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ENGROSSED THIRD SUBSTITUTE SENATE BILL 5364

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State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Zarelli, T. Sheldon, Regala, B. Sheldon, Winsley, McAuliffe, Hale and Rasmussen; by request of Governor Locke)

READ FIRST TIME 01/23/04.

1 AN ACT Relating to community revitalization financing; amending RCW  
2 39.89.020, 39.89.030, 39.89.050, 39.89.060, 39.89.070, and 39.89.080;  
3 adding new sections to chapter 39.89 RCW; adding new sections to  
4 chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; and  
5 creating new sections.

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

7 **PART I**

8 **COMMUNITY REVITALIZATION FINANCING--GENERAL PROVISIONS**

9 NEW SECTION. **Sec. 101.** The legislature recognizes that the state  
10 as a whole benefits from investment in public infrastructure because it  
11 promotes community and economic development. Public investment  
12 stimulates business activity and helps create jobs; stimulates the  
13 redevelopment of brownfields and blighted areas in the inner city;  
14 lowers the cost of housing; and promotes efficient land use. The  
15 legislature finds that these activities generate revenue for the state  
16 and that it is in the public interest to invest in these projects  
17 through a credit against the state sales and use tax to those local  
18 governments that can demonstrate the expected returns to the state.

1           **Sec. 102.** RCW 39.89.020 and 2001 c 212 s 2 are each amended to  
2 read as follows:

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

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

7           (2) "Department" means the department of revenue.

8           (3) "Increment area" means the geographic area from which taxes are  
9 to be appropriated to finance public improvements authorized under this  
10 chapter.

11           (4) "Increment value" means seventy-five percent of any increase in  
12 the assessed value of real property in an increment area due to the  
13 placement of new construction and improvements to property on the  
14 assessment rolls after the increment area is created, where the new  
15 construction or improvements occur entirely after the increment area is  
16 created. "Increment value" does not include any increase in the  
17 assessed value of real property representing new construction and  
18 improvements to property occurring after their initial placement on the  
19 assessment rolls, except that for new construction which represents  
20 entire buildings increment value includes seventy-five percent of any  
21 increase in the assessed value of such new construction in the years  
22 following its initial placement on the assessment rolls. There is no  
23 increment value if the assessed value of real property in an increment  
24 area has not increased due to new construction and improvements to  
25 property occurring after the increment area is created.

26           (5) "Local government" means any city, town, county, port district,  
27 or any combination thereof.

28           (~~(3)~~) (6) "Ordinance" means any appropriate method of taking  
29 legislative action by a local government.

30           (~~(4)~~) (7) "Participating taxing authority" means a taxing  
31 authority that has entered into a written agreement with a local  
32 government for the use of community revitalization financing to the  
33 extent of allocating excess excise taxes to the local government for  
34 the purpose of financing all or a portion of the costs of designated  
35 public improvements.

36           (8) "Participating taxing district" means all taxing districts  
37 levying regular property taxes on real property within an increment  
38 area, where a local government has obtained written agreement for the

1 use of community revitalization financing to finance all or a portion  
2 of the costs of designated public improvements as provided in RCW  
3 39.89.030(8). However, a fire protection district is not a  
4 participating taxing district unless it has entered into a signed,  
5 written agreement with a local government to provide limited funding  
6 under community revitalization financing as provided in RCW  
7 39.89.030(8)(a).

8 (9) "Public improvements" means:

9 (a) Infrastructure improvements within the increment area that  
10 include:

11 (i) Street and road construction and maintenance;

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

13 (iii) Sidewalks and streetlights;

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

15 (v) Park and ride facilities of a transit authority;

16 (vi) Park facilities and recreational areas; and

17 (vii) Storm water and drainage management systems; and

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

19 (i) Providing environmental analysis, professional management,  
20 planning, and promotion within the increment area, including the  
21 management and promotion of retail trade activities in the increment  
22 area;

23 (ii) Providing maintenance and security for common or public areas  
24 in the increment area; or

25 (iii) Historic preservation activities authorized under RCW  
26 35.21.395.

27 ~~((+5))~~ (10) "Public improvement costs" means the costs of: (a)  
28 Design, planning, acquisition, including land acquisition, site  
29 preparation including land clearing, construction, reconstruction,  
30 rehabilitation, improvement, and installation of public improvements;  
31 (b) demolishing, relocating, maintaining, and operating property  
32 pending construction of public improvements; (c) relocating utilities  
33 as a result of public improvements; (d) financing public improvements,  
34 including interest during construction, legal and other professional  
35 services, taxes, insurance, principal and interest costs on general  
36 indebtedness issued to finance public improvements, and any necessary  
37 reserves for general indebtedness; (e) assessments incurred in  
38 revaluing real property for the purpose of determining the tax

1 allocation base value that are in excess of costs incurred by the  
2 assessor in accordance with the revaluation plan under chapter 84.41  
3 RCW, and the costs of apportioning the taxes and complying with this  
4 chapter and other applicable law; and (f) administrative expenses and  
5 feasibility studies reasonably necessary and related to these costs,  
6 including related costs that may have been incurred before adoption of  
7 the ordinance authorizing the public improvements and the use of  
8 community revitalization financing to fund the costs of the public  
9 improvements.

