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ENGROSSED HOUSE BILL 1513

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Springer, Fitzgibbon, Gregerson, and McBride

Read first time 01/22/15.      Referred to Committee on Community  
Development, Housing & Tribal Affairs.

1            AN ACT Relating to local infrastructure project areas; and  
2 amending RCW 39.108.010, 39.108.070, 39.108.120, 39.108.130,  
3 39.108.140, and 39.108.150.

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

5            **Sec. 1.** RCW 39.108.010 and 2011 c 318 s 201 are each amended to  
6 read as follows:

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

9            (1) "Assessed value" means the valuation of taxable real property  
10 as placed on the last completed assessment roll.

11            (2) "Eligible county" means any county that borders Puget Sound,  
12 that has a population of six hundred thousand or more, and that has  
13 an established program for transfer of development rights.

14            (3) "Employment" means total employment in a county or city, as  
15 applicable, estimated by the office of financial management.

16            (4) "Exchange rate" means an increment of development beyond what  
17 base zoning allows that is assigned to a development right by a  
18 sponsoring city for use in a receiving area.

19            (5) "Local infrastructure project area" means the geographic area  
20 identified by a sponsoring city under RCW 39.108.120.

1 (6) "Local infrastructure project financing" means the use of  
2 local property tax allocation revenue distributed to the sponsoring  
3 city to pay or finance public improvement costs within the local  
4 infrastructure project area in accordance with RCW 39.108.150.

5 (7) "Local property tax allocation revenue" means those tax  
6 revenues derived from the receipt of regular property taxes levied on  
7 the property tax allocation revenue value and used for local  
8 infrastructure project financing.

9 (8) "Participating taxing district" means a taxing district that:

10 (a) Has a local infrastructure project area wholly or partially  
11 within the taxing district's geographic boundaries; and

12 (b) Levies, or has levied on behalf of the taxing district,  
13 regular property taxes as defined in this section.

14 (9) "Population" means the population of a city or county, as  
15 applicable, estimated by the office of financial management.

16 (10) "Property tax allocation revenue base value" means the  
17 assessed value of real property located within a local infrastructure  
18 project area, less the property tax allocation revenue value.

19 (11)(a)(i) "Property tax allocation revenue value" means an  
20 amount equal to the sponsoring city ratio multiplied by seventy-five  
21 percent of any increase in the assessed value of real property in a  
22 local infrastructure project area resulting from(~~(+~~

23 ~~(A))~~the placement on the assessment roll of new construction of  
24 entire buildings, improvements to property that are additions or  
25 remodels that add new square footage to buildings, or both, ((on the  
26 ~~assessment roll,~~)) where the new construction and improvements are  
27 initiated after the local infrastructure project area is created by  
28 the sponsoring city(~~(+~~

29 ~~(B) The cost of new housing construction, conversion, and~~  
30 ~~rehabilitation improvements, when the cost is treated as new~~  
31 ~~construction for purposes of chapter 84.55 RCW as provided in RCW~~  
32 ~~84.14.020, and the new housing construction, conversion, and~~  
33 ~~rehabilitation improvements are initiated after the local~~  
34 ~~infrastructure project area is created by the sponsoring city;~~

35 ~~(C) The cost of rehabilitation of historic property, when the~~  
36 ~~cost is treated as new construction for purposes of chapter 84.55 RCW~~  
37 ~~as provided in RCW 84.26.070, and the rehabilitation is initiated~~  
38 ~~after the local infrastructure project area is created by the~~  
39 ~~sponsoring city)).~~

1 (ii) Increases in the assessed value of real property resulting  
2 from (a)(i)(~~(A) through (C)~~) of this subsection are included in the  
3 property tax allocation revenue value in the initial year. These same  
4 amounts are also included in the property tax allocation revenue  
5 value in subsequent years unless the property becomes exempt from  
6 property taxation.

