
SUBSTITUTE HOUSE BILL 2670

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Finance (originally sponsored by Representatives Kilmer, Lantz, Priest, Talcott, Green, Conway, Darneille, Cody, Hinkle, Linville, Flannigan, Miloscia and Moeller)

READ FIRST TIME 01/30/06.

1 AN ACT Relating to financing for hospital benefit zones; adding new
2 sections to chapter 82.14 RCW; adding a new section to chapter 82.32
3 RCW; adding a new chapter to Title 39 RCW; and providing an effective
4 date.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Benefit zone" means the geographic zone from which taxes are
9 to be appropriated to finance public improvements authorized under this
10 chapter and in which a hospital that has received a certificate of need
11 is to be constructed.

12 (2) "Department" means the department of revenue.

13 (3) "Local government" means any city, town, county, or any
14 combination thereof.

15 (4) "Ordinance" means any appropriate method of taking legislative
16 action by a local government.

17 (5) "Participating taxing authority" means a taxing authority that
18 has entered into a written agreement with a local government for the
19 use of hospital benefit zone financing to the extent of allocating

1 excess excise taxes to the local government for the purpose of
2 financing all or a portion of the costs of designated public
3 improvements.

4 (6) "Public improvements" means infrastructure improvements within
5 the benefit zone that include:

- 6 (a) Street and road construction and maintenance;
- 7 (b) Water and sewer system construction and improvements;
- 8 (c) Sidewalks and streetlights;
- 9 (d) Parking, terminal, and dock facilities;
- 10 (e) Park and ride facilities of a transit authority;
- 11 (f) Park facilities and recreational areas; and
- 12 (g) Storm water and drainage management systems.

13 (7) "Public improvement costs" means the costs of: (a) Design,
14 planning, acquisition including land acquisition, site preparation
15 including land clearing, construction, reconstruction, rehabilitation,
16 improvement, and installation of public improvements; (b) demolishing,
17 relocating, maintaining, and operating property pending construction of
18 public improvements; (c) relocating utilities as a result of public
19 improvements; and (d) financing public improvements, including interest
20 during construction, legal and other professional services, taxes,
21 insurance, principal and interest costs on indebtedness issued to
22 finance public improvements, and any necessary reserves for
23 indebtedness; and administrative expenses and feasibility studies
24 reasonably necessary and related to these costs, including related
25 costs that may have been incurred before adoption of the ordinance
26 authorizing the public improvements and the use of hospital benefit
27 zone financing to fund the costs of the public improvements.

28 (8) "Tax allocation revenues" means those tax revenues derived from
29 the receipt of excess excise taxes under section 5 of this act and
30 distributed to finance public improvements.

31 (9) "Taxing authority" means a governmental entity that imposes a
32 sales or use tax under chapter 82.14 RCW upon the occurrence of any
33 taxable event within a proposed or approved benefit zone.

34 NEW SECTION. **Sec. 2.** A local government may finance public
35 improvements using hospital benefit zone financing subject to the
36 following conditions:

1 (1) The local government adopts an ordinance designating a benefit
2 zone within its boundaries and specifying the public improvements
3 proposed to be financed in whole or in part with the use of hospital
4 benefit zone financing;

5 (2) The public improvements proposed to be financed in whole or in
6 part using hospital benefit zone financing are expected both to
7 encourage private development within the benefit zone and to support
8 the development of a hospital that has received a certificate of need;

9 (3) Private development that is anticipated to occur within the
10 benefit zone, as a result of the public improvements, will be
11 consistent with the county-wide planning policy adopted by the county
12 under RCW 36.70A.210 and the local government's comprehensive plan and
13 development regulations adopted under chapter 36.70A RCW; and

14 (4) The governing body of the local government finds that the
15 public improvements proposed to be financed in whole or in part using
16 hospital benefit zone financing are reasonably likely to:

17 (a) Increase private investment within the benefit zone;

18 (b) Increase employment within the benefit zone; and

19 (c) Generate, over the period of time that the local sales and use
20 tax will be imposed under section 7 of this act, state and local sales
21 and use tax revenues that are equal to or greater than the respective
22 state and local contributions made under this chapter.

