

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5127

Chapter 396, Laws of 1995

54th Legislature
1995 Regular Session

PUBLIC FACILITIES DISTRICTS--REVISED PROVISIONS

EFFECTIVE DATE: 7/23/95

Passed by the Senate April 23, 1995
YEAS 42 NAYS 1

JOEL PRITCHARD

President of the Senate

Passed by the House April 13, 1995
YEAS 70 NAYS 26

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 16, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5127** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 16, 1995 - 3:16 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5127

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

**By Senate Committee on Government Operations (originally sponsored by
Senators West, Haugen, Morton, Prince, Moyer and McCaslin)**

Read first time 02/02/95.

1 AN ACT Relating to public facilities districts; amending RCW
2 36.100.010, 36.100.020, 36.100.030, 36.100.040, 36.100.060, and
3 82.14.048; and adding new sections to chapter 36.100 RCW.

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

5 **Sec. 1.** RCW 36.100.010 and 1989 1st ex.s. c 8 s 1 are each amended
6 to read as follows:

7 (1) A public facilities district may be created in any county
8 ~~((with three hundred thousand or more population that is located more~~
9 ~~than one hundred miles from any county in which the state has~~
10 ~~constructed and owns a convention center. A public facilities~~
11 ~~district)) and shall be coextensive with the boundaries of the county.~~

12 (2) A public facilities district shall be created upon adoption of
13 a resolution providing for the creation of such a district by the
14 county legislative authority in which the proposed district is located
15 ~~((and the city council of the largest city within such county)).~~

16 (3) A public facilities district is a municipal corporation, an
17 independent taxing "authority" within the meaning of Article VII,
18 section 1 of the state Constitution, and a "taxing district" within the
19 meaning of Article VII, section 2 of the state Constitution.

1 (4) No taxes authorized under this chapter may be assessed or
2 levied unless a majority of the voters of the public facilities
3 district has validated the creation of the public facilities district
4 at a general or special election. A single ballot proposition may both
5 authorize the creation of a public facilities district and the
6 imposition of the sales and use tax under RCW 82.14.048 or both the
7 creation of a public facilities district and the imposition of the
8 excise tax under RCW 36.100.040.

9 (5) A public facilities district shall constitute a body corporate
10 and shall possess all the usual powers of a corporation for public
11 purposes as well as all other powers that may now or hereafter be
12 specifically conferred by statute, including, but not limited to, the
13 authority to hire employees, staff, and services, to enter into
14 contracts, and to sue and be sued.

15 **Sec. 2.** RCW 36.100.020 and 1989 1st ex.s. c 8 s 2 are each amended
16 to read as follows:

17 A public facilities district shall be governed by a board of
18 directors consisting of five or seven members as provided in this
19 section. If the largest city in the county has a population that is at
20 least forty percent of the total county population, the board of
21 directors of the public facilities district shall consist of five
22 members selected as follows: (1) Two members appointed by the county
23 legislative authority to serve for four-year staggered terms; (2) two
24 members appointed by the city council of the largest city in the county
25 to serve for four-year staggered terms; and (3) one person to serve for
26 a four-year term who is selected by the other directors. If the
27 largest city in the county has a population of less than forty percent
28 of the total county population, the county legislative authority shall
29 establish in the resolution creating the public facilities district
30 whether the board of directors of the public facilities district have
31 either five or seven members, and the county legislative authority
32 shall appoint the members of the board of directors to reflect the
33 interests of cities and towns in the county, as well as the
34 unincorporated area of the county.

35 At least one member on the board of directors shall be
36 representative of the lodging industry in the public facilities
37 district before the public facilities district imposes the excise tax
38 under RCW 36.100.040.

1 ~~((One of the initial members appointed by the county legislative~~
2 ~~authority shall have a term of office of two years and the other~~
3 ~~initial member appointed by the county legislative authority shall have~~
4 ~~a term of four years. One of the initial members appointed by the city~~
5 ~~council shall have a term of two years and the other initial member~~
6 ~~appointed by the city council shall have a term of four years.))~~

7 Members of the board of directors shall serve four-year terms of
8 office, except that two of the initial five board members or three of
9 the initial seven board members shall serve two-year terms of office.