7 (b) "Property tax allocation revenue value" includes an amount  
8 equal to the sponsoring city ratio multiplied by seventy-five percent  
9 of any increase in the assessed value of new construction consisting  
10 of an entire building in the years following the initial year, unless  
11 the building becomes exempt from property taxation.

12 (c) Except as provided in (b) of this subsection, "property tax  
13 allocation revenue value" does not include any increase in the  
14 assessed value of real property after the initial year.

15 (d) There is no property tax allocation revenue value if the  
16 assessed value of real property in a local infrastructure project  
17 area has not increased as a result of any of the reasons specified in  
18 (a)(i)(~~(A) through (C)~~) of this subsection.

19 (e) For purposes of this subsection(~~(7)~~):

20 (i) "Entire building" means new construction that is: (A)  
21 Detached from existing buildings located on the same site; (B)  
22 attached to, but structurally self-reliant from, existing buildings  
23 located on the same site; or (C) attached to, but located  
24 horizontally adjacent to, existing buildings located on the same  
25 site;

26 (ii) "Initiated" means the date upon which a city issues the  
27 first building permit associated with clearing, grading, excavation,  
28 or shoring of real property as described in (a)(i) of this  
29 subsection; and

30 (iii) "Initial year" means(~~(+~~  
31 ~~+~~), for new construction and improvements to property added to  
32 the assessment roll, the year during which the new construction and  
33 improvements are initially placed on the assessment roll(~~(+~~

34 ~~(ii) For the cost of new housing construction, conversion, and~~  
35 ~~rehabilitation improvements, when the cost is treated as new~~  
36 ~~construction for purposes of chapter 84.55 RCW, the year when the~~  
37 ~~cost is treated as new construction for purposes of levying taxes for~~  
38 ~~collection in the following year; and~~

39 ~~(iii) For the cost of rehabilitation of historic property, when~~  
40 ~~the cost is treated as new construction for purposes of chapter 84.55~~

1 ~~RCW, the year when such cost is treated as new construction for~~  
2 ~~purposes of levying taxes for collection in the following year)).~~

3 (12)(a) "Public improvements" means:

4 (i) Infrastructure improvements within the local infrastructure  
5 project area that include:

6 (A) Street, road, bridge, and rail construction and maintenance;

7 (B) Water and sewer system construction and improvements;

8 (C) Sidewalks, streetlights, landscaping, and streetscaping;

9 (D) Parking, terminal, and dock facilities;

10 (E) Park and ride facilities of a transit authority and other  
11 facilities that support transportation efficient development;

12 (F) Park facilities, recreational areas, bicycle paths, and  
13 environmental remediation;

14 (G) Storm water and drainage management systems;

15 (H) Electric, gas, fiber, and other utility infrastructures;

16 (~~and~~))

17 (ii) Expenditures for facilities and improvements that support  
18 affordable housing;

19 (iii) Providing maintenance and security for common or public  
20 areas in the local infrastructure project area; or

21 (iv) Historic preservation activities authorized under RCW  
22 35.21.395.

23 (b) Public improvements do not include the acquisition by a  
24 sponsoring city of transferable development rights.

25 (13) "Real property" has the same meaning as in RCW 84.04.090 and  
26 also includes any privately owned improvements located on publicly  
27 owned land that are subject to property taxation.

28 (14)(a) "Regular property taxes" means regular property taxes as  
29 defined in RCW 84.04.140, except: (i) Regular property taxes levied  
30 by port districts or public utility districts specifically for the  
31 purpose of making required payments of principal and interest on  
32 general indebtedness; (ii) regular property taxes levied by the state  
33 for the support of common schools under RCW 84.52.065; (~~and~~)) (iii)  
34 regular property taxes authorized by RCW 84.55.050 that are limited  
35 to a specific purpose; and (iv) regular property tax levies made for  
36 a specific statutory purpose such as levies under RCW 36.82.040 and  
37 chapter 84.34 RCW.

