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THIRD SUBSTITUTE SENATE BILL 5514

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State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Carlson, Hale, Gardner, Rasmussen, Winsley, Regala, Costa and Fraser)

READ FIRST TIME 03/04/2002.

1 AN ACT Relating to public facilities districts; amending RCW  
2 35.57.010, 35.57.020, and 82.14.390; and adding a new section to  
3 chapter 35.57 RCW.

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

5 **Sec. 1.** RCW 35.57.010 and 1999 c 165 s 1 are each amended to read  
6 as follows:

7 (1)(a) The legislative authority of any town or city located in a  
8 county with a population of less than one million may create a public  
9 facilities district.

10 (b) The legislative authorities of any contiguous group of towns or  
11 cities located in a county or counties each with a population of less  
12 than one million may enter an agreement under chapter 39.34 RCW for the  
13 creation and joint operation of a public facilities district.

14 (c) The legislative authority of any town or city, or any  
15 contiguous group of towns or cities, located in a county with a  
16 population of less than one million and the legislative authority of a  
17 contiguous county, or the legislative authority of the county or  
18 counties in which the towns or cities are located, may enter into an

1 agreement under chapter 39.34 RCW for the creation and joint operation  
2 of a public facilities district.

3 (2)(a) A public facilities district shall be coextensive with the  
4 boundaries of the city or town or contiguous group of cities or towns  
5 that created the district.

6 (b) A public facilities district created by an agreement between a  
7 town or city, or a contiguous group of towns or cities, and a  
8 contiguous county or the county in which they are located, shall be  
9 coextensive with the boundaries of the towns or cities, and the  
10 boundaries of the county or counties as to the unincorporated areas of  
11 the county or counties. The boundaries shall not include incorporated  
12 towns or cities that are not parties to the agreement for the creation  
13 and joint operation of the district.

14 (3)(a) A public facilities district created by a single city or  
15 town shall be governed by a board of directors consisting of five  
16 members selected as follows: (i) Two members appointed by the  
17 legislative authority of the city or town; and (ii) three members  
18 appointed by legislative authority based on recommendations from local  
19 organizations. The members appointed under (a)(i) of this subsection,  
20 shall not be members of the legislative authority of the city or town.  
21 The members appointed under (a)(ii) of this subsection, shall be based  
22 on recommendations received from local organizations that may include,  
23 but are not limited to the local chamber of commerce, local economic  
24 development council, and local labor council. The members shall serve  
25 four-year terms. Of the initial members, one must be appointed for a  
26 one-year term, one must be appointed for a two-year term, one must be  
27 appointed for a three-year term, and the remainder must be appointed  
28 for four-year terms.

29 (b) A public facilities district created by (~~{a}~~) a contiguous  
30 group of cities and towns shall be governed by a board of directors  
31 consisting of seven members selected as follows: (i) Three members  
32 appointed by the legislative authorities of the cities and towns; and  
33 (ii) four members appointed by the legislative authority based on  
34 recommendations from local organizations. The members appointed under  
35 (b)(i) of this subsection shall not be members of the legislative  
36 authorities of the cities and towns. The members appointed under  
37 (b)(ii) of this subsection, shall be based on recommendations received  
38 from local organizations that include, but are not limited to the local  
39 chamber of commerce, local economic development council, local labor

1 council, and a neighborhood organization that is directly affected by  
2 the location of the regional center in their area. The members of the  
3 board of directors shall be appointed in accordance with the terms of  
4 the agreement under chapter 39.34 RCW for the joint operation of the  
5 district and shall serve four-year terms. Of the initial members, one  
6 must be appointed for a one-year term, one must be appointed for a two-  
7 year term, one must be appointed for a three-year term, and the  
8 remainder must be appointed for four-year terms.