10 ~~((+6))~~ (11) "Regular property taxes" means regular property taxes  
11 as defined in RCW 84.04.140, except: (a) Regular property taxes levied  
12 by port districts or public utility districts specifically for the  
13 purpose of making required payments of principal and interest on  
14 general indebtedness; ~~((and))~~ (b) regular property taxes levied by the  
15 state for the support of the common schools under RCW 84.52.065; and  
16 (c) regular property taxes levied under the authority of RCW 84.55.050  
17 that are limited to a specific purpose as provided in RCW  
18 84.55.050(3)(c). Regular property taxes do not include excess property  
19 tax levies that are exempt from the aggregate limits for junior and  
20 senior taxing districts as provided in RCW 84.52.043.

21 ~~((+7))~~ (12) "Tax allocation base value" means the ~~((true and~~  
22 ~~fair))~~ assessed value of real property located within an increment area  
23 for taxes ~~((imposed))~~ levied in the year in which the increment area is  
24 created for collection in the following year, plus ~~((twenty-five))~~ one  
25 hundred percent of any increase in the ~~((true and fair))~~ assessed value  
26 of real property located within an increment area that is placed on the  
27 assessment rolls after the increment area is created, less the  
28 increment value.

29 ~~((+8))~~ (13) "Tax allocation revenues" means those tax revenues  
30 derived from the ~~((imposition of))~~ receipt of excess excise taxes under  
31 section 202 of this act and from regular property taxes levied on the  
32 increment value and distributed to finance public improvements.

33 ~~((+9))~~ ~~"Increment area" means the geographic area from which taxes~~  
34 ~~are to be appropriated to finance public improvements authorized under~~  
35 ~~this chapter.~~

36 ~~(10)~~ ~~"Increment value" means seventy five percent of any increase~~  
37 ~~in the true and fair value of real property in an increment area that~~  
38 ~~is placed on the tax rolls after the increment area is created.~~

1       ~~(11))~~ (14) "Taxing authority" means a governmental entity that  
2 imposes a sales or use tax under chapter 82.14 RCW upon the occurrence  
3 of any taxable event within a proposed or approved increment area.

4       (15) "Taxing district((s))" means a governmental entity that levies  
5 or has levied for it regular property taxes upon real property located  
6 within a proposed or approved increment area.

7       ~~((12) "Value of taxable property" means the value of the taxable~~  
8 ~~property as defined in RCW 39.36.015.))~~

9       **Sec. 103.** RCW 39.89.030 and 2002 c 12 s 1 are each amended to read  
10 as follows:

11       A local government may finance public improvements using community  
12 revitalization financing subject to the following conditions:

13       (1) The local government adopts an ordinance designating an  
14 increment area within its boundaries and specifying the public  
15 improvements proposed to be financed in whole or in part with the use  
16 of community revitalization financing. An increment area shall be  
17 geographically restricted to the location of the public improvement and  
18 adjacent locations that the local government finds to have a high  
19 likelihood of receiving direct positive business and economic impacts  
20 due to the public improvement, such as a neighborhood or a block. An  
21 increment area shall not encompass any one political jurisdiction in  
22 its entirety;

23       (2) The public improvements proposed to be financed in whole or in  
24 part using community revitalization financing are expected to encourage  
25 private development within the increment area and to increase the fair  
26 market value of real property within the increment area;

27       (3) The local government has entered or expects to enter into a  
28 contract with a private developer relating to the development of  
29 private improvements within the increment area or has received a letter  
30 of intent from a private developer relating to the developer's plans  
31 for the development of private improvements within the increment area;

32       (4) Private development that is anticipated to occur within the  
33 increment area, as a result of the public improvements, will be  
34 consistent with the countywide planning policy adopted by the county  
35 under RCW 36.70A.210 and the local government's comprehensive plan and  
36 development regulations adopted under chapter 36.70A RCW;

1       ~~((4) Taxing districts, in the aggregate, that levy at least~~  
2 ~~seventy five percent of the regular property tax within which the~~  
3 ~~increment area is located approves the community revitalization~~  
4 ~~financing of the project under RCW 39.89.050(1); and~~

5       ~~(5) In an increment area that includes any portion of a fire~~  
6 ~~protection district as defined in Title 52 RCW, the fire protection~~  
7 ~~district must agree to participate in the community revitalization~~  
8 ~~financing of the project under chapter 212, Laws of 2001, for the~~  
9 ~~project to proceed. Approval by the fire protection district shall be~~  
10 ~~considered as part of the required participation by taxing districts~~  
11 ~~under subsection (4) of this section))~~ (5) The local government may not  
12 use community revitalization financing to finance the costs associated  
13 with the financing, design, acquisition, construction, equipping,  
14 operating, maintaining, remodeling, repairing, and reequipping of  
15 public facilities funded with taxes collected under RCW 82.14.048;