38 (b) "Regular property taxes" do not include:

1 (i) Excess property tax levies that are exempt from the aggregate  
2 limits for junior and senior taxing districts as provided in RCW  
3 84.52.043; and

4 (ii) Property taxes that are specifically excluded through an  
5 interlocal agreement between the sponsoring local government and a  
6 participating taxing district as set forth in RCW 39.104.060(3).

7 (15) "Receiving areas," for purposes of this chapter, are those  
8 designated lands within local infrastructure project areas in which  
9 transferable development rights from sending areas may be used.

10 (16) "Receiving city" means any incorporated city with population  
11 plus employment equal to twenty-two thousand five hundred or greater  
12 within an eligible county.

13 (17) "Receiving city allocated share" means the total number of  
14 transferable development rights from agricultural and forest land of  
15 long-term commercial significance and rural zoned lands designated  
16 under RCW 39.108.050 within the eligible counties allocated to a  
17 receiving city under RCW 39.108.070 (1) and (2).

18 (18) "Sending areas" means those lands within an eligible county  
19 that meet conservation criteria as described in RCW 39.108.030 and  
20 39.108.050.

21 (19) "Sponsoring city" means a receiving city that accepts all or  
22 a portion of its receiving city allocated share, adopts a plan for  
23 development of infrastructure within one or more proposed local  
24 infrastructure project areas in accordance with RCW 39.108.080, and  
25 creates one or more local infrastructure project areas, as specified  
26 in RCW 39.108.070(4). For the purposes of this subsection and  
27 subsection (20) of this section, a receiving city is deemed to have  
28 accepted transferable development rights on the date on which a  
29 sponsoring city has issued the first building permit for a project  
30 for which transferable development rights have been purchased and  
31 applied by the property owner, or the date when a sponsoring city has  
32 purchased development rights.

33 (20) "Sponsoring city allocated share" means the total number of  
34 transferable development rights a sponsoring city agrees to accept,  
35 under RCW 39.108.070(4), from agricultural and forest land of  
36 long-term commercial significance and rural zoned lands designated  
37 under RCW 39.108.050 within the eligible counties, plus the total  
38 number of transferable development rights transferred to the  
39 sponsoring city from another receiving city under RCW 39.108.070(5).

1 (21) "Sponsoring city ratio" means the ratio of the sponsoring  
2 city specified portion to the sponsoring city allocated share.

3 (22) "Sponsoring city specified portion" means the portion of a  
4 sponsoring city allocated share which may be used within one or more  
5 local infrastructure project areas, as set forth in the sponsoring  
6 city's plan for development of infrastructure under RCW 39.108.080.

7 (23) "Taxing district" means a city or county that levies or has  
8 levied on behalf of the taxing district, regular property taxes upon  
9 real property located within a local infrastructure project area.

10 (24) "Transfer of development rights" includes methods for  
11 protecting land from development by voluntarily removing the  
12 development rights from a sending area and transferring them to one  
13 or more receiving areas for the purpose of increasing development  
14 density or intensity.

15 (25) "Transferable development rights" means a right to develop  
16 one or more residential units in a sending area that can be sold and  
17 transferred.

18 **Sec. 2.** RCW 39.108.070 and 2011 c 318 s 305 are each amended to  
19 read as follows:

20 (1) The Puget Sound regional council must allocate among  
21 receiving cities the total number of development rights reported by  
22 eligible counties under RCW 39.108.060. Each receiving city allocated  
23 share must be determined by the Puget Sound regional council, in  
24 consultation with eligible counties and receiving cities, based on  
25 growth targets, determined by established growth management  
26 processes, and other relevant factors as determined by the Puget  
27 Sound regional council in conjunction with the counties and receiving  
28 cities.

29 (2) The Puget Sound regional council must report to each  
30 receiving city its receiving city allocated share on or before March  
31 1, 2012.

32 (3) The Puget Sound regional council must report each receiving  
33 city allocated share to the department of commerce on or before March  
34 1, 2012.