23 NEW SECTION. **Sec. 3.** (1) Before adopting an ordinance creating
24 the benefit zone, a local government must:

25 (a) Obtain written agreement for the use of hospital benefit zone
26 financing to finance all or a portion of the costs of the designated
27 public improvements from any taxing authority that imposes a sales or
28 use tax under chapter 82.14 RCW within the benefit zone if the taxing
29 authority chooses to participate in the public improvements to the
30 extent of providing limited funding under hospital benefit zone
31 financing authorized under this chapter. The agreement must be
32 authorized by the governing body of such participating taxing
33 authorities; and

34 (b) Hold a public hearing on the proposed financing of the public
35 improvement in whole or in part with hospital benefit zone financing.

36 (i) Notice of the public hearing must be published in a legal

1 newspaper of general circulation within the proposed benefit zone at
2 least ten days before the public hearing and posted in at least six
3 conspicuous public places located in the proposed benefit zone.

4 (ii) Notices must describe the contemplated public improvements,
5 estimate the costs of the public improvements, describe the portion of
6 the costs of the public improvements to be borne by hospital benefit
7 zone financing, describe any other sources of revenue to finance the
8 public improvements, describe the boundaries of the proposed benefit
9 zone, and estimate the period during which hospital benefit zone
10 financing is contemplated to be used. The public hearing may be held
11 by either the governing body of the local government, or a committee of
12 the governing body that includes at least a majority of the whole
13 governing body.

14 (2) In order to create a benefit zone, a local government must
15 adopt an ordinance establishing the benefit zone that:

16 (a) Describes the public improvements;

17 (b) Describes the boundaries of the benefit zone;

18 (c) Estimates the cost of the public improvements and the portion
19 of these costs to be financed by hospital benefit zone financing;

20 (d) Estimates the time during which excess excise taxes are to be
21 used to finance public improvement costs associated with the public
22 improvements financed in whole or in part by hospital benefit zone
23 financing;

24 (e) Estimates the average amount of tax revenue to be received in
25 all fiscal years through the imposition of a sales and use tax under
26 section 7 of this act;

27 (f) Provides the date when the use of excess excise taxes will
28 commence; and

29 (g) Finds that the conditions of section 2 of this act are met.

30 (3) For purposes of this section, "fiscal year" means the year
31 beginning July 1st and ending the following June 30th.

32 NEW SECTION. **Sec. 4.** A local government that adopts an ordinance
33 creating a benefit zone under this chapter shall, within ninety days of
34 adopting the ordinance:

35 (1) Publish notice in a legal newspaper of general circulation
36 within the benefit zone that describes the public improvement,

1 describes the boundaries of the benefit zone, and identifies the
2 location and times where the ordinance and other public information
3 concerning the public improvement may be inspected; and

4 (2) Deliver a certified copy of the ordinance to the county
5 treasurer, the county assessor, the department of revenue, and the
6 governing body of each participating taxing authority within which the
7 benefit zone is located.

8 NEW SECTION. **Sec. 5.** (1) A local government that creates a
9 benefit zone and has received approval from the department under
10 section 9 of this act to impose the local option sales and use tax
11 authorized in section 7 of this act may use annually any excess excise
12 taxes received by it from taxable activity within the benefit zone to
13 finance public improvement costs associated with the public
14 improvements financed in whole or in part by hospital benefit zone
15 financing. The use of excess excise taxes must cease when tax
16 allocation revenues are no longer necessary or obligated to pay the
17 costs of the public improvements. Any participating taxing authority
18 is authorized to allocate excess excise taxes to the local government
19 as long as the local government has received approval from the
20 department under section 9 of this act to impose the local option sales
21 and use tax authorized in section 7 of this act. The legislature
22 declares that it is a proper purpose of a local government or
23 participating taxing authority to allocate excess excise taxes for
24 purposes of financing public improvements under this chapter.