16       (6) The governing body of the local government must make a finding  
17 that community revitalization financing: (a) Will not be used for the  
18 purpose of relocating a business from outside the increment area, but  
19 within this state, into the increment area; (b) will improve the  
20 viability of existing business entities within the increment area; and  
21 (c) will be used exclusively in areas within the jurisdiction of the  
22 local government deemed in need of economic development and/or  
23 redevelopment, and absent the financing available under this act the  
24 proposed economic development and/or redevelopment would more than  
25 likely not occur;

26       (7) The governing body of the local government finds that the  
27 public improvements proposed to be financed in whole or in part using  
28 community revitalization financing are reasonably likely to:

- 29       (a) Increase private investment within the increment area;  
30       (b) Increase employment within the increment area; and  
31       (c) Generate, over the period of time that the local sales and use  
32 tax will be imposed under section 301 of this act, state and local  
33 property, sales, and use tax revenues that are equal to or greater than  
34 the respective state and local contributions made under this chapter;

35       (8) The local government obtains written agreement for the use of  
36 community revitalization financing to finance all or a portion of the  
37 costs of the designated public improvements from taxing districts that  
38 in the aggregate levy at least sixty percent of the regular property

1 taxes on property within the increment area. The agreement must be  
2 authorized by the governing body of taxing districts that in the  
3 aggregate levy at least sixty percent of the regular property taxes on  
4 property within the increment area.

5 (a) A signed, written agreement from taxing districts that in the  
6 aggregate levy at least sixty percent of the regular property taxes  
7 within the increment area constitutes concurrence by all taxing  
8 districts in the increment area in the public improvements and  
9 participation in the public improvements to the extent of providing  
10 limited funding under community revitalization financing authorized  
11 under this chapter. However, a fire protection district shall not be  
12 deemed to participate in the public improvements unless it has provided  
13 written notice to the local government of its decision to provide  
14 limited funding under community revitalization financing.

15 (b) For purposes of this subsection (8), "regular property taxes"  
16 means regular property taxes defined in RCW 84.04.140, except: (i)  
17 Regular property taxes levied by the state; and (ii) regular property  
18 taxes levied by a fire protection district if the fire protection  
19 district has not entered into a signed, written agreement with a local  
20 government to provide limited funding under community revitalization  
21 financing as provided in (a) of this subsection.

22 **Sec. 104.** RCW 39.89.050 and 2001 c 212 s 5 are each amended to  
23 read as follows:

24 (1) Before adopting an ordinance creating the increment area, a  
25 local government must:

26 ~~((1))~~ (a) Obtain written agreement for the use of community  
27 revitalization financing to finance all or a portion of the costs of  
28 the designated public improvements from taxing districts ~~((that, in the~~  
29 ~~aggregate, levy at least seventy five percent of the regular property~~  
30 ~~tax on property within the increment area. A signed, written agreement~~  
31 ~~from taxing districts that in the aggregate levy at least seventy five~~  
32 ~~percent of the regular property tax within the increment area,~~  
33 ~~constitutes concurrence by all taxing districts in the increment area~~  
34 ~~in the public improvement and participation in the public improvement~~  
35 ~~to the extent of providing limited funding under community~~  
36 ~~revitalization financing authorized under this chapter. The agreement~~  
37 ~~must be authorized by the governing body of taxing districts that in~~

1 ~~the aggregate levy at least seventy five percent of the regular~~  
2 ~~property tax on property within the increment area)) as provided in RCW~~  
3 39.89.030(8); and

4 ~~((+2))~~ (b) Hold a public hearing on the proposed financing of the  
5 public improvement in whole or in part with community revitalization  
6 financing.

7 (i) Notice of the public hearing must be published in a legal  
8 newspaper of general circulation within the proposed increment area at  
9 least ten days before the public hearing and posted in at least six  
10 conspicuous public places located in the proposed increment area.

11 (ii) Notice must also be sent by United States mail to the property  
12 owners and the business enterprises located within the proposed  
13 increment area at least thirty days prior to the hearing. In  
14 implementing provisions under this act, the local governing body may  
15 also consult with business organizations, including the local chamber  
16 of commerce, and the office of minority and women's business  
17 enterprises to assist with providing appropriate notice to business  
18 enterprises and property owners for whom English is a second language.

19 (iii) Notices must describe the contemplated public improvements,  
20 estimate the costs of the public improvements, describe the portion of  
21 the costs of the public improvements to be borne by community  
22 revitalization financing, describe any other sources of revenue to  
23 finance the public improvements, describe the boundaries of the  
24 proposed increment area, and estimate the period during which community  
25 revitalization financing is contemplated to be used. The public  
26 hearing may be held by either the governing body of the local  
27 government, or a committee of the governing body that includes at least  
28 a majority of the whole governing body(~~(+and)~~).

