

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2299

Chapter 533, Laws of 2009

61st Legislature
2009 Regular Session

PUBLIC FACILITIES DISTRICTS--RECREATIONAL FACILITIES

EFFECTIVE DATE: 07/26/09

Passed by the House April 23, 2009
Yeas 93 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 16, 2009
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved May 18, 2009, 3:36 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2299** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 20, 2009

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2299

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Representatives Klippert, Driscoll, Haler, Kenney, and Grant-Herriot

Read first time 03/02/09. Referred to Committee on Finance.

1 AN ACT Relating to the formation, operation, and nonstate funding
2 of public facilities districts; amending RCW 35.57.010, 82.14.048, and
3 36.100.180; and reenacting and amending RCW 35.57.020.

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

5 **Sec. 1.** RCW 35.57.010 and 2007 c 486 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 (d) The legislative authority of a city located in a county with a
4 population greater than one million may create a public facilities
5 district, when the city has a total population of less than one hundred
6 fifteen thousand but greater than eighty thousand and commences
7 construction of a regional center prior to July 1, 2008.

8 (e) At least two legislative authorities, one or more of which
9 previously created a public facilities district or districts under (b)
10 or (c) of this subsection, may create an additional public facilities
11 district notwithstanding the fact that one or more of those towns or
12 cities, with or without a county or counties, previously have created
13 one or more public facilities districts within the geographic
14 boundaries of the additional public facilities district. Those
15 existing districts may continue their full corporate existence and
16 activities notwithstanding the creation and existence of the additional
17 district within all or part of the same geographic area. Additional
18 public facilities districts formed under this subsection may be
19 comprised of a maximum of three contiguous towns or cities separately
20 or in combination with a maximum of two contiguous counties.

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

24 (b) A public facilities district created by an agreement between a
25 town or city, or a contiguous group of towns or cities, and a
26 contiguous county or the county in which they are located, shall be
27 coextensive with the boundaries of the towns or cities, and the
28 boundaries of the county or counties as to the unincorporated areas of
29 the county or counties. The boundaries shall not include incorporated
30 towns or cities that are not parties to the agreement for the creation
31 and joint operation of the district.

32 (3)(a) A public facilities district created by a single city or
33 town shall be governed by a board of directors consisting of five
34 members selected as follows: (i) Two members appointed by the
35 legislative authority of the city or town; and (ii) three members
36 appointed by legislative authority based on recommendations from local
37 organizations. The members appointed under (a)(i) of this subsection,
38 shall not be members of the legislative authority of the city or town.

1 The members appointed under (a)(ii) of this subsection, shall be based
2 on recommendations received from local organizations that may include,
3 but are not limited to the local chamber of commerce, local economic
4 development council, and local labor council. The members shall serve
5 four-year terms. Of the initial members, one must be appointed for a
6 one-year term, one must be appointed for a two-year term, one must be
7 appointed for a three-year term, and the remainder must be appointed
8 for four-year terms.

9 (b) A public facilities district created by a contiguous group of
10 cities and towns shall be governed by a board of directors consisting
11 of seven members selected as follows: (i) Three members appointed by
12 the legislative authorities of the cities and towns; and (ii) four
13 members appointed by the legislative (~~authority~~) authorities of the
14 cities and towns based on recommendations from local organizations.
15 The members appointed under (b)(i) of this subsection shall not be
16 members of the legislative authorities of the cities and towns. The
17 members appointed under (b)(ii) of this subsection, shall be based on
18 recommendations received from local organizations that include, but are
19 not limited to the local chamber of commerce, local economic
20 development council, local labor council, and a neighborhood
21 organization that is directly affected by the location of the regional
22 center in their area. The members of the board of directors shall be
23 appointed in accordance with the terms of the agreement under chapter
24 39.34 RCW for the joint operation of the district and shall serve four-
25 year terms. Of the initial members, one must be appointed for a one-
26 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 (c) A public facilities district created by a town or city, or a
30 contiguous group of towns or cities, and a contiguous county or the
31 county or counties in which they are located, shall be governed by a
32 board of directors consisting of seven members selected as follows:
33 (i) Three members appointed by the legislative authorities of the
34 cities, towns, and county; and (ii) four members appointed by the
35 legislative (~~authority~~) authorities of the cities, towns, and county
36 based on recommendations from local organizations. The members
37 appointed under (c)(i) of this subsection shall not be members of the
38 legislative authorities of the cities, towns, or county. The members

1 appointed under (c)(ii) of this subsection shall be based on
2 recommendations received from local organizations that include, but are
3 not limited to, the local chamber of commerce, the local economic
4 development council, the local labor council, and a neighborhood
5 organization that is directly affected by the location of the regional
6 center in their area. The members of the board of directors shall be
7 appointed in accordance with the terms of the agreement under chapter
8 39.34 RCW for the joint operation of the district and shall serve four-
9 year terms. Of the initial members, one must be appointed for a one-
10 year term, one must be appointed for a two-year term, one must be
11 appointed for a three-year term, and the remainder must be appointed
12 for four-year terms.