35 (4) A receiving city may become a sponsoring city by accepting  
36 all or a portion of its receiving city allocated share, adopting a  
37 plan in accordance with RCW 39.108.080, and creating one or more  
38 local infrastructure project areas to pay or finance costs of public  
39 improvements.

1 (5) A receiving city may, by interlocal agreement, transfer all  
2 or a portion of its receiving city allocated share to another  
3 sponsoring city. The transferred portion of the receiving city  
4 allocated share must be included in the other sponsoring city  
5 allocated share.

6 (6) A receiving city is deemed to have accepted transferable  
7 development rights in accordance with RCW 39.108.010(19).

8 **Sec. 3.** RCW 39.108.120 and 2011 c 318 s 601 are each amended to  
9 read as follows:

10 (1) Before adopting an ordinance or resolution creating one or  
11 more local infrastructure project areas, a sponsoring city must:

12 (a) Provide notice to the county assessor, county treasurer, and  
13 county within the proposed local infrastructure project area of the  
14 sponsoring city's intent to create one or more local infrastructure  
15 project areas. This notice must be provided at least one hundred  
16 eighty days in advance of the public hearing as required by (b) of  
17 this subsection;

18 (b) Hold a public hearing on the proposed formation of the local  
19 infrastructure project area; and

20 (c) Together with the county in which the sponsoring city is  
21 located, adopt the department of commerce transfer of development  
22 rights interlocal terms and conditions rule or enter into an  
23 interlocal agreement with the county or counties in which any local  
24 infrastructure project area is located, except that any city located  
25 in a county with a population of one million or more must enter into  
26 an interlocal agreement with that county in which the local  
27 infrastructure project area is located. An interlocal agreement  
28 between any city located in a county with a population of one million  
29 or more and a county in which the local infrastructure project area  
30 is located under this subsection must describe the boundaries and  
31 size of the local infrastructure project area consistent with the  
32 limitations in RCW 39.108.130, include exchange rates, identify  
33 potential priority sending site areas, if any, and describe and  
34 define the roles and responsibilities of the parties with respect to  
35 the transfer of development rights and public improvements to be  
36 financed with local infrastructure project financing in the local  
37 infrastructure project areas, as determined by the parties.

38 (2) A sponsoring city may create one or more local infrastructure  
39 project areas by ordinance or resolution that:

1 (a) Describes the proposed public improvements, identified in the  
2 plan under RCW 39.108.080, to be financed in each local  
3 infrastructure project area;

4 (b) Describes the boundaries of each local infrastructure project  
5 area, subject to the limitations in RCW 39.108.130; and

6 (c) Provides the date when the use of local property tax  
7 allocation revenues will commence and a list of the participating  
8 taxing districts.

9 (3) The sponsoring city must deliver a certified copy of the  
10 adopted ordinance or resolution to the county assessor, county  
11 treasurer, and each other participating taxing district within which  
12 the local infrastructure project area is located.

13 **Sec. 4.** RCW 39.108.130 and 2011 c 318 s 602 are each amended to  
14 read as follows:

15 The designation of any local infrastructure project area is  
16 subject to the following limitations:

17 (1) A local infrastructure project area is limited to contiguous  
18 tracts, lots, pieces, or parcels of land without the creation of  
19 islands of territory not included in the local infrastructure project  
20 area;

21 (2) The public improvements to be financed with local  
22 infrastructure project financing must be located in the local  
23 infrastructure project area and must, in the determination of the  
24 sponsoring city, further the intent of this chapter;

25 (3) Local infrastructure project areas created by a sponsoring  
26 city may not comprise an area containing more than twenty-five  
27 percent of the total assessed value of taxable property within the  
28 sponsoring city at the time the local infrastructure project areas  
29 are created;

30 (4) The boundaries of each local infrastructure project area may  
31 not overlap and may not be changed during the time period that local  
32 infrastructure project financing is used within the local  
33 infrastructure project area, as provided under this chapter; and

34 (5) All local infrastructure project areas created by the  
35 sponsoring city must comprise, in the aggregate, an area that the  
36 sponsoring city determines (a) is sufficient to use the sponsoring  
37 city specified portion, unless the sponsoring city satisfies its  
38 sponsoring city allocated share under RCW 39.108.090(1)(b)(ii), and



1 (b) is no larger than ((reasonably)) necessary to use the sponsoring  
2 city specified portion in projected future developments.