9 (c) A public facilities district created by a town or city, or a  
10 contiguous group of towns or cities, and a contiguous county or the  
11 county or counties in which they are located, shall be governed by a  
12 board of directors consisting of seven members selected as follows:

13 (i) Three members appointed by the legislative authorities of the  
14 cities, towns, and county; and (ii) four members appointed by the  
15 legislative authority based on recommendations from local  
16 organizations. The members appointed under (c)(i) of this subsection  
17 shall not be members of the legislative authorities of the cities,  
18 towns, or county. The members appointed under (c)(ii) of this  
19 subsection shall be based on recommendations received from local  
20 organizations that include, but are not limited to, the local chamber  
21 of commerce, the local economic development council, the local labor  
22 council, and a neighborhood organization that is directly affected by  
23 the location of the regional center in their area. The members of the  
24 board of directors shall be appointed in accordance with the terms of  
25 the agreement under chapter 39.34 RCW for the joint operation of the  
26 district and shall serve four-year terms. Of the initial members, one  
27 must be appointed for a one-year term, one must be appointed for a  
28 two-year term, one must be appointed for a three-year term, and the  
29 remainder must be appointed for four-year terms.

30 (4) A public facilities district is a municipal corporation, an  
31 independent taxing "authority" within the meaning of Article VII,  
32 section 1 of the state Constitution, and a "taxing district" within the  
33 meaning of Article VII, section 2 of the state Constitution.

34 (5) A public facilities district shall constitute a body corporate  
35 and shall possess all the usual powers of a corporation for public  
36 purposes as well as all other powers that may now or hereafter be  
37 specifically conferred by statute, including, but not limited to, the  
38 authority to hire employees, staff, and services, to enter into  
39 contracts, and to sue and be sued.

1 (6) A public facilities district may acquire and transfer real and  
2 personal property by lease, sublease, purchase, or sale. No direct or  
3 collateral attack on any (~~metropolitan [public]~~) public facilities  
4 district purported to be authorized or created in conformance with this  
5 chapter may be commenced more than thirty days after creation by the  
6 city and/or county legislative authority.

7 **Sec. 2.** RCW 35.57.020 and 1999 c 165 s 2 are each amended to read  
8 as follows:

9 (1) A public facilities district is authorized to acquire,  
10 construct, own, remodel, maintain, equip, reequip, repair, finance, and  
11 operate one or more regional centers. For purposes of this chapter,  
12 "regional center" means a convention, conference, or special events  
13 center, or any combination of facilities, and related parking  
14 facilities, serving a regional population constructed, improved, or  
15 rehabilitated after July 25, 1999, at a cost of at least ten million  
16 dollars, including debt service. "Regional center" also includes an  
17 existing convention, conference, or special events center, and related  
18 parking facilities, serving a regional population, that is improved or  
19 rehabilitated after July 25, 1999, where the costs of improvement or  
20 rehabilitation are at least ten million dollars, including debt  
21 service. A "special events center" is a facility, available to the  
22 public, used for community events, sporting events, trade shows, and  
23 artistic, musical, theatrical, or other cultural exhibitions,  
24 presentations, or performances. A regional center is conclusively  
25 presumed to serve a regional population if state and local government  
26 investment in the construction, improvement, or rehabilitation of the  
27 regional center is equal to or greater than ten million dollars.

28 (2) A public facilities district may impose charges and fees for  
29 the use of its facilities, and may accept and expend or use gifts,  
30 grants, and donations for the purpose of a regional center.

31 (3) A public facilities district may impose charges, fees, and  
32 taxes authorized in RCW 35.57.040, and use revenues derived therefrom  
33 for the purpose of paying principal and interest payments on bonds  
34 issued by the public facilities district to construct a regional  
35 center.

36 (4) Notwithstanding the establishment of a career, civil, or merit  
37 service system, a public facilities district may contract with a public

1 or private entity for the operation or management of its public  
2 facilities.

3 (5) A public facilities district is authorized to use the  
4 supplemental alternative public works contracting procedures set forth  
5 in chapter 39.10 RCW in connection with the design, construction,  
6 reconstruction, remodel, or alteration of any regional center.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.57 RCW  
8 to read as follows:

9 (1) A public facilities district that has constructed a regional  
10 center after the effective date of this section is eligible for a  
11 refund of the taxes paid under chapters 82.08, 82.12, and 82.14 RCW on  
12 site preparation and construction of buildings or other structures, and  
13 the acquisition of related machinery and equipment, for the regional  
14 center, including labor and services rendered in the planning,  
15 installation, and construction of the center and installation of  
16 machinery and equipment. A public facilities district is not eligible  
17 for the refund under this section unless an economic benefits analysis  
18 has been completed for the regional center project.