13 (d)(i) A public facilities district created under subsection (1)(e)
14 of this section may provide, in the agreement providing for its
15 creation and operation, that the district must be governed by a board
16 of directors appointed under (b) or (c) of this subsection, or by a
17 board of directors of not more than nine members who are also members
18 of the legislative authorities that created the public facilities
19 district or of the governing boards of the public facilities district
20 or districts, or both, previously created by those legislative
21 authorities.

22 (ii) A board of directors formed under this subsection must have an
23 equal number of members representing each city, town, or county
24 participating in the public facilities district. If a public
25 facilities district is created by an even number of legislative
26 authorities, the members representing or appointed by those legislative
27 authorities shall appoint an additional board member. For a board
28 formed under this subsection to approve a proposition, the proposition
29 must be approved by a majority of the members representing or appointed
30 by each legislative authority participating in the public facilities
31 district.

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

36 (5) A public facilities district shall constitute a body corporate
37 and shall possess all the usual powers of a corporation for public
38 purposes as well as all other powers that may now or hereafter be

1 specifically conferred by statute, including, but not limited to, the
2 authority to hire employees, staff, and services, to enter into
3 contracts, and to sue and be sued.

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

10 **Sec. 2.** RCW 35.57.020 and 2002 c 363 s 2 and 2002 c 218 s 25 are
11 each reenacted and amended to read as follows:

12 (1)(a) Except for a public facilities district created under RCW
13 35.57.010(1)(e), a public facilities district is authorized to acquire,
14 construct, own, remodel, maintain, equip, reequip, repair, finance, and
15 operate one or more regional centers. For purposes of this chapter,
16 "regional center" means a convention, conference, or special events
17 center, or any combination of facilities, and related parking
18 facilities, serving a regional population constructed, improved, or
19 rehabilitated after July 25, 1999, at a cost of at least ten million
20 dollars, including debt service. "Regional center" also includes an
21 existing convention, conference, or special events center, and related
22 parking facilities, serving a regional population, that is improved or
23 rehabilitated after July 25, 1999, where the costs of improvement or
24 rehabilitation are at least ten million dollars, including debt
25 service. A "special events center" is a facility, available to the
26 public, used for community events, sporting events, trade shows, and
27 artistic, musical, theatrical, or other cultural exhibitions,
28 presentations, or performances. A regional center is conclusively
29 presumed to serve a regional population if state and local government
30 investment in the construction, improvement, or rehabilitation of the
31 regional center is equal to or greater than ten million dollars.

32 (b) A public facilities district created under RCW 35.57.010(1)(e)
33 is authorized to acquire, construct, own, remodel, maintain, equip,
34 reequip, repair, finance, and operate one or more recreational
35 facilities other than a ski area.

36 (2) A public facilities district may enter into contracts with any

1 city or town for the purpose of exercising any powers of a community
2 renewal agency under chapter 35.81 RCW.

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

6 (4) A public facilities district may impose charges, fees, and
7 taxes authorized in RCW 35.57.040, and use revenues derived therefrom
8 for the purpose of paying principal and interest payments on bonds
9 issued by the public facilities district to construct a regional
10 center.

11 (5) Notwithstanding the establishment of a career, civil, or merit
12 service system, a public facilities district may contract with a public
13 or private entity for the operation or management of its public
14 facilities.

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

19 (7) A city or town in conjunction with any special agency,
20 authority, or other district established by a county or any other
21 governmental agency is authorized to use the supplemental alternative
22 public works contracting procedures set forth in chapter 39.10 RCW in
23 connection with the design, construction, reconstruction, remodel, or
24 alteration of any regional center funded in whole or in part by a
25 public facilities district.

26 **Sec. 3.** RCW 82.14.048 and 2008 c 86 s 103 are each amended to read
27 as follows:

28 (1) The governing board of a public facilities district under
29 chapter 36.100 or 35.57 RCW may submit an authorizing proposition to
30 the voters of the district, and if the proposition is approved by a
31 majority of persons voting, impose a sales and use tax in accordance
32 with the terms of this chapter.