29 ~~((+3))~~ (2) In order to create an increment area, a local  
30 government must adopt an ordinance establishing the increment area  
31 that:

32 (a) Describes the public improvements((+));

33 (b) Describes the boundaries of the increment area((+));

34 (c) Estimates the cost of the public improvements and the portion  
35 of these costs to be financed by community revitalization  
36 financing((+));



1 (d) Estimates the time during which regular property taxes are to  
2 be apportioned((τ)) and, if applicable, excess excise taxes are to be  
3 used to finance public improvement costs associated with the public  
4 improvements financed in whole or in part by community revitalization  
5 financing;

6 (e) Estimates the average amount of tax revenue to be received in  
7 all fiscal years through the imposition of a sales and use tax under  
8 section 301 of this act;

9 (f) Provides the date when the apportionment of the regular  
10 property taxes and, if applicable, the use of excess excise taxes will  
11 commence((τ)); and

12 (g) Finds that the conditions of RCW 39.89.030 are met.

13 (3) For purposes of this section, "fiscal year" means the year  
14 beginning July 1st and ending the following June 30th.

15 **Sec. 105.** RCW 39.89.060 and 2001 c 212 s 6 are each amended to  
16 read as follows:

17 The local government shall:

18 (1) Publish notice in a legal newspaper of general circulation  
19 within the increment area that describes the public improvement,  
20 describes the boundaries of the increment area, and identifies the  
21 location and times where the ordinance and other public information  
22 concerning the public improvement may be inspected; and

23 (2) Deliver a certified copy of the ordinance to the county  
24 treasurer, the county assessor, and the governing body of each  
25 participating taxing district within which the increment area is  
26 located.

27 **PART II**

28 **COMMUNITY REVITALIZATION FINANCING**

29 **USE OF TAX ALLOCATION REVENUES TO PAY THE COSTS OF PUBLIC IMPROVEMENTS**

30 **Sec. 201.** RCW 39.89.070 and 2001 c 212 s 7 are each amended to  
31 read as follows:

32 (1) Commencing in the second calendar year following the passage of  
33 the ordinance creating an increment area and authorizing the use of  
34 community revitalization financing, the county treasurer shall

1 distribute receipts from regular taxes imposed on real property located  
2 in the increment area as follows:

3 (a) Each participating taxing district and the local government  
4 that created the increment area shall receive that portion of its  
5 regular property taxes produced by the rate of tax levied by or for the  
6 taxing district on the tax allocation base value for that community  
7 revitalization financing project in the taxing district, or upon the  
8 total assessed value of real property in the taxing district, whichever  
9 is smaller; and

10 (b) The local government that created the increment area shall  
11 receive an additional portion of the regular property taxes levied by  
12 it and by or for each participating taxing district upon the increment  
13 value within the increment area. However, if there is no increment  
14 value, the local government shall not receive any additional regular  
15 property taxes under this subsection (1)(b). The local government that  
16 created the increment area may agree to receive less than the full  
17 amount of ~~((this))~~ the additional portion of regular property taxes  
18 under this subsection (1)(b) as long as bond debt service, reserve, and  
19 other bond covenant requirements are satisfied, in which case the  
20 balance of these tax receipts shall be allocated to the participating  
21 taxing districts that ~~((imposed))~~ levied regular property taxes, or  
22 have regular property taxes ~~((imposed))~~ levied for them, in the  
23 increment area for collection that year in proportion to their regular  
24 tax levy rates for collection that year. The local government may  
25 request that the treasurer transfer this additional portion of the  
26 property taxes to its designated agent. The portion of the tax  
27 receipts distributed to the local government or its agent under this  
28 subsection (1)(b) may only be expended to finance public improvement  
29 costs associated with the public improvements financed in whole or in  
30 part by community revitalization financing.

31 (2) The county assessor shall allocate ~~((twenty five percent of any~~  
32 ~~increased real property value occurring in the increment area to the~~  
33 ~~tax allocation base value and seventy five percent to the increment~~  
34 ~~value))~~ any increase in the assessed value of real property occurring  
35 in the increment area to the increment value and tax allocation base  
36 value as appropriate. This section does not authorize revaluations of  
37 real property by the assessor for property taxation that are not made

1 in accordance with the assessor's revaluation plan under chapter 84.41  
2 RCW or under other authorized revaluation procedures.

3 (3) The apportionment of increases in assessed valuation in an  
4 increment area, and the associated distribution to the local government  
5 of receipts from regular property taxes that are imposed on the  
6 increment value, must cease when tax allocation revenues are no longer  
7 necessary or obligated to pay the costs of the public improvements.  
8 Any excess tax allocation revenues derived from regular property taxes  
9 and earnings on ((the)) such tax allocation revenues, remaining at the  
10 time the apportionment of tax receipts terminates, must be returned to  
11 the county treasurer and distributed to the participating taxing  
12 districts that imposed regular property taxes, or had regular property  
13 taxes imposed for it, in the increment area for collection that year,  
14 in proportion to the rates of their regular property tax levies for  
15 collection that year.