19 (2)(a)(i) The public facilities district shall notify the  
20 department in writing that the regional center is operationally  
21 complete. The regional center is deemed operationally complete if it  
22 has an occupancy permit and it is generating revenues from use of the  
23 center. The taxes shall be refunded to the public facilities district  
24 in four equal annual payments. Subject to (a)(ii) of this subsection,  
25 the first payment shall occur no later than one hundred twenty days  
26 after the department verifies that the regional center is operationally  
27 complete. The three subsequent annual payments shall occur twelve  
28 months later, respectively.

29 (ii) In no event may any taxes be refunded before January 1, 2006.

30 (b) The public facilities district shall provide the department of  
31 revenue with invoice details and other information as required by the  
32 department in order to determine the amount of tax to be refunded. The  
33 refund includes any interest on taxes. The department of revenue shall  
34 be compensated for the administration of this section out of the  
35 interest amount, such compensation not to exceed one percent of the  
36 interest. The refund amounts shall be distributed from the funds and  
37 accounts into which the taxes were deposited. The department of

1 revenue shall notify the state treasurer of the amounts to be  
2 distributed from each specific state and local fund or account.

3 (3) Applications and any other information received by the  
4 department of revenue under this section are not confidential and are  
5 subject to disclosure. Chapter 82.32 RCW applies to the administration  
6 of this section.

7 **Sec. 4.** RCW 82.14.390 and 1999 c 165 s 13 are each amended to read  
8 as follows:

9 (1) Except as provided in subsection (6) of this section, the  
10 governing body of a public facilities district created before July 31,  
11 2002, under chapter 35.57 or 36.100 RCW that commences construction of  
12 a new regional center, or improvement or rehabilitation of an existing  
13 new regional center, before January 1, ((2003)) 2004, may impose a  
14 sales and use tax in accordance with the terms of this chapter. The  
15 tax is in addition to other taxes authorized by law and shall be  
16 collected from those persons who are taxable by the state under  
17 chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event  
18 within the public facilities district. The rate of tax shall not  
19 exceed 0.033 percent of the selling price in the case of a sales tax or  
20 value of the article used in the case of a use tax.

21 (2) The tax imposed under subsection (1) of this section shall be  
22 deducted from the amount of tax otherwise required to be collected or  
23 paid over to the department of revenue under chapter 82.08 or 82.12  
24 RCW. The department of revenue shall perform the collection of such  
25 taxes on behalf of the county at no cost to the public facilities  
26 district.

27 (3) No tax may be collected under this section before August 1,  
28 2000. The tax imposed in this section shall expire when the bonds  
29 issued for the construction of the regional center and related parking  
30 facilities are retired, but not more than twenty-five years after the  
31 tax is first collected.

32 (4) Moneys collected under this section shall only be used for the  
33 purposes set forth in RCW 35.57.020 and must be matched with an amount  
34 from other public or private sources equal to thirty-three percent of  
35 the amount collected under this section, provided that amounts  
36 generated from nonvoter approved taxes authorized under chapter 35.57  
37 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW  
38 shall not constitute a public or private source. For the purpose of

1 this section, public or private sources includes, but is not limited to  
2 cash or in-kind contributions used in all phases of the development or  
3 improvement of the regional center, land that is donated and used for  
4 the siting of the regional center, cash or in-kind contributions from  
5 public or private foundations, or amounts attributed to private sector  
6 partners as part of a public and private partnership agreement  
7 negotiated by the public facilities district.

8 (5) The combined total tax levied under this section shall not be  
9 greater than 0.033 percent. If both a public facilities district  
10 created under chapter 35.57 RCW and a public facilities district  
11 created under chapter 36.100 RCW impose a tax under this section, the  
12 tax imposed by a public facilities district created under chapter 35.57  
13 RCW shall be credited against the tax imposed by a public facilities  
14 district created under chapter 36.100 RCW.

15 (6) A public facilities district created under chapter 36.100 RCW  
16 is not eligible to impose the tax under this section if the legislative  
17 authority of the county where the public facilities district is located  
18 has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

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