33 (2) The tax authorized in this section shall be in addition to any
34 other taxes authorized by law and shall be collected from those persons
35 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
36 the occurrence of any taxable event within the public facilities
37 district. The rate of tax shall not exceed two-tenths of one percent

1 of the selling price in the case of a sales tax, or value of the
2 article used, in the case of a use tax. A public facilities district
3 formed under RCW 35.57.010(1)(e) may not impose the tax authorized
4 under this subsection at a rate that exceeds two-tenths of one percent
5 minus the rate of the highest tax authorized by this subsection that is
6 imposed by any other public facilities district within its boundaries.
7 If a public facilities district formed under RCW 35.57.010(1)(e) has
8 imposed a tax under this subsection and issued or incurred obligations
9 pledging that tax, so long as those obligations are outstanding no
10 other public facilities district within its boundaries may thereafter
11 impose a tax under this subsection at a rate that would reduce the rate
12 of the tax that was pledged to the repayment of those obligations. A
13 public facilities district that imposes a tax under this subsection is
14 responsible for the payment of any costs incurred for the purpose of
15 administering the provisions of this subsection, RCW 35.57.010(1)(e),
16 and 35.57.020(1)(b), including any administrative costs associated with
17 the imposition of a tax under this subsection incurred by either the
18 department of revenue or local government, or both.

19 (3) Moneys received from any tax imposed under the authority of
20 this section shall be used for the purpose of providing funds for the
21 costs associated with the financing, design, acquisition, construction,
22 equipping, operating, maintaining, remodeling, repairing, and
23 reequipping of its public facilities.

24 **Sec. 4.** RCW 36.100.180 and 1995 c 396 s 15 are each amended to
25 read as follows:

26 (1) The public facilities district may secure services by means of
27 an agreement with a service provider. The public facilities district
28 shall publish notice, establish criteria, receive and evaluate
29 proposals, and negotiate with respondents under requirements set forth
30 by district resolution.

31 (2) For personal service contracts of one hundred fifty thousand
32 dollars or greater not otherwise governed by chapter 39.80 RCW,
33 contracts for architectural and engineering services, a competitive
34 solicitation process is required. The district shall establish the
35 process by resolution, which must at a minimum include the following:

36 (a) Notice. A notice inviting statements of either qualifications
37 or proposals, or both, from interested parties must be published in a

1 newspaper of general circulation throughout the county in which the
2 district is located at least ten days before the date for submitting
3 the statements of qualifications or proposals.

4 (b) Description of services required. The request for statements
5 of either qualifications or proposals, or both published or provided to
6 interested parties must describe the services required and list the
7 types of information and data required of each proposal. It may also
8 describe the evaluation criteria and state the relative importance of
9 the criteria if then available.

10 (c) Review and evaluation. The district shall establish a process
11 to review and evaluate statements of either qualifications or
12 proposals, or both. That process may include a selection board
13 identified by the district or some other panel of evaluators. If
14 appropriate, the reviewers may hear oral presentations by proposers.

15 (d) Selection. The evaluators shall select and rank the most
16 qualified proposers. In selecting and ranking such proposers, the
17 selection board shall consider the evaluation criteria established by
18 the district and may consider such other information as may be secured
19 during the evaluation process related to a proposer's qualifications
20 and experience.

21 (e) Negotiations. The district shall enter into contract
22 negotiations with the top-ranked proposer or proposers identified in
23 the selection process. Negotiations may be conducted concurrently or
24 sequentially as may be allowed by law.

25 (f) Approval. When negotiations are complete, the proposed
26 contract will be presented to the district's governing body at its next
27 regularly scheduled meeting for approval or ratification.

28 (3) Exceptions. The requirements of this section need not be met
29 in the following circumstances:

30 (a) Emergency. When the contracting authority makes a finding that
31 an emergency requires the immediate execution of the work involved. As
32 used in this subsection, "emergency" has the same meaning as provided
33 in RCW 39.29.006;

34 (b) Contract amendment. Amendments to existing service contracts
35 are exempt from these requirements; and

36 (c) Sole source. In the event that the services being sought can
37 only be obtained from a single source, then the district shall make a
38 formal written finding stating the factual basis for the exception and

1 the solicitation requirements of this section do not apply. As used in
2 this subsection, "sole source" has the same meaning as provided in RCW
3 39.29.006.

4 (4) Prospective application. Nothing in this section affects the
5 validity or effect of any district contract executed prior to the
6 effective date of this act.

Passed by the House April 23, 2009.

Passed by the Senate April 16, 2009.

Approved by the Governor May 18, 2009.

Filed in Office of Secretary of State May 20, 2009.