, the local government must:

13 (a) Hold at least two public briefings for the community solely  
14 on the tax increment project that include the description of the  
15 increment area, the public improvements proposed to be financed with  
16 the tax allocation revenues, and a detailed estimate of tax revenues  
17 for the participating local governments and taxing districts,  
18 including the amounts allocated to the increment public improvements.  
19 The briefings must be announced at least two weeks prior to the date  
20 being held, including publishing in a legal newspaper of general  
21 circulation and posting information on the local government website  
22 and all local government social media sites; and

23 (b) Submit the project analysis to the office of the treasurer  
24 for review and consider any comments that the treasurer may provide  
25 upon completion of their review of the project analysis as provided  
26 under this subsection. The treasurer must complete the review within  
27 90 days of receipt of the project analysis and may consult with other  
28 agencies and outside experts as necessary. Upon completing their  
29 review, the treasurer must promptly provide to the local government  
30 any comments regarding suggested revisions or enhancements to the  
31 project analysis that the treasurer deems appropriate based on the  
32 requirements in subsection (2) of this section.

33 NEW SECTION. **Sec. 3.** (1) Public improvements that are financed  
34 under this chapter may be undertaken and coordinated with other  
35 programs or efforts undertaken by the local government and other  
36 taxing districts and may be funded in part from revenue sources other  
37 than tax allocation revenues.

38 (2) Public improvements that are constructed by a private  
39 developer must meet all applicable state and local laws.

1        NEW SECTION.        **Sec. 4.**        The local government designating the  
2 increment area must:

3        (1) Publish notice in a legal newspaper of general circulation  
4 within the jurisdiction of the local government that describes the  
5 public improvements, describes the boundaries of the increment area,  
6 and identifies the location and times where the ordinance and other  
7 public information concerning the public improvement may be  
8 inspected; and

9        (2) Deliver a certified copy of the ordinance to the county  
10 treasurer, the county assessor, and the governing body of each taxing  
11 district within which the increment area is located.

12        NEW SECTION.        **Sec. 5.**        Apportionment of taxes shall be as  
13 follows:

14        (1) Commencing in the calendar year following the passage of the  
15 ordinance, the county treasurer shall distribute receipts from  
16 regular property taxes imposed on real property located in the  
17 increment area as follows:

18        (a) Each taxing district shall receive that portion of its  
19 regular property taxes produced by the rate of tax levied by or for  
20 the taxing district on the tax allocation base value for that  
21 increment area;

22        (b) The local government that designated the increment area shall  
23 be entitled to receive an additional amount equal to the amount  
24 derived from the regular property taxes levied by or for each taxing  
25 district upon the increment value within the increment area. The  
26 local government that designated the increment area shall receive no  
27 more than is needed to pay or repay costs directly associated with  
28 the public improvements identified in the approved ordinance and may  
29 agree to receive less than the full amount of this portion, as long  
30 as bond debt service, reserve, and other bond covenant requirements  
31 are satisfied, in which case the balance of these tax receipts shall  
32 be allocated to the taxing districts that imposed regular property  
33 taxes, or have regular property taxes imposed for them, in the  
34 increment area for collection that year in proportion to their  
35 regular tax levy rates for collection that year. The local government  
36 may request that the treasurer transfer this additional portion of  
37 the property taxes to its designated agent. The portion of the tax  
38 receipts distributed to the local government or its agent under this  
39 subsection (1)(b) may only be expended to finance public improvement

1 costs associated with the public improvements financed in whole or in  
2 part by tax increment financing; and

3 (c) This section shall not apply to any receipts from the regular  
4 property taxes levied by:

5 (i) The state for the support of the common schools under RCW  
6 84.52.065;

7 (ii) Local school district excess levies; and

8 (iii) Port districts or public utility districts specifically for  
9 the purpose of making required payments of principal and interest or  
10 general indebtedness.

11 (2) The apportionment of tax allocation revenues must cease when  
12 the taxing district certifies to the county assessor in writing that  
13 tax allocation revenues are no longer necessary or obligated to pay  
14 public improvement costs, but in no event shall the apportionment of  
15 tax allocation revenues continue beyond the sunset date established  
16 pursuant to section 2(1)(e) of this act. Any excess tax allocation  
17 revenues and earnings on the tax allocation revenues remaining at the  
18 time the apportionment of tax receipts terminates must be returned to  
19 the county treasurer and distributed to the taxing districts that  
20 imposed regular property taxes, or had regular property taxes imposed  
21 for it, in the increment area for collection that year, in proportion  
22 to the rates of their regular property tax levies for collection that  
23 year.

24 (3) The apportionment and distribution of portions of the regular  
25 property taxes levied by or for each taxing district upon the  
26 increment value within the increment area pursuant to and subject to  
27 the requirements of this chapter is declared to be a public purpose  
28 of and benefit each such taxing district.

29 (4) The apportionment and distribution of portions of the regular  
30 property taxes levied by or for each taxing district upon the  
31 increment value within the increment area pursuant to this section  
32 shall not affect or be deemed to affect the rate of taxes levied by  
33 or within any such taxing district or the consistency of any such  
34 levies with the uniformity requirement of Article VII, section 1 of  
35 the state Constitution.

36 NEW SECTION. **Sec. 6.** (1) A local government designating an  
37 increment area may incur general indebtedness, and issue general  
38 obligation bonds or notes to finance the public improvements and



1 retire the indebtedness, in whole or in part, from tax allocation  
2 revenues it receives.

3 (2) The general indebtedness incurred under subsection (1) of  
4 this section may be payable from tax allocation revenues and any  
5 other sources available to the local government for payment of the  
6 public improvement costs, including without limitation: Other tax  
7 revenues; the full faith and credit of the local government; nontax  
8 income, revenues, fees, and rents from the public improvements; and  
9 contributions, grants, and nontax resources.

