CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2354**

Chapter 236, Laws of 2024

68th Legislature

2024 Regular Session

TAX INCREMENT AREAS—ESTABLISHMENT—IMPACT ON OTHER TAXING DISTRICTS

EFFECTIVE DATE: June 6, 2024

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| Passed by the House March 5, 2024  Yeas 96 Nays 0  LAURIE JINKINS  **Speaker of the House of Representatives**  Passed by the Senate March 1, 2024  Yeas 48 Nays 0  DENNY HECK  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2354** as passed by the House of Representatives and the Senate on the dates hereon set forth.  BERNARD DEAN  Chief Clerk |
| Approved March 25, 2024 1:55 PM | March 26, 2024 |
| JAY INSLEE  **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2354**

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AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

**State of Washington 68th Legislature 2024 Regular Session**

**By** House Finance (originally sponsored by Representatives Street, Orcutt, Bronoske, Robertson, Chambers, Callan, Bateman, Doglio, and Reed)

AN ACT Relating to creating an option for impacted taxing districts to provide a portion of their new revenue to support any tax increment area proposed within their jurisdiction and clarifying that a tax increment area must be dissolved when all bond obligations are paid; and amending RCW 39.114.010, 39.114.020, and 39.114.040.

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

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

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

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

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

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

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

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

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

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

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

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including capitalized interest for up to six months following completion of construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary debt service reserves;

(e) Expenses incurred in revaluing real property for the purpose of determining the tax allocation base value by a county assessor under chapter 84.41 RCW and expenses incurred by a county treasurer under chapter 84.56 RCW in apportioning the taxes and complying with this chapter and other applicable law. For purposes of this subsection (6)(e), "expenses incurred" means actual staff and software costs directly related to the implementation and ongoing administration of increment areas under this chapter; ((~~and~~))

(f) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of tax increment financing to fund the costs of the public improvements; and

(g) Funding for mitigation to impacted taxing districts as allowed in RCW 39.114.020.

(7) "Public improvements" means:

(a) Infrastructure improvements owned by a state or local government within or outside of and serving the increment area and real property owned or acquired by a local government within the increment area including:

(i) Street and road construction;

(ii) Water and sewer system construction, expansion, and improvements;

(iii) Sidewalks and other nonmotorized transportation improvements and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities or other transit facilities;

(vi) Park and community facilities and recreational areas;

(vii) Stormwater and drainage management systems;

(viii) Electric, broadband, or rail service;

(ix) Mitigation of brownfields; or

(b) Expenditures for any of the following purposes:

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

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

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

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

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

(8) "Real property" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The duration of the increment area;

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

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

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

(g) The assessed value of real property listed on the tax roll as certified by the county assessor under RCW 84.52.080 from within the increment area and an estimate of the increment value and tax allocation revenues expected to be generated;

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

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

(i) Affordable and low-income housing;

(ii) The local business community;

(iii) The local school districts; and

(iv) The local fire service, public hospital service, and emergency medical services; and

(j) The assessment of impacts under (i) of this subsection (2) must include any necessary mitigation to the local fire service, public hospital service, and emergency medical services; and

(k) An assessment of any impacts of any other junior taxing districts not referenced in (i) of this subsection (2).

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

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

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

(b) If the parties cannot agree pursuant to (a) of this subsection (5), the parties must proceed to arbitration to determine the appropriate mitigation plan. The board of arbitrators must consist of three persons: One appointed by the local government seeking to designate the increment area and one appointed by the junior taxing district, both of whom must be appointed within 60 days of the date when arbitration is requested, and a third arbitrator who must be appointed by agreement of the other two arbitrators within 90 days of the date when arbitration is requested. If the two are unable to agree on the appointment of the third arbitrator within this 90-day period, then the third arbitrator must be appointed by a judge in the superior court of the county within which the largest portion of the increment area is located. The determination by the board of arbitrators is binding on both the local government seeking to impose the increment area and the junior taxing district.

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

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

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

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

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

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

The local government designating the increment area must:

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

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

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

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Passed by the House March 5, 2024.

Passed by the Senate March 1, 2024.

Approved by the Governor March 25, 2024.

Filed in Office of Secretary of State March 26, 2024.