10 A vacancy shall be filled in the same manner as the original
11 appointment was made and the person appointed to fill a vacancy shall
12 serve for the remainder of the unexpired term of the office for the
13 position to which he or she was appointed.

14 A director may be removed from office for cause by action of at
15 least two-thirds of the members of the county legislative authority.

16 **Sec. 3.** RCW 36.100.030 and 1989 1st ex.s. c 8 s 3 are each amended
17 to read as follows:

18 A public facilities district is authorized to acquire, construct,
19 own, remodel, maintain, equip, reequip, repair, and operate sports
20 ~~((and))~~ facilities, entertainment facilities, or convention facilities,
21 or any combination of such facilities, together with contiguous parking
22 facilities. The taxes that are provided for in this chapter may only
23 be imposed for these purposes.

24 A public facilities district may enter into agreements under
25 chapter 39.34 RCW for the joint provision and operation of such
26 facilities and may enter into contracts under chapter 39.34 RCW where
27 any party to the contract provides and operates such facilities for the
28 other party or parties to the contract.

29 A public facilities district may impose charges and fees for the
30 use of its facilities, and may accept and expend or use gifts, grants,
31 and donations. ~~((The taxes that are provided for in this chapter may~~
32 ~~only be imposed for such purposes.))~~

33 **Sec. 4.** RCW 36.100.040 and 1989 1st ex.s. c 8 s 4 are each amended
34 to read as follows:

35 A public facilities district may impose an excise tax on the sale
36 of or charge made for the furnishing of lodging by a hotel, rooming
37 house, tourist court, motel, or trailer camp, and the granting of any

1 similar license to use real property, as distinguished from the renting
2 or leasing of real property, except that no such tax may be levied on
3 any premises having fewer than forty lodging units. However, if a
4 public facilities district has not imposed such an excise tax prior to
5 December 31, 1995, the public facilities district may only impose the
6 excise tax if a ballot proposition authorizing the imposition of the
7 tax has been approved by a simple majority vote of voters of the public
8 facilities district voting on the proposition.

9 The rate of the tax shall not exceed two percent and the proceeds
10 of the tax shall only be used for the acquisition, design, ((and))
11 construction, remodeling, maintenance, equipping, reequipping,
12 repairing, and operation of ((sports and entertainment)) its public
13 facilities. This excise tax shall not be imposed until the district
14 has approved the proposal to acquire, design, and construct the public
15 facilities.

16 A public facilities district may not impose the tax authorized in
17 this section if, after the tax authorized in this section was imposed,
18 the effective combined rate of state and local excise taxes, including
19 sales and use taxes and excise taxes on lodging, imposed on the sale of
20 or charge made for furnishing of lodging in any jurisdiction in the
21 public facilities district exceeds eleven and one-half percent.

22 **Sec. 5.** RCW 36.100.060 and 1989 1st ex.s. c 8 s 5 are each amended
23 to read as follows:

24 (1) To carry out the purpose of this chapter, a public facilities
25 district may issue general obligation bonds, not to exceed an amount,
26 together with any outstanding nonvoter approved general obligation
27 indebtedness, equal to three-eighths of one percent of the value of
28 taxable property within the district, as the term "value of taxable
29 property" is defined in RCW 39.36.015. A facilities district
30 additionally may issue general obligation bonds for capital purposes
31 only, together with any outstanding general obligation indebtedness,
32 not to exceed an amount equal to one and one-fourth percent of the
33 value of the taxable property within the district, as the term "value
34 of taxable property" is defined in RCW 39.36.015, when authorized by
35 the voters of the public facilities district pursuant to Article VIII,
36 section 6 of the state Constitution, and to provide for the retirement
37 thereof by excess property tax levies as provided in this chapter.

1 (2) General obligation bonds may be issued with a maturity of up to
2 thirty years, and shall be issued and sold in accordance with the
3 provisions of chapter 39.46 RCW.

4 (3) The general obligation bonds may be payable from the operating
5 revenues of the public facilities district in addition to the tax
6 receipts of the district.

7 (4) The excise tax imposed pursuant to RCW 36.100.040 shall
8 terminate upon final payment of all bonded indebtedness for (~~the~~
9 ~~sports and entertainment facility~~) its public facilities.