16 NEW SECTION. Sec. 202. A new section is added to chapter 39.89  
17 RCW to read as follows:

18 (1) A local government that creates an increment area and has  
19 received approval from the department under section 303 of this act to  
20 impose the local option sales and use tax authorized in section 301 of  
21 this act may use annually any excess excise taxes received by it from  
22 taxable activity within the increment area to finance public  
23 improvement costs associated with the public improvements financed in  
24 whole or in part by community revitalization financing. The use of  
25 excess excise taxes must cease when tax allocation revenues are no  
26 longer necessary or obligated to pay the costs of the public  
27 improvements. Any participating taxing authority is authorized to  
28 allocate excess excise taxes to the local government as long as the  
29 local government has received approval from the department under  
30 section 303 of this act to impose the local option sales and use tax  
31 authorized in section 301 of this act. The legislature declares that  
32 it is a proper purpose of a local government or participating taxing  
33 authority to allocate excess excise taxes for purposes of financing  
34 public improvements under this chapter.

35 (2) A local government consisting solely of a port district may use  
36 excess excise taxes as provided in this section only to the extent that

1 any participating taxing authority allocates excess excise taxes to the  
2 local government.

3 (3) A local government consisting of a port district and any city,  
4 town, or county may use excess excise taxes as provided in this section  
5 only if:

6 (a) The city, town, or county realizes excess excise taxes from  
7 taxable activity within the increment area; or

8 (b) Any participating taxing authority allocates excess excise  
9 taxes to the local government.

10 (4) A local government shall provide the department accurate  
11 information describing the geographical boundaries of the increment  
12 area at least seventy-five days before the effective date of the  
13 ordinance creating the increment area. The local government shall  
14 ensure that the boundary information provided to the department is kept  
15 current.

16 (5) The department shall provide each local government that has  
17 provided boundary information to the department as provided in this  
18 section and that has received approval from the department under  
19 section 303 of this act to impose the local option sales and use tax  
20 authorized in section 301 of this act with the necessary information to  
21 calculate excess excise taxes.

22 (6) The definitions in this subsection apply throughout this  
23 section unless the context clearly requires otherwise.

24 (a) "Base year" means the first calendar year following the  
25 creation of an increment area.

26 (b) "Excess excise taxes" means the amount of excise taxes received  
27 by the local government during the measurement year from taxable  
28 activity within the increment area over and above the amount of excise  
29 taxes received by the local government during the base year from  
30 taxable activity within the increment area. However, if a local  
31 government creates an increment area and reasonably determines that no  
32 activity subject to tax under chapters 82.08 and 82.12 RCW occurred in  
33 the twelve months immediately preceding the creation of the increment  
34 area within the boundaries of the area that became the increment area,  
35 "excess excise taxes" means the entire amount of excise taxes received  
36 by the local government during a calendar year period beginning with  
37 the calendar year immediately following the creation of the increment  
38 area and continuing with each measurement year thereafter.

1 (c) "Excise taxes" means local retail sales and use taxes  
2 authorized in RCW 82.14.030.

3 (d) "Measurement year" means a calendar year, beginning with the  
4 calendar year following the base year and each calendar year  
5 thereafter, that is used annually to measure the amount of excess  
6 excise taxes required to be used to finance public improvement costs  
7 associated with public improvements financed in whole or in part by  
8 community revitalization financing.

9 **PART III**

10 **COMMUNITY REVITALIZATION FINANCING--STATE CONTRIBUTION**

11 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.14  
12 RCW to read as follows:

13 (1) A city, town, or county that creates an increment area and  
14 finances public improvements pursuant to chapter 39.89 RCW may impose  
15 a sales and use tax in accordance with the terms of this chapter and  
16 subject to the criteria set forth in this section. Except as provided  
17 in this section, the tax is in addition to other taxes authorized by  
18 law and shall be collected from those persons who are taxable by the  
19 state under chapters 82.08 and 82.12 RCW upon the occurrence of any  
20 taxable event within the taxing jurisdiction of the city, town, or  
21 county. The rate of tax shall not exceed the rate provided in RCW  
22 82.08.020(1) in the case of a sales tax or the rate provided in RCW  
23 82.12.020(5) in the case of a use tax, less the aggregate rates of any  
24 other taxes imposed on the same events that are credited against the  
25 state taxes imposed under chapters 82.08 and 82.12 RCW.

26 (2) The tax imposed under subsection (1) of this section shall be  
27 deducted from the amount of tax otherwise required to be collected or  
28 paid over to the department under chapter 82.08 or 82.12 RCW. The  
29 department shall perform the collection of such taxes on behalf of the  
30 city, town, or county at no cost to the city, town, or county.

31 (3) No tax may be imposed under this section before July 1, 2006.  
32 Before imposing a tax under this section, the city, town, or county  
33 shall first have received tax allocation revenues derived from either  
34 regular property taxes or excess excise taxes, or both, during the  
35 preceding calendar year. The tax imposed under this section shall

1 expire when the bonds issued under the authority of chapter 39.89 RCW  
2 are retired, but not more than twenty-five years after the tax is first  
3 imposed.

4 (4) An ordinance adopted by the legislative authority of a city,  
5 town, or county imposing a tax under this section shall provide that:

6 (a) The tax shall first be imposed on the first day of a fiscal  
7 year.