25 (2) A local government shall provide the department accurate
26 information describing the geographical boundaries of the benefit zone
27 at least seventy-five days before the effective date of the ordinance
28 creating the benefit zone. The local government shall ensure that the
29 boundary information provided to the department is kept current.

30 (3) The department shall provide the necessary information to
31 calculate excess excise taxes to each local government that has
32 provided boundary information to the department as provided in this
33 section and that has received approval from the department under
34 section 9 of this act to impose the local option sales and use tax
35 authorized in section 7 of this act.

36 (4) The definitions in this subsection apply throughout this
37 section unless the context clearly requires otherwise.

1 (a) "Base year" means the calendar year immediately following the
2 creation of a benefit zone.

3 (b) "Excess excise taxes" means the amount of excise taxes received
4 by the local government during the measurement year from taxable
5 activity within the benefit zone over and above the amount of excise
6 taxes received by the local government during the base year from
7 taxable activity within the benefit zone. However, if a local
8 government creates the benefit zone and reasonably determines that no
9 activity subject to tax under chapters 82.08 and 82.12 RCW occurred in
10 the twelve months immediately preceding the creation of the benefit
11 zone within the boundaries of the area that became the benefit zone,
12 "excess excise taxes" means the entire amount of excise taxes received
13 by the local government during a calendar year period beginning with
14 the calendar year immediately following the creation of the benefit
15 zone and continuing with each measurement year thereafter.

16 (c) "Excise taxes" means local retail sales and use taxes
17 authorized in RCW 82.14.030.

18 (d) "Measurement year" means a calendar year, beginning with the
19 calendar year following the base year and each calendar year
20 thereafter, that is used annually to measure the amount of excess
21 excise taxes required to be used to finance public improvement costs
22 associated with public improvements financed in whole or in part by
23 hospital benefit zone financing.

24 NEW SECTION. **Sec. 6.** (1) A local government may issue revenue
25 bonds to fund public improvements, or portions of public improvements,
26 that are located within a benefit zone and that it is authorized to
27 provide or operate. Whenever revenue bonds are to be issued, the
28 legislative authority of the local government shall create or have
29 created a special fund or funds from which, along with any reserves
30 created pursuant to RCW 39.44.140, the principal and interest on these
31 revenue bonds shall exclusively be payable. The legislative authority
32 of the local government may obligate the local government to set aside
33 and pay into the special fund or funds a fixed proportion or a fixed
34 amount of the revenues obtained from within the benefit zone of the
35 development, construction, operation, and maintenance of businesses
36 supported by the public improvements that are funded by the revenue
37 bonds. This amount or proportion is a lien and charge against these

1 revenues, subject only to operating and maintenance expenses. The
2 local government shall have due regard for the cost of operation and
3 maintenance of the public improvements that are funded by the revenue
4 bonds, and shall not set aside into the special fund or funds a greater
5 amount or proportion of the revenues that in its judgment will be
6 available over and above the cost of maintenance and operation and the
7 amount or proportion, if any, of the revenue previously pledged. The
8 local government may also provide that revenue bonds payable out of the
9 same source or sources of revenue may later be issued on a parity with
10 any revenue bonds being issued and sold.

11 (2) Revenue bonds issued pursuant to this section are not an
12 indebtedness of the local government issuing the bonds, and the
13 interest and principal on the bonds shall only be payable from the
14 revenues lawfully pledged to meet the principal and interest
15 requirements and any reserves created pursuant to RCW 39.44.140. The
16 owner or bearer of a revenue bond or any interest coupon issued
17 pursuant to this section shall not have any claim against the local
18 government arising from the bond or coupon except for payment from the
19 revenues lawfully pledged to meet the principal and interest
20 requirements and any reserves created pursuant to RCW 39.44.140. The
21 substance of the limitations included in this subsection shall be
22 plainly printed, written, or engraved on each bond issued pursuant to
23 this section.