10 **Sec. 6.** RCW 82.14.048 and 1991 c 207 s 1 are each amended to read
11 as follows:

12 The governing board of a public facilities district under chapter
13 36.100 RCW may submit an authorizing proposition to the voters of the
14 district, and if the proposition is approved by a majority of persons
15 voting, fix and impose a sales and use tax in accordance with the terms
16 of this chapter.

17 The tax authorized in this section shall be in addition to any
18 other taxes authorized by law and shall be collected from those persons
19 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
20 the occurrence of any taxable event within the public facilities
21 district. The rate of tax shall equal one-tenth of one percent of the
22 selling price in the case of a sales tax, or value of the article used,
23 in the case of a use tax.

24 Moneys received from any tax imposed under this section shall be
25 used for the purpose of providing funds for the costs associated with
26 the financing, design, acquisition, construction, equipping, operating,
27 maintaining, remodeling, repairing, and reequipping of (~~sports or~~
28 ~~entertainment~~) its public facilities (~~and contiguous parking~~).

29 NEW SECTION. **Sec. 7.** The treasurer of the county in which a
30 public facilities district is located shall be the ex officio treasurer
31 of the district.

32 NEW SECTION. **Sec. 8.** The board of directors of the public
33 facilities district shall adopt a resolution that may be amended from
34 time to time that shall establish the basic requirements governing
35 methods and amounts of reimbursement payable to such district officials
36 and employees for travel and other business expenses incurred on behalf

1 of the district. The resolution shall, among other things, establish
2 procedures for approving such expenses; the form of the travel and
3 expense voucher; and requirements governing the use of credit cards
4 issued in the name of the district. The resolution may also establish
5 procedures for payment of per diem to board members. The state auditor
6 shall, as provided by general law, cooperate with the public facilities
7 district in establishing adequate procedures for regulating and
8 auditing the reimbursement of all such expenses.

9 NEW SECTION. **Sec. 9.** The board of directors of the public
10 facilities district may authorize payment of actual and necessary
11 expenses of officers and employees for lodging, meals, and travel-
12 related costs incurred in attending meetings or conferences on behalf
13 of the public facilities district and strictly in the public interest
14 and for public purposes. Officers and employees may be advanced
15 sufficient sums to cover their anticipated expenses in accordance with
16 rules adopted by the state auditor, which shall substantially conform
17 to the procedures provided in RCW 43.03.150 through 43.03.210.

18 NEW SECTION. **Sec. 10.** Each member of the board of directors of
19 the public facilities district may receive compensation of fifty
20 dollars per day for attending meetings or conferences on behalf of the
21 district, not to exceed three thousand dollars per year. A director
22 may waive all or a portion of his or her compensation under this
23 section as to a month or months during his or her term of office, by a
24 written waiver filed with the public facilities district. The
25 compensation provided in this section is in addition to reimbursement
26 for expenses paid to the directors by the public facilities district.

27 NEW SECTION. **Sec. 11.** The board of directors of the public
28 facilities district may purchase liability insurance with such limits
29 as the directors may deem reasonable for the purpose of protecting and
30 holding personally harmless district officers and employees against
31 liability for personal or bodily injuries and property damage arising
32 from their acts or omissions while performing or in good faith
33 purporting to perform their official duties.

34 NEW SECTION. **Sec. 12.** Whenever an action, claim, or proceeding is
35 instituted against a person who is or was an officer or employee of the

1 public facilities district arising out of the performance of duties for
2 or employment with the district, the public facilities district may
3 grant a request by the person that the attorney of the district's
4 choosing be authorized to defend the claim, suit, or proceeding, and
5 the costs of defense, attorneys' fees, and obligation for payments
6 arising from the action may be paid from the district's funds. Costs
7 of defense or judgment or settlement against the person shall not be
8 paid in a case where the court has found that the person was not acting
9 in good faith or within the scope of employment with or duties for the
10 public facilities district.

11 NEW SECTION. **Sec. 13.** The board of directors of the public
12 facilities district shall have authority to authorize the expenditure
13 of funds for the public purposes of preparing and distributing
14 information to the general public and promoting, advertising,
15 improving, developing, operating, and maintaining facilities of the
16 district. Nothing contained in this section may be construed to
17 authorize preparation and distribution of information to the general
18 public for the purpose of influencing the outcome of a district
19 election.

