

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

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

Approved March 25, 2024 1:55 PM

JAY INSLEE

Governor of the State of Washington

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

FILED

March 26, 2024

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2354

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)

READ FIRST TIME 02/05/24.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (7) "Public improvements" means:

38 (a) Infrastructure improvements owned by a state or local
39 government within or outside of and serving the increment area and

1 real property owned or acquired by a local government within the
2 increment area including:

3 (i) Street and road construction;

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

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

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

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

10 (vi) Park and community facilities and recreational areas;

11 (vii) Stormwater and drainage management systems;

12 (viii) Electric, broadband, or rail service;

13 (ix) Mitigation of brownfields; or

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

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

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

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

23 (iv) Historic preservation activities authorized under RCW
24 35.21.395; or

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

28 (8) "Real property" means:

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

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

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

1 provided in RCW 84.52.043. "Regular property taxes" does not include
2 excess property taxes levied by local school districts.

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

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

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

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

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

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

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

23 (c) The increment area may not have an assessed valuation of more
24 than \$200,000,000 or more than 20 percent of the sponsoring
25 jurisdiction's total assessed valuation, whichever is less, when the
26 ordinance is passed. If a sponsoring jurisdiction creates two
27 increment areas, the total combined assessed valuation in both of the
28 two increment areas may not equal more than \$200,000,000 or more than
29 20 percent of the sponsoring jurisdiction's total assessed valuation,
30 whichever is less, when the ordinances are passed creating the
31 increment areas;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (c) The duration of the increment area;

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

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

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

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

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

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

23 (i) Affordable and low-income housing;

24 (ii) The local business community;

25 (iii) The local school districts; and

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

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

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

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

39 (4) Nothing in this section prohibits a local government from
40 entering into an agreement under chapter 39.34 RCW with another local

1 government for the administration or other activities related to tax
2 increment financing authorized under this section.

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

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

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

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

34 (a) Hold at least two public briefings for the community solely
35 on the tax increment project that include the description of the
36 increment area, the public improvements proposed to be financed with
37 the tax allocation revenues, and a detailed estimate of tax revenues
38 for the participating local governments and taxing districts,
39 including the amounts allocated to the increment public improvements.
40 The briefings must be announced at least two weeks prior to the date

1 being held, including publishing in a legal newspaper of general
2 circulation and posting information on the local government website
3 and all local government social media sites, and must occur no
4 earlier than 90 days after submitting the project analysis to the
5 office of the treasurer and all local governments and taxing
6 districts impacted by the increment area; ((and))

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

10 (c) Submit the project analysis to the office of the treasurer
11 for review and consider any comments that the treasurer may provide
12 upon completion of their review of the project analysis as provided
13 under this subsection. The treasurer must complete the review within
14 90 days of receipt of the project analysis and may consult with other
15 agencies and outside experts as necessary. Upon completing their
16 review, the treasurer must promptly provide to the local government
17 any comments regarding suggested revisions or enhancements to the
18 project analysis that the treasurer deems appropriate based on the
19 requirements in subsection (2) of this section.

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

22 The local government designating the increment area must:

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

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

34 ((+2)) (3) Deliver a certified copy of the adopted ordinance to
35 the county treasurer, the county assessor, and the governing body of
36 each taxing district within which the increment area is located at
37 the respective addresses specified pursuant to RCW 42.56.040 within
38 10 days of the date on which the ordinance was adopted.

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.

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