
SUBSTITUTE HOUSE BILL 1306

State of Washington 63rd Legislature 2013 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Wylie, Moeller, Harris, Pike, Johnson, Chandler, Sells, Pollet, Upthegrove, and Moscoso)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to extending the expiration dates of the local
2 infrastructure financing tool program; amending RCW 82.14.475 and
3 39.102.150; adding a new section to chapter 39.102 RCW; repealing RCW
4 39.102.904; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 39.102 RCW
7 to read as follows:

8 This chapter expires June 30, 2049.

9 NEW SECTION. **Sec. 2.** RCW 39.102.904 (Expiration date--2006 c 181)
10 and 2006 c 181 s 707 are each repealed.

11 **Sec. 3.** RCW 82.14.475 and 2010 c 164 s 12 are each amended to read
12 as follows:

13 (1) A sponsoring local government, and any cosponsoring local
14 government, that has been approved by the board to use local
15 infrastructure financing may impose a sales and use tax in accordance
16 with the terms of this chapter and subject to the criteria set forth in
17 this section. Except as provided in this section, the tax is in

1 addition to other taxes authorized by law and is collected from those
2 persons who are taxable by the state under chapters 82.08 and 82.12 RCW
3 upon the occurrence of any taxable event within the taxing jurisdiction
4 of the sponsoring local government or cosponsoring local government.

5 (2) The tax authorized under subsection (1) of this section is
6 credited against the state taxes imposed under RCW 82.08.020(1) and
7 82.12.020 at the rate provided in RCW 82.08.020(1). The department
8 must perform the collection of such taxes on behalf of the sponsoring
9 local government or cosponsoring local government at no cost to the
10 sponsoring local government or cosponsoring local government and must
11 remit the taxes as provided in RCW 82.14.060.

12 (3) The aggregate rate of tax imposed by the sponsoring local
13 government, and any cosponsoring local government, must not exceed the
14 lesser of:

15 (a) The rate provided in RCW 82.08.020(1) less:

16 (i) The aggregate rates of all other local sales and use taxes
17 imposed by any taxing authority on the same taxable events;

18 (ii) The aggregate rates of all taxes under RCW 82.14.465 and this
19 section that are authorized to be imposed on the same taxable events
20 but have not yet been imposed by a sponsoring local government or
21 cosponsoring local government that has been approved by the department
22 or the community economic revitalization board to receive a state
23 contribution under chapter 39.100 or 39.102 RCW; and

24 (iii) The percentage amount of distributions required under RCW
25 82.08.020(5) multiplied by the rate of state taxes imposed under RCW
26 82.08.020(1); and

27 (b) The rate, as determined by the sponsoring local government, and
28 any cosponsoring local government, in consultation with the department,
29 reasonably necessary to receive the state contribution over ten months.

30 (4) Sponsoring local governments that have been approved before
31 October 1, 2008, by the community economic revitalization board for a
32 state contribution must select the rate of tax under this section no
33 later than September 1, 2009.

34 (5) The department, upon request, must assist a sponsoring local
35 government and cosponsoring local government in establishing their tax
36 rate in accordance with subsection (3) of this section. Once the rate
37 of tax is selected, it may not be increased.

38 (6)(a) No tax may be imposed under the authority of this section:

1 (i) Before July 1st of the second calendar year following the year
2 approval by the board under RCW 39.102.040 was made; and

3 (ii) Until a sponsoring local government reports to the board and
4 the department as required by RCW 39.102.140 that the state has
5 benefited through the receipt of state excise tax allocation revenues
6 or state property tax allocation revenues, or both.

7 (b) The tax imposed under this section expires when all
8 indebtedness issued under the authority of RCW 39.102.150 is retired
9 and all other contractual obligations relating to the financing of
10 public improvements under chapter 39.102 RCW are satisfied, but not
11 more than twenty-five years after the tax is first imposed.

