

CERTIFICATION OF ENROLLMENT
THIRD SUBSTITUTE SENATE BILL 5514

Chapter 363, Laws of 2002

(partial veto)

57th Legislature
2002 Regular Session

PUBLIC FACILITIES DISTRICTS

EFFECTIVE DATE: 6/13/02

Passed by the Senate March 14, 2002
YEAS 34 NAYS 10

BRAD OWEN

President of the Senate

Passed by the House March 13, 2002
YEAS 89 NAYS 8

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **THIRD SUBSTITUTE SENATE BILL 5514** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved April 4, 2002, with the exception of section 3, which is vetoed.

FILED

April 4, 2002 - 3:08 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

THIRD SUBSTITUTE SENATE BILL 5514

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Carlson, Hale, Gardner, Rasmussen, Winsley, Regala, Costa and Fraser)

READ FIRST TIME 03/04/2002.

1 AN ACT Relating to public facilities districts; amending RCW
2 35.57.010, 35.57.020, 82.14.390, and 35.21.280; and adding a new
3 section to chapter 35.57 RCW.

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

5 **Sec. 1.** RCW 35.57.010 and 1999 c 165 s 1 are each amended to read
6 as follows:

7 (1)(a) The legislative authority of any town or city located in a
8 county with a population of less than one million may create a public
9 facilities district.

10 (b) The legislative authorities of any contiguous group of towns or
11 cities located in a county or counties each with a population of less
12 than one million may enter an agreement under chapter 39.34 RCW for the
13 creation and joint operation of a public facilities district.

14 (c) The legislative authority of any town or city, or any
15 contiguous group of towns or cities, located in a county with a
16 population of less than one million and the legislative authority of a
17 contiguous county, or the legislative authority of the county or
18 counties in which the towns or cities are located, may enter into an

1 agreement under chapter 39.34 RCW for the creation and joint operation
2 of a public facilities district.

3 (2)(a) A public facilities district shall be coextensive with the
4 boundaries of the city or town or contiguous group of cities or towns
5 that created the district.

6 (b) A public facilities district created by an agreement between a
7 town or city, or a contiguous group of towns or cities, and a
8 contiguous county or the county in which they are located, shall be
9 coextensive with the boundaries of the towns or cities, and the
10 boundaries of the county or counties as to the unincorporated areas of
11 the county or counties. The boundaries shall not include incorporated
12 towns or cities that are not parties to the agreement for the creation
13 and joint operation of the district.

14 (3)(a) A public facilities district created by a single city or
15 town shall be governed by a board of directors consisting of five
16 members selected as follows: (i) Two members appointed by the
17 legislative authority of the city or town; and (ii) three members
18 appointed by legislative authority based on recommendations from local
19 organizations. The members appointed under (a)(i) of this subsection,
20 shall not be members of the legislative authority of the city or town.
21 The members appointed under (a)(ii) of this subsection, shall be based
22 on recommendations received from local organizations that may include,
23 but are not limited to the local chamber of commerce, local economic
24 development council, and local labor council. The members shall serve
25 four-year terms. Of the initial members, one must be appointed for a
26 one-year term, one must be appointed for a two-year term, one must be
27 appointed for a three-year term, and the remainder must be appointed
28 for four-year terms.

29 (b) A public facilities district created by (~~{a}~~) a contiguous
30 group of cities and towns shall be governed by a board of directors
31 consisting of seven members selected as follows: (i) Three members
32 appointed by the legislative authorities of the cities and towns; and
33 (ii) four members appointed by the legislative authority based on
34 recommendations from local organizations. The members appointed under
35 (b)(i) of this subsection shall not be members of the legislative
36 authorities of the cities and towns. The members appointed under
37 (b)(ii) of this subsection, shall be based on recommendations received
38 from local organizations that include, but are not limited to the local
39 chamber of commerce, local economic development council, local labor

1 council, and a neighborhood organization that is directly affected by
2 the location of the regional center in their area. The members of the
3 board of directors shall be appointed in accordance with the terms of
4 the agreement under chapter 39.34 RCW for the joint operation of the
5 district and shall serve four-year terms. Of the initial members, one
6 must be appointed for a one-year term, one must be appointed for a two-
7 year term, one must be appointed for a three-year term, and the
8 remainder must be appointed for four-year terms.