24 (3) Revenue bonds with a maturity in excess of thirty years shall
25 not be issued. The legislative authority of the local government shall
26 by resolution determine for each revenue bond issue the amount, date,
27 form, terms, conditions, denominations, maximum fixed or variable
28 interest rate or rates, maturity or maturities, redemption rights,
29 registration privileges, manner of execution, manner of sale, callable
30 provisions, if any, and covenants including the refunding of existing
31 revenue bonds. Facsimile signatures may be used on the bonds and any
32 coupons. Refunding revenue bonds may be issued in the same manner as
33 revenue bonds are issued.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.14 RCW
35 to read as follows:

36 (1) A city, town, or county that creates a benefit zone and
37 finances public improvements pursuant to chapter 39.-- RCW (sections 1

1 through 6 of this act) may impose a sales and use tax in accordance
2 with the terms of this chapter and subject to the criteria set forth in
3 this section. Except as provided in this section, the tax is in
4 addition to other taxes authorized by law and shall be collected from
5 those persons who are taxable by the state under chapters 82.08 and
6 82.12 RCW upon the occurrence of any taxable event within the taxing
7 jurisdiction of the city, town, or county. The rate of tax shall not
8 exceed the rate provided in RCW 82.08.020(1) in the case of a sales tax
9 or the rate provided in RCW 82.12.020(5) in the case of a use tax, less
10 the aggregate rates of any other taxes imposed on the same events that
11 are credited against the state taxes imposed under chapters 82.08 and
12 82.12 RCW.

13 (2) The tax imposed under subsection (1) of this section shall be
14 deducted from the amount of tax otherwise required to be collected or
15 paid over to the department under chapter 82.08 or 82.12 RCW. The
16 department shall perform the collection of such taxes on behalf of the
17 city, town, or county at no cost to the city, town, or county.

18 (3) No tax may be imposed under this section before July 1, 2007.
19 Before imposing a tax under this section, the city, town, or county
20 shall first have received tax allocation revenues derived from excess
21 excise taxes during the preceding calendar year. The tax imposed under
22 this section shall expire when the bonds issued under the authority of
23 chapter 39.-- RCW (sections 1 through 6 of this act) are retired, but
24 not more than thirty years after the tax is first imposed.

25 (4) An ordinance adopted by the legislative authority of a city,
26 town, or county imposing a tax under this section shall provide that:

27 (a) The tax shall first be imposed on the first day of a fiscal
28 year;

29 (b) The amount of tax received by the local government in any
30 fiscal year shall not exceed the amount of the state contribution;

31 (c) The tax shall cease to be imposed for the remainder of any
32 fiscal year in which either:

33 (i) The amount of tax receipts totals the amount of the state
34 contribution;

35 (ii) The amount of tax receipts totals the amount of "local public
36 sources," as that term is used in section 8 of this act, dedicated in
37 the previous calendar year to finance public improvements authorized
38 under chapter 39.-- RCW (sections 1 through 6 of this act); or

1 (iii) The amount of revenue from taxes imposed under this section
2 by all cities, towns, and counties totals the annual state credit limit
3 as provided in section 9(3) of this act;

4 (d) The tax shall be reimposed, should it cease to be imposed for
5 any of the reasons provided in (c) of this subsection, at the beginning
6 of the next fiscal year, subject to the restrictions in this section;
7 and

8 (e) Any revenue generated by the tax in excess of the amounts
9 specified in (a), (b), and (c) of this subsection shall belong to the
10 state of Washington.

