
ENGROSSED HOUSE BILL 2388

State of Washington 60th Legislature 2007 Regular Session

By Representatives Alexander, P. Sullivan and Hunter

Read first time . Referred to .

1 AN ACT Relating to financing regional centers with seating
2 capacities less than ten thousand that are acquired, constructed,
3 financed, or owned by a public facilities district; amending RCW
4 35.57.010, 35.57.040, 36.100.010, 36.100.020, 36.100.030, and
5 82.14.390; and adding a new section to chapter 35.57 RCW.

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

7 **Sec. 1.** RCW 35.57.010 and 2002 c 363 s 1 are each amended to read
8 as follows:

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

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

16 (c) The legislative authority of any town or city, or any
17 contiguous group of towns or cities, located in a county with a
18 population of less than one million and the legislative authority of a
19 contiguous county, or the legislative authority of the county or

1 counties in which the towns or cities are located, may enter into an
2 agreement under chapter 39.34 RCW for the creation and joint operation
3 of a public facilities district.

4 (d) The legislative authority of a city located in a county with a
5 population greater than one million may create a public facilities
6 district, when the city has a total population of less than one hundred
7 fifteen thousand but greater than eighty thousand and commences
8 construction of a regional center prior to July 1, 2008.

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

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

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

35 (b) A public facilities district created by a contiguous group of
36 cities and towns shall be governed by a board of directors consisting
37 of seven members selected as follows: (i) Three members appointed by
38 the legislative authorities of the cities and towns; and (ii) four

1 members appointed by the legislative authority based on recommendations
2 from local organizations. The members appointed under (b)(i) of this
3 subsection shall not be members of the legislative authorities of the
4 cities and towns. The members appointed under (b)(ii) of this
5 subsection, shall be based on recommendations received from local
6 organizations that include, but are not limited to the local chamber of
7 commerce, local economic development council, local labor council, and
8 a neighborhood organization that is directly affected by the location
9 of the regional center in their area. The members of the board of
10 directors shall be appointed in accordance with the terms of the
11 agreement under chapter 39.34 RCW for the joint operation of the
12 district and shall serve four-year terms. Of the initial members, one
13 must be appointed for a one-year term, one must be appointed for a two-
14 year term, one must be appointed for a three-year term, and the
15 remainder must be appointed for four-year terms.

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

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

37 (4) A public facilities district is a municipal corporation, an

1 independent taxing "authority" within the meaning of Article VII,
2 section 1 of the state Constitution, and a "taxing district" within the
3 meaning of Article VII, section 2 of the state Constitution.

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

10 (6) A public facilities district may acquire and transfer real and
11 personal property by lease, sublease, purchase, or sale. No direct or
12 collateral attack on any public facilities district purported to be
13 authorized or created in conformance with this chapter may be commenced
14 more than thirty days after creation by the city and/or county
15 legislative authority.

16 **Sec. 2.** RCW 35.57.040 and 1999 c 165 s 4 are each amended to read
17 as follows:

18 (1) The board of directors of the public facilities district may
19 impose the following for the purpose of funding a regional center:

20 (a) Charges and fees for the use of any of its facilities;

21 (b) Admission charges under RCW 35.57.100;

22 (c) Vehicle parking charges under RCW 35.57.110; and

23 (d) Sales and use taxes authorized under RCW 82.14.048 and
24 82.14.390. However, the board of directors of a public facilities
25 district created under RCW 35.57.010(1)(d) may not impose the sales and
26 use tax authorized in RCW 82.14.390.

27 (2) The board may accept and expend or use gifts, grants, and
28 donations for the purpose of a regional center. The revenue from the
29 charges, fees, and taxes imposed under this section shall be used only
30 for the purposes authorized by this chapter.

31 **Sec. 3.** RCW 36.100.010 and 2002 c 218 s 26 are each amended to
32 read as follows:

33 (1)(a) A public facilities district may be created in any county
34 and shall be coextensive with the boundaries of the county.

35 (b) For the purposes specified in RCW 36.100.030(2), a second

1 public facilities district may be created in a county with a population
2 greater than one million. The boundaries of the district shall be
3 coextensive with boundaries of the county.

4 (2) A public facilities district shall be created upon adoption of
5 a resolution providing for the creation of such a district by the
6 county legislative authority in which the proposed district is located.

7 (3) A public facilities district is a municipal corporation, an
8 independent taxing "authority" within the meaning of Article VII,
9 section 1 of the state Constitution, and a "taxing district" within the
10 meaning of Article VII, section 2 of the state Constitution.

11 (4) No taxes authorized under this chapter may be assessed or
12 levied unless a majority of the voters of the public facilities
13 district has approved such tax at a general or special election. A
14 single ballot proposition may both validate the imposition of the sales
15 and use tax under RCW 82.14.048 and the excise tax under RCW
16 36.100.040.

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

23 (6) A public facilities district may enter into contracts with a
24 county for the purpose of exercising any powers of a community renewal
25 agency under chapter 35.81 RCW.

26 (7) The county legislative authority or the city council may
27 transfer property to the public facilities district created under this
28 chapter. No property that is encumbered with debt or that is in need
29 of major capital renovation may be transferred to the district without
30 the agreement of the district and revenues adequate to retire the
31 existing indebtedness.