9 (c) A public facilities district created by a town or city, or a
10 contiguous group of towns or cities, and a contiguous county or the
11 county or counties in which they are located, shall be governed by a
12 board of directors consisting of seven members selected as follows:

13 (i) Three members appointed by the legislative authorities of the
14 cities, towns, and county; and (ii) four members appointed by the
15 legislative authority based on recommendations from local
16 organizations. The members appointed under (c)(i) of this subsection
17 shall not be members of the legislative authorities of the cities,
18 towns, or county. The members appointed under (c)(ii) of this
19 subsection shall be based on recommendations received from local
20 organizations that include, but are not limited to, the local chamber
21 of commerce, the local economic development council, the local labor
22 council, and a neighborhood organization that is directly affected by
23 the location of the regional center in their area. The members of the
24 board of directors shall be appointed in accordance with the terms of
25 the agreement under chapter 39.34 RCW for the joint operation of the
26 district and shall serve four-year terms. Of the initial members, one
27 must be appointed for a one-year term, one must be appointed for a
28 two-year term, one must be appointed for a three-year term, and the
29 remainder must be appointed for four-year terms.

30 (4) A public facilities district is a municipal corporation, an
31 independent taxing "authority" within the meaning of Article VII,
32 section 1 of the state Constitution, and a "taxing district" within the
33 meaning of Article VII, section 2 of the state Constitution.

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

1 (6) A public facilities district may acquire and transfer real and
2 personal property by lease, sublease, purchase, or sale. No direct or
3 collateral attack on any (~~metropolitan [public]~~) public facilities
4 district purported to be authorized or created in conformance with this
5 chapter may be commenced more than thirty days after creation by the
6 city and/or county legislative authority.

7 **Sec. 2.** RCW 35.57.020 and 1999 c 165 s 2 are each amended to read
8 as follows:

9 (1) A public facilities district is authorized to acquire,
10 construct, own, remodel, maintain, equip, reequip, repair, finance, and
11 operate one or more regional centers. For purposes of this chapter,
12 "regional center" means a convention, conference, or special events
13 center, or any combination of facilities, and related parking
14 facilities, serving a regional population constructed, improved, or
15 rehabilitated after July 25, 1999, at a cost of at least ten million
16 dollars, including debt service. "Regional center" also includes an
17 existing convention, conference, or special events center, and related
18 parking facilities, serving a regional population, that is improved or
19 rehabilitated after July 25, 1999, where the costs of improvement or
20 rehabilitation are at least ten million dollars, including debt
21 service. A "special events center" is a facility, available to the
22 public, used for community events, sporting events, trade shows, and
23 artistic, musical, theatrical, or other cultural exhibitions,
24 presentations, or performances. A regional center is conclusively
25 presumed to serve a regional population if state and local government
26 investment in the construction, improvement, or rehabilitation of the
27 regional center is equal to or greater than ten million dollars.

28 (2) A public facilities district may impose charges and fees for
29 the use of its facilities, and may accept and expend or use gifts,
30 grants, and donations for the purpose of a regional center.

31 (3) A public facilities district may impose charges, fees, and
32 taxes authorized in RCW 35.57.040, and use revenues derived therefrom
33 for the purpose of paying principal and interest payments on bonds
34 issued by the public facilities district to construct a regional
35 center.

36 (4) Notwithstanding the establishment of a career, civil, or merit
37 service system, a public facilities district may contract with a public

1 or private entity for the operation or management of its public
2 facilities.

3 (5) A public facilities district is authorized to use the
4 supplemental alternative public works contracting procedures set forth
5 in chapter 39.10 RCW in connection with the design, construction,
6 reconstruction, remodel, or alteration of any regional center.