11 (5) If both a county and a city or town impose a tax under this
12 section, the tax imposed by the city, town, or county shall be credited
13 as follows:

14 (a) If the county has created a benefit zone before the city or
15 town, the tax imposed by the county shall be credited against the tax
16 imposed by the city or town, the purpose of such credit is to give
17 priority to the county tax; and

18 (b) If the city or town has created a benefit zone before the
19 county, the tax imposed by the city or town shall be credited against
20 the tax imposed by the county, the purpose of such credit is to give
21 priority to the city or town tax.

22 (6) The department shall determine the amount of tax receipts
23 attributable to each city, town, and county imposing a sales and use
24 tax under this section and shall advise a city, town, or county when it
25 must cease imposing the tax for the remainder of the fiscal year as
26 provided in subsection (4)(c) of this section. Determinations by the
27 department of the amount of taxes attributable to a city, town, or
28 county are final and shall not be used to challenge the validity of any
29 tax imposed under this section. The department shall remit any tax
30 receipts in excess of the amounts specified in subsection (4)(a), (b),
31 and (c) of this section to the state treasurer who shall deposit the
32 moneys in the general fund.

33 (7) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Base year" means the calendar year immediately following the
36 creation of a benefit zone.

37 (b) "Benefit zone" has the same meaning as provided in section 1 of
38 this act.

1 (c) "Excess excise taxes" has the same meaning as provided in
2 section 5 of this act.

3 (d) "Excess state excise taxes" means the amount of excise taxes
4 received by the state during the measurement year from taxable activity
5 within the benefit zone over and above the amount of excise taxes
6 received by the state during the base year from taxable activity within
7 the benefit zone. However, if a local government creates the benefit
8 zone and reasonably determines that no activity subject to tax under
9 chapters 82.08 and 82.12 RCW occurred in the twelve months immediately
10 preceding the creation of the benefit zone within the boundaries of the
11 area that became the benefit zone, "excess state excise taxes" means
12 the entire amount of excise taxes received by the state during a
13 calendar year period beginning with the calendar year immediately
14 following the creation of the benefit zone and continuing with each
15 measurement year thereafter.

16 (e) "Excise taxes" means the state retail sales and use taxes
17 imposed under chapters 82.08 and 82.12 RCW.

18 (f) "Fiscal year" has the same meaning as provided in section 3 of
19 this act.

20 (g) "Measurement year" means a calendar year, beginning with the
21 calendar year following the base year and each calendar year
22 thereafter, that is used annually to measure the amount of excess
23 excise taxes required to be used to finance public improvement costs
24 associated with public improvements financed in whole or in part by
25 hospital benefit zone financing.

26 (h) "State contribution" means the lesser of two million dollars or
27 an amount equal to excess state excise taxes received by the state
28 during the preceding calendar year.

29 (i) "Tax allocation revenues" has the same meaning as provided in
30 section 1 of this act.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.14 RCW
32 to read as follows:

33 (1) Moneys collected from the taxes imposed under section 7 of this
34 act shall be used only for the purpose of principal and interest
35 payments on bonds issued under the authority of section 6 of this act
36 and must be matched with an amount from local public sources dedicated
37 through December 31st of the previous calendar year to finance public

1 improvements authorized under chapter 39.-- RCW (sections 1 through 6
2 of this act). Such local public sources include but are not limited to
3 private monetary contributions and tax allocation revenues. Local
4 public sources are dedicated to finance public improvements if they are
5 actually expended to pay public improvement costs or are required by
6 law or an agreement to be used exclusively to pay public improvement
7 costs.

8 (2) A local government shall inform the department by the first day
9 of March of the amount of local public sources dedicated in the
10 preceding calendar year to finance public improvements authorized under
11 chapter 39.-- RCW (sections 1 through 6 of this act).

12 (3) If a local government fails to comply with subsection (2) of
13 this section, no tax may be imposed under section 7 of this act in the
14 subsequent fiscal year.

