

E2SHB 2354 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 03/01/2024

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

3 **"Sec. 1.** RCW 39.114.010 and 2023 c 354 s 1 are each amended to
4 read as follows:

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

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

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

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

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

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

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

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

30 (b) Relocating, maintaining, and operating property pending
31 construction of public improvements;

- 1 (c) Relocating utilities as a result of public improvements;
- 2 (d) Financing public improvements, including capitalized interest
3 for up to six months following completion of construction, legal and
4 other professional services, taxes, insurance, principal and interest
5 costs on general indebtedness issued to finance public improvements,
6 and any necessary debt service reserves;
- 7 (e) Expenses incurred in revaluing real property for the purpose
8 of determining the tax allocation base value by a county assessor
9 under chapter 84.41 RCW and expenses incurred by a county treasurer
10 under chapter 84.56 RCW in apportioning the taxes and complying with
11 this chapter and other applicable law. For purposes of this
12 subsection (6)(e), "expenses incurred" means actual staff and
13 software costs directly related to the implementation and ongoing
14 administration of increment areas under this chapter; (~~and~~)
- 15 (f) Administrative expenses and feasibility studies reasonably
16 necessary and related to these costs, including related costs that
17 may have been incurred before adoption of the ordinance authorizing
18 the public improvements and the use of tax increment financing to
19 fund the costs of the public improvements; and
- 20 (g) Funding for mitigation to impacted taxing districts as
21 allowed in RCW 39.114.020.
- 22 (7) "Public improvements" means:
- 23 (a) Infrastructure improvements owned by a state or local
24 government within or outside of and serving the increment area and
25 real property owned or acquired by a local government within the
26 increment area including:
- 27 (i) Street and road construction;
- 28 (ii) Water and sewer system construction, expansion, and
29 improvements;
- 30 (iii) Sidewalks and other nonmotorized transportation
31 improvements and streetlights;
- 32 (iv) Parking, terminal, and dock facilities;
- 33 (v) Park and ride facilities or other transit facilities;
- 34 (vi) Park and community facilities and recreational areas;
- 35 (vii) Stormwater and drainage management systems;
- 36 (viii) Electric, broadband, or rail service;
- 37 (ix) Mitigation of brownfields; or
- 38 (b) Expenditures for any of the following purposes:

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

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

7 (iii) Providing maintenance and security for the public
8 improvements;

9 (iv) Historic preservation activities authorized under RCW
10 35.21.395; or

11 (v) Relocation and construction of a government-owned facility,
12 with written permission from the agency owning the facility and the
13 office of financial management.

14 (8) "Real property" means:

15 (a) Real property as defined in RCW 84.04.090; and

16 (b) Privately owned or used improvements located on publicly
17 owned land that are subject to property taxation or leasehold excise
18 tax.

19 (9) "Regular property taxes" means regular property taxes as
20 defined in RCW 84.04.140, except: (a) Regular property taxes levied
21 by port districts or public utility districts to the extent necessary
22 for the payments of principal and interest on general obligation
23 debt; and (b) regular property taxes levied by the state for the
24 support of the common schools under RCW 84.52.065. Regular property
25 taxes do not include excess property tax levies that are exempt from
26 the aggregate limits for junior and senior taxing districts as
27 provided in RCW 84.52.043. "Regular property taxes" does not include
28 excess property taxes levied by local school districts.

29 (10) "Tax allocation base value" means the assessed value of real
30 property located within an increment area for taxes imposed in the
31 year in which the increment area takes effect.

32 (11) "Tax allocation revenues" means those revenues derived from
33 the imposition of regular property taxes on the increment value.

34 (12) "Taxing district" means a governmental entity that levies or
35 has levied for it regular property taxes upon real property located
36 within a proposed or approved increment area.

37 **Sec. 2.** RCW 39.114.020 and 2023 c 354 s 2 are each amended to
38 read as follows:

1 (1) A local government may designate an increment area under this
2 chapter and use the tax allocation revenues to pay public improvement
3 costs, subject to the following conditions:

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

8 (b) The local government may not designate increment area
9 boundaries such that the entirety of its territory falls within an
10 increment area;

11 (c) The increment area may not have an assessed valuation of more
12 than \$200,000,000 or more than 20 percent of the sponsoring
13 jurisdiction's total assessed valuation, whichever is less, when the
14 ordinance is passed. If a sponsoring jurisdiction creates two
15 increment areas, the total combined assessed valuation in both of the
16 two increment areas may not equal more than \$200,000,000 or more than
17 20 percent of the sponsoring jurisdiction's total assessed valuation,
18 whichever is less, when the ordinances are passed creating the
19 increment areas;

20 (d) A local government can create no more than two active
21 increment areas at any given time and they may not physically overlap
22 by including the same land in more than one increment area at any
23 time;

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

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

32 (g) The ordinance must provide that the increment area takes
33 effect on June 1st following the adoption of the ordinance in (a) of
34 this subsection;

35 (h) The sponsoring jurisdiction may not add additional public
36 improvements to the project after adoption of the ordinance creating
37 the increment area or change the boundaries of the increment area.
38 The sponsoring jurisdiction may expand, alter, or add to the original
39 public improvements when doing so is necessary to assure the
40 originally approved improvements can be constructed or operated;

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

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

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

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

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

17 (iv) The increased assessed value within the increment area that
18 could reasonably be expected to occur without the proposed public
19 improvements would be less than the increase in the assessed value
20 estimated to result from the proposed development with the proposed
21 public improvements.