8 (b) The amount of tax received by the local government in any  
9 fiscal year shall not exceed the amount of the state contribution;

10 (c) The tax shall cease to be imposed for the remainder of any  
11 fiscal year in which either:

12 (i) The amount of tax receipts totals the amount of the state  
13 contribution;

14 (ii) The amount of tax receipts totals the amount of "local public  
15 sources," as that term is used in section 302 of this act, dedicated in  
16 the previous calendar year to finance public improvements authorized  
17 under chapter 39.89 RCW; or

18 (iii) The amount of revenue from taxes imposed under this section  
19 by all cities, towns, and counties totals the annual state credit limit  
20 as provided in section 303(3) of this act;

21 (d) The tax shall be reimposed, should it cease to be imposed for  
22 any of the reasons provided in (c) of this subsection, at the beginning  
23 of the next fiscal year, subject to the restrictions in this section;  
24 and

25 (e) Any revenue generated by the tax in excess of the amounts  
26 specified in (a), (b), and (c) of this subsection shall belong to the  
27 state of Washington.

28 (5) If both a county and a city or town impose a tax under this  
29 section, the tax imposed by the city, town, or county shall be credited  
30 as follows:

31 (a) If the county has created an increment area before the city or  
32 town, the tax imposed by the county shall be credited against the tax  
33 imposed by the city or town, the purpose of such credit is to give  
34 priority to the county tax; and

35 (b) If the city or town has created an increment area before the  
36 county, the tax imposed by the city or town shall be credited against  
37 the tax imposed by the county, the purpose of such credit is to give  
38 priority to the city or town tax.

1 (6) The department shall determine the amount of tax receipts  
2 attributable to each city, town, and county imposing a sales and use  
3 tax under this section and shall advise a city, town, or county when it  
4 must cease imposing the tax for the remainder of the fiscal year as  
5 provided in subsection (4)(c) of this section. Determinations by the  
6 department of the amount of taxes attributable to a city, town, or  
7 county are final and shall not be used to challenge the validity of any  
8 tax imposed under this section. The department shall remit any tax  
9 receipts in excess of the amounts specified in subsection (4)(a), (b),  
10 and (c) of this section to the state treasurer who shall deposit the  
11 moneys in the general fund.

12 (7) The definitions in this subsection apply throughout this  
13 section unless the context clearly requires otherwise.

14 (a) "Base year" means the first calendar year following the  
15 creation of an increment area.

16 (b) "Excess state excise taxes" means the amount of excise taxes  
17 received by the state during the measurement year from taxable activity  
18 within the increment area over and above the amount of excise taxes  
19 received by the state during the base year from taxable activity within  
20 the increment area. However, if a local government creates an  
21 increment area and reasonably determines that no activity subject to  
22 tax under chapters 82.08 and 82.12 RCW occurred in the twelve months  
23 immediately preceding the creation of the increment area within the  
24 boundaries of the area that became the increment area, "excess state  
25 excise taxes" means the entire amount of excise taxes received by the  
26 state during a calendar year period beginning with the calendar year  
27 immediately following the creation of the increment area and continuing  
28 with each measurement year thereafter.

29 (c) "Excise taxes" means the state retail sales and use taxes  
30 imposed under chapters 82.08 and 82.12 RCW.

31 (d) "Fiscal year" has the same meaning as in RCW 39.89.050(3).

32 (e) "Increment area" has the same meaning as in RCW 39.89.020.

33 (f) "Measurement year" means a calendar year, beginning with the  
34 calendar year following the base year and each calendar year  
35 thereafter, that is used annually to measure the amount of excess  
36 excise taxes required to be used to finance public improvement costs  
37 associated with public improvements financed in whole or in part by  
38 community revitalization financing.

1 (g) "State contribution" means the lesser of one million dollars or  
2 an amount equal to:

3 (i) State property tax allocation revenues received by the state  
4 during the preceding calendar year; and

5 (ii) Excess state excise taxes received by the state during the  
6 preceding calendar year.

7 (h) "State property tax allocation revenues" means those tax  
8 revenues derived from the imposition of property taxes levied by the  
9 state for the support of common schools under RCW 84.52.065 on the  
10 increment value as defined in RCW 39.89.020.

11 (i) "Tax allocation revenues" has the same meaning as in RCW  
12 39.89.020.

13 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.14  
14 RCW to read as follows:

15 (1) Moneys collected from the taxes imposed under section 301 of  
16 this act shall be used only for the purpose of principal and interest  
17 payments on bonds issued under the authority of RCW 39.89.080 and must  
18 be matched with an amount from local public sources dedicated through  
19 December 31st of the previous calendar year to finance public  
20 improvements authorized under chapter 39.89 RCW. Such local public  
21 sources include but are not limited to private monetary contributions  
22 and tax allocation revenues. Local public sources are dedicated to  
23 finance public improvements if they are actually expended to pay public  
24 improvement costs or are required by law or an agreement to be used  
25 exclusively to pay public improvement costs.

26 (2) A local government shall inform the department by the first day  
27 of March of the amount of:

28 (a) Local public sources dedicated in the preceding calendar year  
29 to finance public improvements authorized under chapter 39.89 RCW; and

30 (b) Tax allocation revenues derived in the preceding calendar year  
31 from the imposition of regular property taxes on the increment value  
32 and distributed to finance public improvements. Upon request of a  
33 local government, the county assessor shall assist the local government  
34 in determining the amount of tax allocation revenues derived in the  
35 preceding calendar year and distributed to finance public improvements.