7 ****NEW SECTION.** Sec. 3. A new section is added to chapter 35.57 RCW
8 to read as follows:*

9 (1) *A public facilities district that has constructed a regional
10 center after the effective date of this section is eligible for a
11 refund of the taxes paid under chapters 82.08, 82.12, and 82.14 RCW on
12 site preparation and construction of buildings or other structures, and
13 the acquisition of related machinery and equipment, for the regional
14 center, including labor and services rendered in the planning,
15 installation, and construction of the center and installation of
16 machinery and equipment. A public facilities district is not eligible
17 for the refund under this section unless an economic benefits analysis
18 has been completed for the regional center project.*

19 (2)(a)(i) *The public facilities district shall notify the
20 department in writing that the regional center is operationally
21 complete. The regional center is deemed operationally complete if it
22 has an occupancy permit and it is generating revenues from use of the
23 center. The taxes shall be refunded to the public facilities district
24 in four equal annual payments. Subject to (a)(ii) of this subsection,
25 the first payment shall occur no later than one hundred twenty days
26 after the department verifies that the regional center is operationally
27 complete. The three subsequent annual payments shall occur twelve
28 months later, respectively.*

29 (ii) *In no event may any taxes be refunded before January 1, 2006.*

30 (b) *The public facilities district shall provide the department of
31 revenue with invoice details and other information as required by the
32 department in order to determine the amount of tax to be refunded. The
33 refund includes any interest on taxes. The department of revenue shall
34 be compensated for the administration of this section out of the
35 interest amount, such compensation not to exceed one percent of the
36 interest. The refund amounts shall be distributed from the funds and
37 accounts into which the taxes were deposited. The department of*

1 revenue shall notify the state treasurer of the amounts to be
2 distributed from each specific state and local fund or account.

3 (3) Applications and any other information received by the
4 department of revenue under this section are not confidential and are
5 subject to disclosure. Chapter 82.32 RCW applies to the administration
6 of this section.

7 *Sec. 3 was vetoed. See message at end of chapter.

8 **Sec. 4.** RCW 82.14.390 and 1999 c 165 s 13 are each amended to read
9 as follows:

10 (1) Except as provided in subsection (6) of this section, the
11 governing body of a public facilities district created before July 31,
12 2002, under chapter 35.57 or 36.100 RCW that commences construction of
13 a new regional center, or improvement or rehabilitation of an existing
14 new regional center, before January 1, ((2003)) 2004, may impose a
15 sales and use tax in accordance with the terms of this chapter. The
16 tax is in addition to other taxes authorized by law and shall be
17 collected from those persons who are taxable by the state under
18 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event
19 within the public facilities district. The rate of tax shall not
20 exceed 0.033 percent of the selling price in the case of a sales tax or
21 value of the article used in the case of a use tax.

22 (2) The tax imposed under subsection (1) of this section shall be
23 deducted from the amount of tax otherwise required to be collected or
24 paid over to the department of revenue under chapter 82.08 or 82.12
25 RCW. The department of revenue shall perform the collection of such
26 taxes on behalf of the county at no cost to the public facilities
27 district.

28 (3) No tax may be collected under this section before August 1,
29 2000. The tax imposed in this section shall expire when the bonds
30 issued for the construction of the regional center and related parking
31 facilities are retired, but not more than twenty-five years after the
32 tax is first collected.

33 (4) Moneys collected under this section shall only be used for the
34 purposes set forth in RCW 35.57.020 and must be matched with an amount
35 from other public or private sources equal to thirty-three percent of
36 the amount collected under this section, provided that amounts
37 generated from nonvoter approved taxes authorized under chapter 35.57
38 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW

1 shall not constitute a public or private source. For the purpose of
2 this section, public or private sources includes, but is not limited to
3 cash or in-kind contributions used in all phases of the development or
4 improvement of the regional center, land that is donated and used for
5 the siting of the regional center, cash or in-kind contributions from
6 public or private foundations, or amounts attributed to private sector
7 partners as part of a public and private partnership agreement
8 negotiated by the public facilities district.

