

HOUSE BILL REPORT

E2SSB 5001

As Reported by House Committee On:

Local Government
Finance

Title: An act relating to public facilities districts created by at least two city or county legislative authorities.

Brief Description: Concerning public facility districts created by at least two city or county legislative authorities.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Hawkins, Hunt, Nguyen and Wilson, J.).

Brief History:

Committee Activity:

Local Government: 3/14/23, 3/21/23 [DPA];

Finance: 3/28/23, 3/30/23 [DPA(LG)].

Brief Summary of Engrossed Second Substitute Bill (As Amended By Committee)

- Allows the legislative authorities of certain cities and counties that previously created a public facilities district to create a new public facilities district prior to July 1, 2026, for financing, constructing, and operating regional aquatics and sports facilities and for providing funding for transportation improvements directly related to the facilities.
- Allows the new public facilities districts to, with voter approval, impose a sales and use tax at a rate of up to 0.2 percent to fund the district's activities.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives Duerr,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg, Griffey and Riccelli.

Staff: Kellen Wright (786-7134).

Background:

Public Facilities Districts Purpose and Formation.

Public facilities districts are municipal corporations with independent taxing authority. There are two distinct versions of public facilities districts that can be created. The first, which is governed by a separate statutory framework and which has a somewhat larger remit, is a countywide public facilities district that can be created by a county legislative authority. The second, relevant here, can be created by the legislative authority of certain cities, combinations of cities, or combinations of counties and cities.

These latter public facilities districts can acquire, construct, maintain, repair, finance, and operate one or more regional centers and/or recreational facilities other than a ski area. A regional center is a convention, conference, or special events center, or a combination of facilities, and related parking facilities that serve a regional population and that cost more than \$10 million to construct, improve, or rehabilitate, including the cost of debt service. If state and local government investment in the regional center is more than \$10 million, it is conclusively presumed that the center serves a regional population.

These public facilities districts can be formed in a variety of configurations. They can be formed:

- by the legislative authority of any town or city (city) in a county that has fewer than 1,000,000 people;
- by the legislative authority of a city that has a population between 80,000 and 115,000 that commenced construction of a regional center prior to July 1, 2008, within a county of more than 1,000,000;
- through an interlocal agreement entered into by the legislative authority of a contiguous group of cities located in a county or counties with fewer than 1,000,000 people; and
- through an interlocal agreement entered into by the legislative authority of a city or group of contiguous cities located in a county or counties with fewer than 1,000,000 people and the legislative authority of the county or counties in which the city or cities are located, or with the legislative authority of a contiguous county.

The boundaries of the district are coextensive with the boundary of the city or cities that formed the district, and the unincorporated area of any counties involved.

A second public facilities district can be created by at least three contiguous cities with a combined population of at least 160,000 that previously created a public facilities district. The prior district is not affected by the creation of a new district.

Before a public facilities district can be formed, issue debt, or enter into a long-term lease, purchase, or development of a facility, an independent feasibility review must be conducted by the Department of Commerce and the Municipal Resources and Services Center or a similar entity to examine the expected costs and the adequacy of expected revenues to meet those costs. The cost of the study must be borne by the public facilities district or local government that is proposing to take the action that triggered the review.

Public Facilities District Revenue and Taxation Authority.

A public facilities district can impose charges and fees for the use of its facilities, and may impose a tax on any admission charges paid for entry to a regional center. Admission charges include charges for tickets, necessary equipment rentals, cover charges, charges for food and drink if free entertainment is provided, and parking charges if the charge is determined by the number of people in a vehicle. This tax cannot exceed 5 percent of the total charge. A public facilities district may additionally impose a tax of up to 10 percent on vehicle parking charges imposed at parking facilities owned by the district.

Public facilities districts may also levy sales and use taxes. A sales tax is a tax applied to the sale, rental, repair, or installation of tangible personal property, digital products, or some services purchased for the buyer's own use. It is a percentage tax based on the selling price of the items. A use tax is similar, except that it applies to the value of goods used within the state when a sales tax for them has not been paid. For example, a sales tax would be imposed on the sale of a car inside Washington, while a use tax would be imposed on a car purchased outside of Washington when it is registered in Washington if no sales tax, or a sales tax at a rate lower than Washington's, was paid at the time of purchase. The state imposes a general sales and use tax at a rate of 6.5 percent.