12 (7) An ordinance adopted by the legislative authority of a
13 sponsoring local government or cosponsoring local government imposing
14 a tax under this section must provide that:

15 (a) The tax is first imposed on the first day of a fiscal year;

16 (b) The cumulative amount of tax received by the sponsoring local
17 government, and any cosponsoring local government, in any fiscal year
18 may not exceed the amount of the state contribution;

19 (c) The tax will cease to be distributed for the remainder of any
20 fiscal year in which either:

21 (i) The amount of tax received by the sponsoring local government,
22 and any cosponsoring local government, equals the amount of the state
23 contribution;

24 (ii) The amount of revenue from taxes imposed under this section by
25 all sponsoring and cosponsoring local governments equals the annual
26 state contribution limit; or

27 (iii) The amount of tax received by the sponsoring local government
28 equals the amount of project award granted in the approval notice
29 described in RCW 39.102.040;

30 (d) Neither the local excise tax allocation revenues nor the local
31 property tax allocation revenues may constitute more than eighty
32 percent of the total local funds as described in RCW 39.102.020(28)(b).
33 This requirement applies beginning January 1st of the fifth calendar
34 year after the calendar year in which the sponsoring local government
35 begins allocating local excise tax allocation revenues under RCW
36 39.102.110;

37 (e) The tax must be distributed again, should it cease to be

1 distributed for any of the reasons provided in (c) of this subsection,
2 at the beginning of the next fiscal year, subject to the restrictions
3 in this section; and

4 (f) Any revenue generated by the tax in excess of the amounts
5 specified in (c) of this subsection belongs to the state of Washington.

6 (8) If a county and city cosponsor a revenue development area, the
7 combined amount of distributions received by both the city and county
8 may not exceed the state contribution.

9 (9) The department must determine the amount of tax receipts
10 distributed to each sponsoring local government, and any cosponsoring
11 local government, imposing sales and use tax under this section and
12 shall advise a sponsoring or cosponsoring local government when tax
13 distributions for the fiscal year equal the amount of state
14 contribution for that fiscal year as provided in subsection (11) of
15 this section. Determinations by the department of the amount of tax
16 distributions attributable to each sponsoring or cosponsoring local
17 government are final and may not be used to challenge the validity of
18 any tax imposed under this section. The department must remit any tax
19 receipts in excess of the amounts specified in subsection (7)(c) of
20 this section to the state treasurer who must deposit the money in the
21 general fund.

22 (10) If a sponsoring or cosponsoring local government fails to
23 comply with RCW 39.102.140, no tax may be distributed in the subsequent
24 fiscal year until such time as the sponsoring or cosponsoring local
25 government complies and the department calculates the state
26 contribution amount for such fiscal year.

27 (11) Each year, the amount of taxes approved by the department for
28 distribution to a sponsoring or cosponsoring local government in the
29 next fiscal year must be equal to the state contribution and may be no
30 more than the total local funds as described in RCW 39.102.020(28)(b).
31 The department must consider information from reports described in RCW
32 39.102.140 when determining the amount of state contributions for each
33 fiscal year. A sponsoring or cosponsoring local government may not
34 receive, in any fiscal year, more revenues from taxes imposed under the
35 authority of this section than the amount approved annually by the
36 department. The department may not approve the receipt of more
37 distributions of sales and use tax under this section to a sponsoring

1 or cosponsoring local government than is authorized under subsection
2 (7) of this section.

3 (12) The amount of tax distributions received from taxes imposed
4 under the authority of this section by all sponsoring and cosponsoring
5 local governments is limited annually to not more than seven million
6 five hundred thousand dollars.

7 (13) The definitions in RCW 39.102.020 apply to this section unless
8 the context clearly requires otherwise.

9 (14) If a sponsoring local government is a federally recognized
10 Indian tribe, the distribution of the sales and use tax authorized
11 under this section must be authorized through an interlocal agreement
12 pursuant to chapter 39.34 RCW.

13 (15) Subject to RCW 39.102.195, the tax imposed under the authority
14 of this section may be applied either to provide for the payment of
15 debt service on bonds issued under RCW 39.102.150 by the sponsoring
16 local government or to pay public improvement costs on a pay-as-you-go
17 basis, or both.

18 (16) The tax imposed under the authority of this section must cease
19 to be imposed if the sponsoring local government or cosponsoring local
20 government (~~((fails to issue indebtedness under the authority of RCW
21 39.102.150, and))~~) fails to commence construction on public
22 improvements(~~((7))~~) by June 30th of the (~~((fifth))~~) seventh fiscal year in
23 which the local tax authorized under this section is imposed.

24 (17) For purposes of this section, the following definitions apply:

25 (a) "Local sales and use taxes" means sales and use taxes imposed
26 by cities, counties, public facilities districts, and other local
27 governments under the authority of this chapter, chapter 67.28 or 67.40
28 RCW, or any other chapter, and that are credited against the state
29 sales and use taxes.