36 (3) If a local government fails to comply with subsection (2) of



1 this section, no tax may be imposed under section 301 of this act in  
2 the subsequent fiscal year.

3 (4) A local government shall provide a report to the department by  
4 March 1st of each year. The report shall contain the following  
5 information:

6 (a) The amount of tax allocation revenues, taxes under section 301  
7 of this act, and local public sources received by the local government  
8 during the preceding calendar year, and a summary of how these revenues  
9 were expended;

10 (b) The names of any businesses locating within the increment area  
11 as a result of the public improvements undertaken by the local  
12 government and financed in whole or in part with community  
13 revitalization financing;

14 (c) The total number of permanent jobs created as a result of the  
15 public improvements undertaken by the local government and financed in  
16 whole or in part with community revitalization financing;

17 (d) The average wages and benefits received by all employees of  
18 businesses locating within the increment area as a result of the public  
19 improvements undertaken by the local government and financed in whole  
20 or in part with community revitalization financing; and

21 (e) That the local government is in compliance with RCW  
22 39.89.030(6)(c).

23 (5) The department shall make a report available to the public and  
24 the legislature by June 1st of each year. The report shall include a  
25 list of public improvements undertaken by local governments and  
26 financed in whole or in part with community revitalization financing,  
27 and it shall also include a summary of the information provided to the  
28 department by local governments under subsection (4) of this section.

29 (6) The definitions in this subsection apply throughout this  
30 section unless the context clearly requires otherwise.

31 (a) "Public improvement costs" has the same meaning as in RCW  
32 39.89.020.

33 (b) "Tax allocation revenues" has the same meaning as in RCW  
34 39.89.020.

35 NEW SECTION. **Sec. 303.** A new section is added to chapter 82.32  
36 RCW to read as follows:

37 (1) As a condition to imposing a sales and use tax under section

1 301 of this act, a city, town, or county must apply to the department  
2 at least seventy-five days before the effective date of any such tax.  
3 The application shall be in a form and manner prescribed by the  
4 department and shall include but is not limited to information  
5 establishing that the applicant is eligible to impose such a tax, the  
6 anticipated effective date for imposing the tax, the estimated number  
7 of years that the tax will be imposed, and the estimated amount of tax  
8 revenue to be received in each fiscal year that the tax will be  
9 imposed. For purposes of this section, "fiscal year" means the year  
10 beginning July 1st and ending the following June 30th. The department  
11 shall make available forms to be used for this purpose. As part of the  
12 application, a city, town, or county must provide to the department a  
13 copy of the ordinance creating the increment area as required in RCW  
14 39.89.050. The department shall rule on completed applications within  
15 sixty days of receipt. The department may begin accepting and  
16 approving applications August 1, 2004. No new applications shall be  
17 considered by the department after the thirtieth day of September of  
18 the third year following the year in which the first application was  
19 received by the department.

20 (2) The authority to impose the local option sales and use taxes  
21 under section 301 of this act is on a first-come basis. Priority for  
22 collecting the taxes authorized under section 301 of this act among  
23 approved applicants shall be based on the date that the approved  
24 application was received by the department. As a part of the approval  
25 of applications under this section, the department shall approve the  
26 amount of tax under section 301 of this act that an applicant may  
27 impose. The amount of tax approved by the department shall not exceed  
28 the lesser of one million dollars or the average amount of tax revenue  
29 that the applicant estimates that it will receive in all fiscal years  
30 through the imposition of a sales and use tax under section 301 of this  
31 act. A city, town, or county shall not receive, in any fiscal year,  
32 more revenues from taxes imposed under section 301 of this act than the  
33 amount approved by the department. The department shall not approve  
34 the receipt of more credit against the state sales and use tax than is  
35 authorized under subsection (3) of this section.

36 (3) The amount of credit against the state sales and use tax is  
37 limited as follows:

1 (a) Except as provided in this subsection (3), no more than five  
2 million dollars of credit against the state sales and use tax may be  
3 received by all cities, towns, and counties imposing a tax under  
4 section 301 of this act.

5 (b) During the fiscal years beginning July 1, 2007, through June  
6 30, 2010, and for each subsequent fiscal year, the total amount of  
7 credit against the state sales and use tax that may be received by all  
8 cities, towns, and counties imposing a tax under section 301 of this  
9 act shall be increased as follows:

10 (i) In the fiscal year beginning July 1, 2007, the limit in (a) of  
11 this subsection shall be increased by the same percentage as the  
12 percentage increase in the assessed value of all taxable property  
13 within this state from calendar year 2004 through calendar year 2005,  
14 as determined by the department;

15 (ii) In the fiscal year beginning July 1, 2008, the limit in (a) of  
16 this subsection shall be increased by the same percentage as the  
17 percentage increase in the assessed value of all taxable property  
18 within this state from calendar year 2004 through calendar year 2006,  
19 as determined by the department;

20 (iii) In the fiscal year beginning July 1, 2009, and for each  
21 subsequent fiscal year, the limit in (a) of this subsection shall be  
22 increased by the same percentage as the percentage increase in the  
23 assessed value of all taxable property within this state from calendar  
24 year 2004 through calendar year 2007, as determined by the department.