There are three different sales and use taxes available to public facilities districts. Two, however, can only be imposed by a limited number of districts. The other tax, and the only one available to all districts, is a 0.02 percent sales and use tax that can be imposed with voter approval. A second public facilities district formed within three or more contiguous cities can only impose the tax to the extent that the first public facilities district is not using the full taxing capacity.

The other two sales and use taxes are significantly more limited. The first of these can only be imposed by certain public facilities districts that commenced construction on their regional centers before specified dates in the mid to late 2000s. This tax may be imposed without voter approval at a rate of up to 0.033 percent. The final tax is even more restrictive. This tax can only be imposed by the governing body of a district that formed before August 1, 2001, that has a population between 90,000 and 100,000, and that commenced construction on a regional center that has certain attributes before January 1, 2009. These latter two taxes are credits against the states sales and use tax, meaning that, instead of resulting in the imposition of a greater rate of sales or use tax on the person paying the tax, the tax is instead deducted from the sales and use tax revenue remitted to the

Summary of Amended Bill:

The legislative authorities of two or more contiguous cities, or the legislative authorities of two or more contiguous cities and the legislative authority of the county or counties in which the cities are located, may create an additional public facilities district. In order to exercise this authority, each of the involved cities or counties must have previously participated in the creation of a public facilities district through an interlocal agreement entered into by the legislative authority of a city or group of contiguous cities located in a county or counties with fewer than 1,000,000 people and the legislative authority of the county or counties in which the city or cities are located, or with the legislative authority of a contiguous county. Not all of the cities or counties that were involved in the creation of the prior public facilities district need be involved in the creation of the new district. The new district must be created before July 1, 2026, and the creation of the new district does not affect the existence or authority of the old district.

Instead of regional centers, this new public facilities district may only acquire, construct, maintain, repair, finance, and operate regional aquatics and sports facilities, including community pools, and provide funding for transportation improvements directly related to providing pedestrian and vehicle access to regional aquatics and sports facilities. The transportation funding can include funding for the construction, expansion, or maintenance of pedestrian trails, roads, streets, and highways. Any such transportation improvements must be aligned with state, regional, or local transportation plans.

The new public facilities district may impose a sales and use tax, with voter approval, at a rate of up to 0.02 percent. This tax may be imposed regardless of whether, and at what rate, another public facilities district is imposing the sales and use tax within the new district's boundaries.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill clarifies that, although each city or county involved in the creation of a new public facilities district must have participated in the creation of a prior public facilities district, not all of the cities and counties that were involved in the creation of the previous district need to be involved in the creation of the new public facilities district in order for it to be created.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Public facilities districts allow cities and counties to voluntarily join together to have shared governance of public facilities, and to have a revenue stream for the operating costs and debt repayment, with voter approval. This allows local control and cooperation over the facilities, and the public would ultimately decide what is funded and in what amount. The governance structure will ensure sound financial practices and the Department of Commerce would need to conduct a financial feasibility review prior to a city exercising the authority in the bill. Wenatchee has a 58-year-old pool that is being used as a regional facility, but it only has limited availability and needs millions of dollars in maintenance, which will only add a limited time to the life of the pool. Wenatchee and other cities wanted to come up with a regional solution, and decided that the authority for public facilities districts was the best way to do this. A prior public facility district had been formed to assist with a stadium center, which meant that another public facility district could not be formed without new legislation. The current public facilities district in Olympia is successful, but residents want a public swimming pool as there is currently no public swimming area. A feasibility study provided a plan, but there is no good funding mechanism to bring the plan to fruition. This bill would provide that tool. Many people would like a regional aquatic facility in their community, and this can provide a safe place to swim when compared to rivers and other bodies of water. There are economic benefits to having a regional aquatic and sports facilities center. These facilities attract visitors from surrounding areas and can create new employment opportunities for residents. It can boost the local economy through tourism and construction. An indoor aquatic center is a valuable public asset, especially during times of heat, cold, and wildfire. These kinds of facilities are important for the health and well-being of communities. An aquatic center can improve public safety by offering both children and adults swimming lessons. Single-city funding of an aquatic and sports facilities center is unworkable, and this bill can provide an opportunity to move forward with other cities. It is important that the bill allows using resources for access to the facilities. This bill would allow an opportunity to enhance the economic viability of rural communities and will provide far-reaching positive impacts.