3 **Sec. 5.** RCW 39.108.140 and 2011 c 318 s 603 are each amended to  
4 read as follows:

5 (1) Participating taxing districts must allow the use of all of  
6 their local property tax allocation revenues for local infrastructure  
7 project financing.

8 (2) The sponsoring city must be a participating taxing district  
9 and must use all of its local property tax allocation revenues for  
10 local infrastructure project financing.

11 **Sec. 6.** RCW 39.108.150 and 2011 c 318 s 701 are each amended to  
12 read as follows:

13 (1) Commencing in the second calendar year following the  
14 ~~((creation of a local infrastructure project area by a sponsoring~~  
15 ~~city))date on which the sponsoring city certifies to the county  
16 treasurer that the local property tax threshold level 1 is met, the  
17 county treasurer must distribute receipts from regular taxes imposed  
18 on real property located in the local infrastructure project area as  
19 follows:~~

20 (a) Each participating taxing district and the sponsoring city  
21 must receive that portion of its regular property taxes produced by  
22 the rate of tax levied by or for the taxing district on the property  
23 tax allocation revenue base value for that local infrastructure  
24 project area in the taxing district; and

25 (b) The sponsoring city must receive an additional portion of the  
26 regular property taxes levied by it and by or for each participating  
27 taxing district upon the property tax allocation revenue value within  
28 the local infrastructure project area. However, if there is no  
29 property tax allocation revenue value, the sponsoring city may not  
30 receive any additional regular property taxes under this subsection  
31 (1)(b). The sponsoring city may agree to receive less than the full  
32 amount of the additional portion of regular property taxes under this  
33 subsection (1)(b) as long as bond debt service, reserve, and other  
34 bond covenant requirements are satisfied, in which case the balance  
35 of these tax receipts must be allocated to the participating taxing  
36 districts that levied regular property taxes, or have regular  
37 property taxes levied for them, in the local infrastructure project  
38 area for collection that year in proportion to their regular tax levy

1 rates for collection that year. The sponsoring city may request that  
2 the treasurer transfer this additional portion of the property taxes  
3 to its designated agent. The portion of the tax receipts distributed  
4 to the sponsoring local government or its agent under this subsection  
5 (1)(b) may only be expended to pay or finance public improvement  
6 costs within the local infrastructure project area.

7 (2) The county assessor must determine the property tax  
8 allocation revenue value and property tax allocation revenue base  
9 value. This section does not authorize revaluations of real property  
10 by the assessor for property taxation that are not made in accordance  
11 with the assessor's revaluation plan under chapter 84.41 RCW or under  
12 other authorized revaluation procedures.

13 (3)(a) The distribution of local property tax allocation revenue  
14 to the sponsoring city must cease on the date that is the earlier of:

15 (i) The date when local property tax allocation revenues are no  
16 longer used or obligated to pay the costs of the public improvements;  
17 or

18 (ii) The final termination date as determined under (b) of this  
19 subsection.