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

26 (a) A statement of objectives of the local government for the
27 designated increment area;

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

30 (c) The duration of the increment area;

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

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

35 (f) A description of the public improvements, estimated public
36 improvement costs, and the estimated amount of bonds or other
37 obligations expected to be issued to finance the public improvement
38 costs and repaid with tax allocation revenues;

39 (g) The assessed value of real property listed on the tax roll as
40 certified by the county assessor under RCW 84.52.080 from within the

1 increment area and an estimate of the increment value and tax
2 allocation revenues expected to be generated;

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

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

8 (i) Affordable and low-income housing;

9 (ii) The local business community;

10 (iii) The local school districts; and

11 (iv) The local fire service, public hospital service, emergency
12 medical services, and any other junior taxing district.

13 (3) The local government may charge a private developer, who
14 agrees to participate in creating the increment area, a fee
15 sufficient to cover the cost of the project analysis and establishing
16 the increment area, including staff time, professionals and
17 consultants, and other administrative costs related to establishing
18 the increment area.

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

23 (5) (a) If the project analysis indicates that an increment area
24 will impact at least 20 percent of the assessed value in a public
25 hospital district, fire protection district, or regional fire
26 protection service authority, or if the public hospital district's or
27 the fire service agency's annual report, or other governing board-
28 adopted capital facilities plan, demonstrates an increase in the
29 level of service directly related to the increased development in the
30 increment area, the local government must (~~negotiate~~) enter into
31 negotiations for a mitigation plan with the impacted public hospital
32 district, fire protection district, or regional fire protection
33 service authority to address level of service issues in the increment
34 area.

35 (b) If the parties cannot agree pursuant to (a) of this
36 subsection (5), the parties must proceed to arbitration to determine
37 the appropriate mitigation plan. The board of arbitrators must
38 consist of three persons: One appointed by the local government
39 seeking to designate the increment area and one appointed by the
40 junior taxing district, both of whom must be appointed within 60 days

1 of the date when arbitration is requested, and a third arbitrator who
2 must be appointed by agreement of the other two arbitrators within 90
3 days of the date when arbitration is requested. If the two are unable
4 to agree on the appointment of the third arbitrator within this 90-
5 day period, then the third arbitrator must be appointed by a judge in
6 the superior court of the county within which the largest portion of
7 the increment area is located. The determination by the board of
8 arbitrators is binding on both the local government seeking to impose
9 the increment area and the junior taxing district.

10 (6) The local government may reimburse the assessor and treasurer
11 for their costs as provided in RCW 39.114.010(6)(e).

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

14 (a) Hold at least two public briefings for the community solely
15 on the tax increment project that include the description of the
16 increment area, the public improvements proposed to be financed with
17 the tax allocation revenues, and a detailed estimate of tax revenues
18 for the participating local governments and taxing districts,
19 including the amounts allocated to the increment public improvements.
20 The briefings must be announced at least two weeks prior to the date
21 being held, including publishing in a legal newspaper of general
22 circulation and posting information on the local government website
23 and all local government social media sites, and must occur no
24 earlier than 90 days after submitting the project analysis to the
25 office of the treasurer and all local governments and taxing
26 districts impacted by the increment area; ((and))

27 (b) Submit the project analysis to all local governments and
28 taxing districts impacted by the increment area no less than 90 days
29 prior to the adoption of the ordinance; and

30 (c) Submit the project analysis to the office of the treasurer
31 for review and consider any comments that the treasurer may provide
32 upon completion of their review of the project analysis as provided
33 under this subsection. The treasurer must complete the review within
34 90 days of receipt of the project analysis and may consult with other
35 agencies and outside experts as necessary. Upon completing their
36 review, the treasurer must promptly provide to the local government
37 any comments regarding suggested revisions or enhancements to the
38 project analysis that the treasurer deems appropriate based on the
39 requirements in subsection (2) of this section.

1 **Sec. 3.** RCW 39.114.040 and 2023 c 354 s 3 are each amended to
2 read as follows:

3 The local government designating the increment area must:

4 (1) Provide written notice to the governing body of each taxing
5 district within which the increment area is located a minimum of 90
6 days before submitting the project analysis to the office of the
7 treasurer as required in RCW 39.114.020(7)(c).

8 (2) Publish notice in a legal newspaper of general circulation
9 within the jurisdiction of the local government at least two weeks
10 before the date on which the ordinance authorizing creation of an
11 increment area is adopted that describes the public improvements,
12 describes the boundaries of the increment area, and identifies the
13 location and times where the ordinance and other public information
14 concerning the public improvement may be inspected; and

15 ~~((2))~~ (3) Deliver a certified copy of the adopted ordinance to
16 the county treasurer, the county assessor, and the governing body of
17 each taxing district within which the increment area is located at
18 the respective addresses specified pursuant to RCW 42.56.040 within
19 10 days of the date on which the ordinance was adopted."

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20 On page 1, line 5 of the title, after "paid;" strike the
21 remainder of the title and insert "and amending RCW 39.114.010,
22 39.114.020, and 39.114.040."

EFFECT: Makes the project analysis and notice requirements apply
to all junior taxing districts, rather than only the fire service
districts, public hospital districts, and emergency medical services.

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