30 (b) "State sales and use taxes" means the tax imposed in RCW
31 82.08.020(1) and the tax imposed in RCW 82.12.020 at the rate provided
32 in RCW 82.08.020(1).

33 (18) This section expires June 30, 2049.

34 **Sec. 4.** RCW 39.102.150 and 2009 c 267 s 6 are each amended to read
35 as follows:

36 (1) A sponsoring local government that has designated a revenue
37 development area and instead of paying public improvement costs on a

1 pay-as-you-go basis has been authorized the use of local infrastructure
2 financing may incur general indebtedness, including issuing general
3 obligation bonds, to finance the public improvements and retire the
4 indebtedness in whole or in part from local excise tax allocation
5 revenues, local property tax allocation revenues, and sales and use
6 taxes imposed under the authority of RCW 82.14.475 that it receives,
7 subject to the following requirements:

8 (a)(i) The ordinance adopted by the sponsoring local government and
9 authorizing the use of local infrastructure financing indicates an
10 intent to incur this indebtedness and the maximum amount of this
11 indebtedness that is contemplated; and

12 (ii) The sponsoring local government includes this statement of the
13 intent in all notices required by RCW 39.102.100; or

14 (b) The sponsoring local government adopts a resolution, after
15 opportunity for public comment, that indicates an intent to incur this
16 indebtedness and the maximum amount of this indebtedness that is
17 contemplated.

18 (2)(a) Except as provided in (b) of this subsection, the general
19 indebtedness incurred under subsection (1) of this section may be
20 payable from other tax revenues, the full faith and credit of the local
21 government, and nontax income, revenues, fees, and rents from the
22 public improvements, as well as contributions, grants, and nontax money
23 available to the local government for payment of costs of the public
24 improvements or associated debt service on the general indebtedness.

25 (b) A sponsoring local government that issues bonds under this
26 section (~~shall~~) may not pledge any money received from the state of
27 Washington for the payment of such bonds, other than the local sales
28 and use taxes imposed under the authority of RCW 82.14.475 and
29 collected by the department.

30 (3) In addition to the requirements in subsection (1) of this
31 section, a sponsoring local government designating a revenue
32 development area and authorizing the use of local infrastructure
33 financing may require the nonpublic participant to provide adequate
34 security to protect the public investment in the public improvement
35 within the revenue development area.

36 (4) Bonds issued under this section (~~shall~~) must be authorized by
37 ordinance of the governing body of the sponsoring local government and
38 may be issued in one or more series and (~~shall~~) must bear such date

1 or dates, be payable upon demand or mature at such time or times, bear
2 interest at such rate or rates, be in such denomination or
3 denominations, be in such form either coupon or registered as provided
4 in RCW 39.46.030, carry such conversion or registration privileges,
5 have such rank or priority, be executed in such manner, be payable in
6 such medium of payment, at such place or places, and be subject to such
7 terms of redemption with or without premium, be secured in such manner,
8 and have such other characteristics, as may be provided by such
9 ordinance or trust indenture or mortgage issued pursuant thereto.

10 (5) The sponsoring local government may annually pay into a fund to
11 be established for the benefit of bonds issued under this section a
12 fixed proportion or a fixed amount of any local excise tax allocation
13 revenues and local property tax allocation revenues derived from
14 property or business activity within the revenue development area
15 containing the public improvements funded by the bonds, such payment to
16 continue until all bonds payable from the fund are paid in full. The
17 local government may also annually pay into the fund established in
18 this section a fixed proportion or a fixed amount of any revenues
19 derived from taxes imposed under RCW 82.14.475, such payment to
20 continue until all bonds payable from the fund are paid in full.
21 Revenues derived from taxes imposed under RCW 82.14.475 are subject to
22 the use restriction in RCW 39.102.130.

23 (6) In case any of the public officials of the sponsoring local
24 government whose signatures appear on any bonds or any coupons issued
25 under this chapter (~~shall~~) cease to be such officials before the
26 delivery of such bonds, such signatures (~~shall~~), nevertheless, (~~be~~)
27 are valid and sufficient for all purposes, the same as if such
28 officials had remained in office until such delivery. Any provision of
29 any law to the contrary notwithstanding, any bonds issued under this
30 chapter are fully negotiable.

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

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