10 (3) In addition to the requirements in subsection (1) of this  
11 section, a local government designating an increment area and  
12 authorizing the use of tax increment financing may require the  
13 nonpublic participant to provide adequate security to protect the  
14 public investment in the public improvement within the increment  
15 area.

16 NEW SECTION. **Sec. 7.** A direct or collateral attack on the  
17 designation of the increment area or the allocation of regular  
18 property tax revenues in conformance with applicable legal  
19 requirements, including this chapter, may not be commenced more than  
20 30 days after adoption of the ordinance as required by section 2 of  
21 this act.

22 NEW SECTION. **Sec. 8.** (1) A local government may issue revenue  
23 bonds to fund revenue-generating public improvements, or portions of  
24 public improvements, that are located within an increment area and  
25 that it is authorized to provide or operate. Whenever revenue bonds  
26 are to be issued, the legislative authority of the local government  
27 shall create or have created a special fund or funds from which,  
28 along with any reserves created pursuant to RCW 39.44.140, the  
29 principal and interest on these revenue bonds shall exclusively be  
30 payable. The legislative authority of the local government may  
31 obligate the local government to set aside and pay into the special  
32 fund or funds a fixed proportion or a fixed amount of the revenues  
33 from the public improvements that are funded by the revenue bonds.  
34 This amount or proportion is a lien and charge against these  
35 revenues, subject only to operating and maintenance expenses. The  
36 local government shall have due regard for the cost of operation and  
37 maintenance of the public improvements that are funded by the revenue  
38 bonds, and shall not set aside into the special fund or funds a

1 greater amount or proportion of the revenues that in its judgment  
2 will be available over and above the cost of maintenance and  
3 operation and the amount or proportion, if any, of the revenue  
4 previously pledged. The local government may also provide that  
5 revenue bonds payable out of the same source or sources of revenue  
6 may later be issued on a parity with any revenue bonds being issued  
7 and sold.

8 (2) Revenue bonds issued under this section are not an  
9 indebtedness of the local government issuing the bonds, and the  
10 interest and principal on the bonds shall only be payable from the  
11 revenues lawfully pledged to meet the principal and interest  
12 requirements and any reserves created pursuant to RCW 39.44.140. The  
13 owner or bearer of a revenue bond or any interest coupon issued under  
14 this section shall not have any claim against the local government  
15 arising from the bond or coupon except for payment from the revenues  
16 lawfully pledged to meet the principal and interest requirements and  
17 any reserves created pursuant to RCW 39.44.140. The substance of the  
18 limitations included in this subsection shall be plainly printed,  
19 written, or engraved on each bond issued under this section.

20 (3) Revenue bonds with a maturity in excess of 25 years shall not  
21 be issued under this section.

22 (4) The legislative authority of the local government shall by  
23 resolution determine for each revenue bond issue the amount, date,  
24 form, terms, conditions, denominations, maximum fixed or variable  
25 interest rate or rates, maturity or maturities, redemption rights,  
26 registration privileges, manner of execution, manner of sale,  
27 callable provisions, if any, and covenants including the refunding of  
28 existing revenue bonds. Facsimile signatures may be used on the bonds  
29 and any coupons. Refunding revenue bonds may be issued in the same  
30 manner as revenue bonds are issued.

31 (5) The authority to issue revenue bonds under this section is  
32 supplementary and in addition to any authority otherwise existing.  
33 Nothing in this section limits a local government in the issuance of  
34 revenue bonds that are otherwise authorized by law for the  
35 construction of additions, betterments, or extensions of utilities  
36 within the increment area.

37 (6) Notwithstanding anything to the contrary in this section,  
38 revenue bonds issued to finance public improvements may be issued in  
39 accordance with chapter 39.46 RCW.

1        NEW SECTION.        **Sec. 9.**        This chapter supplements and neither  
2 restricts nor limits any powers that the state or any local  
3 government might otherwise have under any laws of this state.

4        **Sec. 10.**        RCW 84.55.010 and 2017 3rd sp.s. c 13 s 302 are each  
5 amended to read as follows:

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

17        (a) New construction;

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

24        (c) Improvements to property; ~~((and))~~

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

27        (e) Any increase in the assessed value of real property, as that  
28 term is defined in section 1 of this act, within an increment area as  
29 designated by any local government in section 2 of this act provided  
30 that such increase is not included elsewhere under this section. This  
31 subsection (1)(e) does not apply to levies by the state or by port  
32 districts and public utility districts for the purpose of making  
33 required payments of principal and interest on general indebtedness.

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

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

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

1       **Sec. 11.** RCW 84.55.120 and 2014 c 4 s 5 are each amended to read  
2 as follows:

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

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

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

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

29       (i) New construction;

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

36       (iii) Improvements to property; (~~and~~)

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

38       (v) Any increase in the assessed value of real property, as that  
39 term is defined in section 1 of this act, within an increment area as  
40 designated by any local government in section 2 of this act provided

1 that such increase is not included elsewhere under this section. This  
2 subsection (3)(b)(v) does not apply to levies by the state or by port  
3 districts and public utility districts for the purpose of making  
4 required payments of principal and interest on general indebtedness.

5 NEW SECTION. Sec. 12. Sections 1 through 9 of this act  
6 constitute a new chapter in Title 39 RCW.

7 NEW SECTION. Sec. 13. If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected."

**ESHB 1189** - S COMM AMD

By Committee on Business, Financial Services & Trade

**ADOPTED 4/5/21**

11 On page 1, line 1 of the title, after "financing;" strike the  
12 remainder of the title and insert "amending RCW 84.55.010 and  
13 84.55.120; and adding a new chapter to Title 39 RCW."

--- END ---