9 (5) The combined total tax levied under this section shall not be
10 greater than 0.033 percent. If both a public facilities district
11 created under chapter 35.57 RCW and a public facilities district
12 created under chapter 36.100 RCW impose a tax under this section, the
13 tax imposed by a public facilities district created under chapter 35.57
14 RCW shall be credited against the tax imposed by a public facilities
15 district created under chapter 36.100 RCW.

16 (6) A public facilities district created under chapter 36.100 RCW
17 is not eligible to impose the tax under this section if the legislative
18 authority of the county where the public facilities district is located
19 has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

20 **Sec. 5.** RCW 35.21.280 and 1999 c 165 s 19 are each amended to read
21 as follows:

22 (1) Every city and town may levy and fix a tax of not more than one
23 cent on twenty cents or fraction thereof to be paid by the person who
24 pays an admission charge to any place: PROVIDED, No city or town shall
25 impose such tax on persons paying an admission to any activity of any
26 elementary or secondary school or any public facility of a public
27 facility district under chapter 35.57 or 36.100 RCW for which a tax is
28 imposed under RCW 35.57.100 or 36.100.210(~~(.—This)~~), except the city
29 or town may impose a tax on persons paying an admission to any activity
30 of such public facility if the city or town uses the admission tax
31 revenue it collects on the admission charges to that public facility
32 for the construction, operation, maintenance, repair, replacement, or
33 enhancement of that public facility or to develop, support, operate, or
34 enhance programs in that public facility.

35 (2) Tax authorization under this section includes a tax on persons
36 who are admitted free of charge or at reduced rates to any place for
37 which other persons pay a charge or a regular higher charge for the
38 same privileges or accommodations. A city that is located in a county

1 with a population of one million or more may not levy a tax on events
2 in stadia constructed on or after January 1, 1995, that are owned by a
3 public facilities district under chapter 36.100 RCW and that have
4 seating capacities over forty thousand. The city or town may require
5 anyone who receives payment for an admission charge to collect and
6 remit the tax to the city or town.

7 (3) The term "admission charge" includes:

8 ((+1)) (a) A charge made for season tickets or subscriptions;

9 ((+2)) (b) A cover charge, or a charge made for use of seats and
10 tables reserved or otherwise, and other similar accommodations;

11 ((+3)) (c) A charge made for food and refreshment in any place
12 where free entertainment, recreation or amusement is provided;

13 ((+4)) (d) A charge made for rental or use of equipment or
14 facilities for purposes of recreation or amusement; if the rental of
15 the equipment or facilities is necessary to the enjoyment of a
16 privilege for which a general admission is charged, the combined
17 charges shall be considered as the admission charge;

18 ((+5)) (e) Automobile parking charges if the amount of the charge
19 is determined according to the number of passengers in the automobile.

Passed the Senate March 14, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 4, 2002, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2002.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 3,
3 Third Substitute Senate Bill No. 5514 entitled:

4 "AN ACT Relating to public facilities districts;"

5 This legislation expands the ability of local governments to
6 construct facilities for community and sporting events, trade shows,
7 conventions, and the like. These regional centers can play an
8 important role in the development of downtown areas. I support this
9 bill with the deadline extensions and tools it provides to local
10 governments.

11 However, I do not agree with section 3 of the bill. That section
12 would have provided for a refund of sales and use taxes on the
13 construction of any regional center that is built after the effective
14 date of the bill. We continue to collect sales and use taxes on the
15 construction of virtually all other public facilities « including
16 schools, universities, and city and county government buildings, with
17 few, very limited exceptions. Refunding sales and use taxes on the
18 construction of the projects described in this bill would create an
19 undesirable policy precedent, and would have a significant fiscal
20 impact that cannot be sustained during these times of budgetary

1 difficulty. Additionally, I cannot in good conscience commit a future
2 legislature to the significant loss of revenue that would occur when
3 these refunds would have come due in 2006.

4 For these reasons, I have vetoed section 3 of Third Substitute
5 Senate Bill No. 5514.

6 With the exception of section 3, Third Substitute Senate Bill No.
7 5514 is approved."