20 NEW SECTION. **Sec. 14.** The public facilities district shall have
21 authority to create and fill positions, fix wages, salaries, and bonds
22 therefor, pay costs involved in securing or arranging to secure
23 employees, and establish benefits for employees, including holiday pay,
24 vacations or vacation pay, retirement benefits, medical, life,
25 accident, or health disability insurance, as approved by the board.
26 Public facilities district board members, at their own expense, shall
27 be entitled to medical, life, accident, or health disability insurance.
28 Insurance for employees and board members shall not be considered
29 compensation. District coverage for the board is not to exceed that
30 provided public facilities district employees.

31 NEW SECTION. **Sec. 15.** The public facilities district may secure
32 services by means of an agreement with a service provider. The public
33 facilities district shall publish notice, establish criteria, receive
34 and evaluate proposals, and negotiate with respondents under
35 requirements set forth by district resolution.

1 NEW SECTION. **Sec. 16.** In addition to provisions contained in
2 chapter 39.04 RCW, the public facilities district is authorized to
3 follow procedures contained in RCW 43.19.1906 and 43.19.1911 for all
4 purchases, contracts for purchase, and sales.

5 NEW SECTION. **Sec. 17.** (1) A public facilities district may issue
6 revenue bonds to fund revenue generating facilities, or portions of
7 facilities, which it is authorized to provide or operate. Whenever
8 revenue bonds are to be issued, the board of directors of the district
9 shall create or have created a special fund or funds from which, along
10 with any reserves created pursuant to RCW 39.44.140, the principal and
11 interest on such revenue bonds shall exclusively be payable. The board
12 may obligate the district to set aside and pay into the special fund or
13 funds a fixed proportion or a fixed amount of the revenues from the
14 public improvements, projects, or facilities, and all related
15 additions, that are funded by the revenue bonds. This amount or
16 proportion shall be a lien and charge against these revenues, subject
17 only to operating and maintenance expenses. The board shall have due
18 regard for the cost of operation and maintenance of the public
19 improvements, projects, or facilities, or additions, that are funded by
20 the revenue bonds, and shall not set aside into the special fund or
21 funds a greater amount or proportion of the revenues that in its
22 judgment will be available over and above the cost of maintenance and
23 operation and the amount or proportion, if any, of the revenue so
24 previously pledged. The board may also provide that revenue bonds
25 payable out of the same source or sources of revenue may later be
26 issued on a parity with any revenue bonds being issued and sold.

27 (2) Revenue bonds issued pursuant to this section shall not be an
28 indebtedness of the district issuing the bonds, and the interest and
29 principal on the bonds shall only be payable from the revenues lawfully
30 pledged to meet the principal and interest requirements and any
31 reserves created pursuant to RCW 39.44.140. The owner or bearer of a
32 revenue bond or any interest coupon issued pursuant to this section
33 shall not have any claim against the district arising from the bond or
34 coupon except for payment from the revenues lawfully pledged to meet
35 the principal and interest requirements and any reserves created
36 pursuant to RCW 39.44.140. The substance of the limitations included
37 in this subsection shall be plainly printed, written, or engraved on
38 each bond issued pursuant to this section.

1 (3) Revenue bonds with a maturity in excess of thirty years shall
2 not be issued. The board of directors of the district shall by
3 resolution determine for each revenue bond issue the amount, date,
4 form, terms, conditions, denominations, maximum fixed or variable
5 interest rate or rates, maturity or maturities, redemption rights,
6 registration privileges, manner of execution, manner of sale, callable
7 provisions, if any, and covenants including the refunding of existing
8 revenue bonds. Facsimile signatures may be used on the bonds and any
9 coupons. Refunding revenue bonds may be issued in the same manner as
10 revenue bonds are issued.

11 NEW SECTION. **Sec. 18.** Sections 7 through 17 of this act are each
12 added to chapter 36.100 RCW.

13 NEW SECTION. **Sec. 19.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

Passed the Senate April 23, 1995.

Passed the House April 13, 1995.

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