20 (b) The final termination date is determined as follows:

21 (i) Except as provided otherwise in this subsection (3)(b), if  
22 the sponsoring city certifies to the county treasurer that the local  
23 property tax threshold level 1 is met, the final termination date is  
24 ten years after the date of the first distribution of local property  
25 tax allocation revenues under subsection (1) of this section;

26 (ii) If the sponsoring city certifies to the county treasurer  
27 that the local property tax threshold level 2 is met at least six  
28 months prior to the final termination date under (b)(i) of this  
29 subsection (3), the final termination date is fifteen years after the  
30 date of the first distribution of local property tax allocation  
31 revenues under subsection (1) of this section;

32 (iii) If the sponsoring city certifies to the county treasurer  
33 that the local property tax threshold level 3 is met at least six  
34 months prior to the final termination date under (b)(ii) of this  
35 subsection (3), the final termination date is twenty years after the  
36 date of the first distribution of local property tax allocation  
37 revenues under subsection (1) of this section;

38 (iv) If the sponsoring city certifies to the county treasurer  
39 that the local property tax threshold level 4 is met at least six  
40 months prior to the final termination date under (b)(iii) of this

1 subsection (3), the final termination date is twenty-five years after  
2 the date of the first distribution of local property tax allocation  
3 revenues under subsection (1) of this section.

4 (4) For purposes of this section:

5 (a) The "local property tax threshold level 1" is met when the  
6 sponsoring city has either:

7 (i) Issued building permits for development within the local  
8 infrastructure project area that, on an aggregate basis, uses at  
9 least twenty-five percent of the sponsoring city specified portion;

10 ~~((or))~~

11 (ii) Acquired transferable development rights equal to at least  
12 twenty-five percent of the sponsoring city specified portion for use  
13 in the local infrastructure project area or for extinguishment; or

14 (iii) Entered into an interlocal agreement with the county or  
15 counties in which the local infrastructure project area is located,  
16 under which the parties agree that the local property tax threshold  
17 level 1 is met, without regard to (a)(i) or (ii) of this subsection  
18 (4).

19 (b) The "local property tax threshold level 2" is met when the  
20 sponsoring city has either:

21 (i) Issued building permits for development within the local  
22 infrastructure project area that, on an aggregate basis, uses at  
23 least fifty percent of the sponsoring city specified portion; or

24 (ii) Acquired transferable development rights equal to at least  
25 fifty percent of the sponsoring city specified portion for use in the  
26 local infrastructure project area or for extinguishment.

27 (c) The "local property tax threshold level 3" is met when the  
28 sponsoring city has either:

29 (i) Issued building permits for development within the local  
30 infrastructure project area that, on an aggregate basis, uses at  
31 least seventy-five percent of the sponsoring city specified portion;

32 or

33 (ii) Acquired transferable development rights equal to at least  
34 seventy-five percent of the sponsoring city specified portion for use  
35 in the local infrastructure project area or for extinguishment.

36 (d) The "local property tax threshold level 4" is met when the  
37 sponsoring city has either:

38 (i) Issued building permits for development within the local  
39 infrastructure project area that, on an aggregate basis, uses at

1 least one hundred percent of the sponsoring city specified portion;  
2 or

3 (ii) Acquired transferable development rights equal to at least  
4 one hundred percent of the sponsoring city specified portion for use  
5 in the local infrastructure project area or for extinguishment.

6 (5) Any excess local property tax allocation revenues, and  
7 earnings on the revenues, remaining at the time the distribution of  
8 local property tax allocation revenue terminates must be returned to  
9 the county treasurer and distributed to the participating taxing  
10 districts that imposed regular property taxes, or had regular  
11 property taxes imposed for it, in the local infrastructure project  
12 area for collection that year, in proportion to the rates of their  
13 regular property tax levies for collection that year.

14 (6) The allocation to local infrastructure project financing of  
15 that portion of the sponsoring city's and each participating taxing  
16 district's regular property taxes levied upon the property tax  
17 allocation revenue value within that local infrastructure project  
18 area is declared to be a public purpose of and benefit to the  
19 sponsoring city and each participating taxing district.

20 (7) The distribution of local property tax allocation revenues  
21 under this section may not affect or be deemed to affect the rate of  
22 taxes levied by or within any sponsoring local government and  
23 participating taxing district or the consistency of any such levies  
24 with the uniformity requirement of Article VII, section 1 of the  
25 state Constitution.

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