(Opposed) None.

Persons Testifying: Senator Brad Hawkins, prime sponsor; Blake Baldwin, Chelan Douglas Regional Port Authority; Frank Kuntz, City of Wenatchee; Steve Maher, Our Valley Our Future; Jerrilea Crawford, City of East Wenatchee; Paul Simmons, City of Olympia and Washington Recreation and Parks Association; Steven Wilkinson, Wenatchee Valley Chamber of Commerce; Chuck Denney, City of Tumwater; Sasha Sleiman, Board of Chelan County Commissioners; Richard DeRock, Chelan Douglas Regional Port Authority and Link Transit; and Senator Sam Hunt.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Local Government. Signed by 9 members: Representatives Berg, Chair; Street, Vice Chair; Chopp, Ramel, Santos, Springer, Thai, Walen and Wylie.

Minority Report: Do not pass. Signed by 1 member: Representative Stokesbary.

Minority Report: Without recommendation. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard.

Staff: Tracey Taylor (786-7152).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Local Government:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The City of Wenatchee has a 50 meter outdoor pool that was built in 1965, but is only usable for about three months of the year. Last summer, the boiler broke and the water was too cold for swimming. As a result, the pool facility could not host swim lessons, competitions, and open swimming hours. The pool is nearing the end of its useful life and needs \$2 million in repairs to get another eight years of use. This will be funded by the city's operating funds.

Wenatchee Valley has a strong history of collaboration. There has been months of stakeholder work taking place to figure out how to replace the 1965 City of Wenatchee pool. Also, neighboring jurisdictions have grown and are helping to explore ways to use the combined resources between jurisdictions to build an indoor aquatics and sports facility. For example, an interlocal cooperative agreement that would form a new district and submit to voters to approve the tax revenue to finance the aquatics and sports facility. Without this legislation, we cannot collaborate and work together to build this facility.

The Olympia area has never had a private pool and it is an ongoing need for the community. This is about life safety in an area with so much water. Community leaders have actively engaged stakeholders to develop a plan for a facility but lack a dedicated funding source for the project. This bill will provide that mechanism.

The construction of an aquatics and sports facility would create jobs and generate tax revenues both during the project and afterwards. There would also be tourism revenues that benefit the regional economy.

Residents believe Columbia and Wenatchee rivers are dangerous and not suitable for swimming. The community needs more activities for families. This will enhance the lives of the community, including supporting underserved populations and areas that do not have access to this type of facility.

The Chamber of Commerce supports this bill to allow local jurisdictions the option to participate and form a regional Public Facilities District. There will be sound financial mechanisms and oversight.

The bill solves community problems and allows some transportation investments to improve access for the community. A regional sports complex is something that the community has wanted for decades.

(Opposed) This creates a benefit authority that is composed of unelected political appointees unaccountable to voters. The Representatives were not elected to authorize these unelected persons to impose taxes without any accountability. This is taxation without representation. Do the right thing and stop authorizing the ability to impose taxes without any accountability. It is good that the bill requires voter approval but does not fix the fundamental problems.

Persons Testifying: (In support) Senator Brad Hawkins, prime sponsor; Paul Simmons, City of Olympia; Frank Kuntz, City of Wenatchee; Blake Baldwin, Chelan Douglas Regional Port Authority; Sasha Sleiman, Board of Chelan County Commissioners; Steve Maher, Our Valley Our Future Nonprofit in Wenatchee; Steven Wilkinson, Wenatchee Valley Chamber of Commerce; Richard DeRock, Link Transit–Chelan and Douglas counties; Matthew Hepner, East Wenatchee City Council; Lindsay Sutton; and Trenten Calloway.

(Opposed) Jeff Pack, Washington Citizens Against Unfair Taxes.

Persons Signed In To Testify But Not Testifying: None.