25 (4) The credit against the state sales and use tax shall be  
26 available to any city, town, or county imposing a tax under section 301  
27 of this act only as long as the city, town, or county has outstanding  
28 indebtedness under RCW 39.89.080.

29 (5) The department may adopt any rules under chapter 34.05 RCW it  
30 considers necessary for the administration of sections 202 through 303  
31 of this act.

32 **PART IV**  
33 **BOND AUTHORIZATION**

34 **Sec. 401.** RCW 39.89.080 and 2001 c 212 s 8 are each amended to  
35 read as follows:

36 (1) A local government designating an increment area and

1 authorizing the use of community revitalization financing may incur  
2 general indebtedness, and issue general obligation bonds, to finance  
3 the public improvements and retire the indebtedness in whole or in part  
4 from tax allocation revenues it receives, subject to the following  
5 requirements:

6 (a) The ordinance adopted by the local government creating the  
7 increment area and authorizing the use of community revitalization  
8 financing indicates an intent to incur this indebtedness and the  
9 maximum amount of this indebtedness that is contemplated; and

10 (b) The local government includes this statement of the intent in  
11 all notices required by RCW 39.89.050.

12 (2) The general indebtedness incurred under subsection (1) of this  
13 section may be payable from other tax revenues, the full faith and  
14 credit of the local government, and nontax income, revenues, fees, and  
15 rents from the public improvements, as well as contributions, grants,  
16 and nontax money available to the local government for payment of costs  
17 of the public improvements or associated debt service on the general  
18 indebtedness.

19 (3) In addition to the requirements in subsection (1) of this  
20 section, a local government designating an increment area and  
21 authorizing the use of community revitalization financing may require  
22 the nonpublic participant to provide adequate security to protect the  
23 public investment in the public improvement within the increment area.

24 (4) Bonds issued under this section shall be authorized by  
25 ordinance of the local governing body and may be issued in one or more  
26 series and shall bear such date or dates, be payable upon demand or  
27 mature at such time or times, bear interest at such rate or rates, be  
28 in such denomination or denominations, be in such form either coupon or  
29 registered as provided in RCW 39.46.030, carry such conversion or  
30 registration privileges, have such rank or priority, be executed in  
31 such manner, be payable in such medium of payment, at such place or  
32 places, and be subject to such terms of redemption with or without  
33 premium, be secured in such manner, and have such other  
34 characteristics, as may be provided by such ordinance or trust  
35 indenture or mortgage issued pursuant thereto.

36 (5) The local government may annually pay into a fund to be  
37 established for the benefit of bonds issued under this section a fixed  
38 proportion or a fixed amount of any tax allocation revenues derived

1 from property or business activity within the increment area containing  
2 the public improvements funded by the bonds, such payment to continue  
3 until all bonds payable from the fund are paid in full. The local  
4 government may also annually pay into the fund established in this  
5 section a fixed proportion or a fixed amount of any revenues derived  
6 from taxes imposed under section 301 of this act, such payment to  
7 continue until all bonds payable from the fund are paid in full.  
8 Revenues derived from taxes imposed under section 301 of this act are  
9 subject to the use restriction in section 302 of this act.

10 (6) In case any of the public officials of the local government  
11 whose signatures appear on any bonds or any coupons issued under this  
12 chapter shall cease to be such officials before the delivery of such  
13 bonds, such signatures shall, nevertheless, be valid and sufficient for  
14 all purposes, the same as if such officials had remained in office  
15 until such delivery. Any provision of any law to the contrary  
16 notwithstanding, any bonds issued under this chapter are fully  
17 negotiable.

18 (7) Notwithstanding subsections (4) through (6) of this section,  
19 bonds issued under this section may be issued and sold in accordance  
20 with chapter 39.46 RCW.

21 NEW SECTION. Sec. 402. A new section is added to chapter 39.89  
22 RCW to read as follows:

23 A local government that issues bonds under RCW 39.89.080 to finance  
24 public improvements may pledge for the payment of such bonds all or  
25 part of any tax allocation revenues derived from the public  
26 improvements. The local government may also pledge all or part of any  
27 revenues derived from taxes imposed under section 301 of this act and  
28 held in connection with the public improvements. All of such tax  
29 revenues are subject to the use restriction in section 302 of this act.

30 NEW SECTION. Sec. 403. A new section is added to chapter 39.89  
31 RCW to read as follows:

32 The bonds issued by a local government under RCW 39.89.080 to  
33 finance public improvements shall not constitute an obligation of the  
34 state of Washington, either general or special.

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**PART V**  
**MISCELLANEOUS**

NEW SECTION. **Sec. 501.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 502.** Part headings used in this act do not constitute any part of the law.

NEW SECTION. **Sec. 503.** Nothing in this act shall be construed to give port districts the authority to impose a sales or use tax under chapter 82.14 RCW.

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