15 (4) A local government shall provide a report to the department by
16 March 1st of each year. The report shall contain the following
17 information:

18 (a) The amount of tax allocation revenues, taxes under section 7 of
19 this act, and local public sources received by the local government
20 during the preceding calendar year, and a summary of how these revenues
21 were expended;

22 (b) The names of any businesses locating within the benefit zone as
23 a result of the public improvements undertaken by the local government
24 and financed in whole or in part with hospital benefit zone financing;

25 (c) The total number of permanent jobs created as a result of the
26 public improvements undertaken by the local government and financed in
27 whole or in part with hospital benefit zone financing; and

28 (d) The average wages and benefits received by all employees of
29 businesses locating within the benefit zone as a result of the public
30 improvements undertaken by the local government and financed in whole
31 or in part with hospital benefit zone financing.

32 (5) The department shall make a report available to the public and
33 the legislature by June 1st of each year. The report shall include a
34 list of public improvements undertaken by local governments and
35 financed in whole or in part with hospital benefit zone financing, and
36 it shall also include a summary of the information provided to the
37 department by local governments under subsection (4) of this section.

1 (6) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Public improvement costs" has the same meaning as in section
4 1 of this act.

5 (b) "Tax allocation revenues" has the same meaning as provided in
6 section 1 of this act.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32 RCW
8 to read as follows:

9 (1) As a condition to imposing a sales and use tax under section 7
10 of this act, a city, town, or county must apply to the department at
11 least seventy-five days before the effective date of any such tax. The
12 application shall be in a form and manner prescribed by the department
13 and shall include but is not limited to information establishing that
14 the applicant is eligible to impose such a tax, the anticipated
15 effective date for imposing the tax, the estimated number of years that
16 the tax will be imposed, and the estimated amount of tax revenue to be
17 received in each fiscal year that the tax will be imposed. For
18 purposes of this section, "fiscal year" means the year beginning July
19 1st and ending the following June 30th. The department shall make
20 available forms to be used for this purpose. As part of the
21 application, a city, town, or county must provide to the department a
22 copy of the ordinance creating the benefit zone as required in section
23 4 of this act. The department shall rule on completed applications
24 within sixty days of receipt. The department may begin accepting and
25 approving applications August 1, 2006. No new applications shall be
26 considered by the department after the thirtieth day of September of
27 the third year following the year in which the first application was
28 received by the department.

29 (2) The authority to impose the local option sales and use taxes
30 under section 7 of this act is on a first-come basis. Priority for
31 collecting the taxes authorized under section 7 of this act among
32 approved applicants shall be based on the date that the approved
33 application was received by the department. As a part of the approval
34 of applications under this section, the department shall approve the
35 amount of tax under section 7 of this act that an applicant may impose.
36 The amount of tax approved by the department shall not exceed the
37 lesser of two million dollars or the average amount of tax revenue that

1 the applicant estimates that it will receive in all fiscal years
2 through the imposition of a sales and use tax under section 7 of this
3 act. A city, town, or county shall not receive, in any fiscal year,
4 more revenues from taxes imposed under section 7 of this act than the
5 amount approved by the department. The department shall not approve
6 the receipt of more credit against the state sales and use tax than is
7 authorized under subsection (3) of this section.

8 (3) No more than two million dollars of credit against the state
9 sales and use tax may be received by all cities, towns, and counties
10 imposing a tax under section 7 of this act.

11 (4) The credit against the state sales and use tax shall be
12 available to any city, town, or county imposing a tax under section 7
13 of this act only as long as the city, town, or county has outstanding
14 indebtedness under section 7 of this act.

15 (5) The department may adopt any rules under chapter 34.05 RCW it
16 considers necessary for the administration of chapter 39.-- RCW
17 (sections 1 through 6 of this act).

18 NEW SECTION. **Sec. 10.** Sections 1 through 6 of this act constitute
19 a new chapter in Title 39 RCW.

20 NEW SECTION. **Sec. 11.** This act takes effect July 1, 2006.

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