32 **Sec. 4.** RCW 36.100.020 and 1995 3rd sp.s. c 1 s 302 are each
33 amended to read as follows:

34 (1) A public facilities district shall be governed by a board of
35 directors consisting of five or seven members as provided in this
36 section. If the largest city in the county has a population that is at
37 least forty percent of the total county population, the board of

1 directors of the public facilities district shall consist of five
2 members selected as follows: (a) Two members appointed by the county
3 legislative authority to serve for four-year staggered terms; (b) two
4 members appointed by the city council of the largest city in the county
5 to serve for four-year staggered terms; and (c) one person to serve for
6 a four-year term who is selected by the other directors. If the
7 largest city in the county has a population of less than forty percent
8 of the total county population or the public facilities district is
9 created under RCW 36.100.010(1)(b), the county legislative authority
10 shall establish in the resolution creating the public facilities
11 district whether the board of directors of the public facilities
12 district has either five or seven members, and the county legislative
13 authority shall appoint the members of the board of directors to
14 reflect the interests of cities and towns in the county, as well as the
15 unincorporated area of the county. However, if the county has a
16 population of one million or more, the largest city in the county has
17 a population of less than forty percent of the total county population,
18 and the county operates under a county charter, which provides for an
19 elected county executive, three members shall be appointed by the
20 governor and the remaining members shall be appointed by the county
21 executive subject to confirmation by the county legislative authority.
22 Of the members appointed by the governor, the speaker of the house of
23 representatives and the majority leader of the senate shall each
24 recommend to the governor a person to be appointed to the board.

25 (2) At least one member on the board of directors shall be
26 representative of the lodging industry in the public facilities
27 district before the public facilities district imposes the excise tax
28 under RCW 36.100.040.

29 (3) Members of the board of directors shall serve four-year terms
30 of office, except that two of the initial five board members or three
31 of the initial seven board members shall serve two-year terms of
32 office.

33 (4) A vacancy shall be filled in the same manner as the original
34 appointment was made and the person appointed to fill a vacancy shall
35 serve for the remainder of the unexpired term of the office for the
36 position to which he or she was appointed.

37 (5) A director appointed by the governor may be removed from office

1 by the governor. Any other director may be removed from office by
2 action of at least two-thirds of the members of the legislative
3 authority which made the appointment.

4 **Sec. 5.** RCW 36.100.030 and 2003 c 376 s 1 are each amended to read
5 as follows:

6 (1) A public facilities district is authorized to acquire,
7 construct, own, remodel, maintain, equip, reequip, repair, and operate
8 (a) sports facilities, entertainment facilities, convention facilities,
9 or regional centers as defined in RCW 35.57.020, and (b) for districts
10 formed after January 1, 2000, recreational facilities other than ski
11 areas, together with contiguous parking facilities. The taxes that are
12 provided for in this chapter may only be imposed for these purposes.

13 (2) A public facilities district created under RCW 36.100.010(1)(b)
14 is authorized to finance the construction, ownership, remodeling,
15 maintenance, equipping, reequipping, repair, and operation of a
16 regional center of a public facilities district created under RCW
17 35.57.010(1)(d).

18 (3) A public facilities district may enter into agreements under
19 chapter 39.34 RCW for the joint provision and operation of such
20 facilities and may enter into contracts under chapter 39.34 RCW where
21 any party to the contract provides and operates such facilities for the
22 other party or parties to the contract.

23 ~~((3))~~ (4) Notwithstanding the establishment of a career, civil,
24 or merit service system, a public facilities district may contract with
25 a public or private entity for the operation or management of its
26 public facilities.

27 ~~((4))~~ (5) A public facilities district is authorized to use the
28 supplemental alternative public works contracting procedures set forth
29 in chapter 39.10 RCW in connection with the design, construction,
30 reconstruction, remodel, or alteration of any of its public facilities.

31 ~~((5))~~ (6) A public facilities district may impose charges and
32 fees for the use of its facilities, and may accept and expend or use
33 gifts, grants, and donations.

34 **Sec. 6.** RCW 82.14.390 and 2006 c 298 s 1 are each amended to read
35 as follows:

36 (1) Except as provided in subsection (6) of this section, the

1 governing body of a public facilities district (a) created before July
2 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction
3 of a new regional center, or improvement or rehabilitation of an
4 existing new regional center, before January 1, 2004(~~(, or)~~); (b)
5 created before July 1, 2006, under chapter 35.57 RCW in a county or
6 counties in which there are no other public facilities districts on
7 June 7, 2006, and in which the total population in the public
8 facilities district is greater than ninety thousand that commences
9 construction of a new regional center before February 1, 2007; (c)
10 created under the authority of RCW 36.100.010(1)(b); or (d) created
11 before September 1, 2007, under chapter 35.57 or 36.100 RCW in a county
12 or counties in which there are no other public facilities districts on
13 the effective date of this section, and in which the total population
14 in the public facilities district is greater than seventy thousand,
15 that commences construction of a new regional center before January 1,
16 2009, may impose a sales and use tax in accordance with the terms of
17 this chapter. The tax is in addition to other taxes authorized by law
18 and shall be collected from those persons who are taxable by the state
19 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable
20 event within the public facilities district. The rate of tax shall not
21 exceed 0.033 percent of the selling price in the case of a sales tax or
22 value of the article used in the case of a use tax.

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

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

34 (4) Moneys collected under this section shall only be used for the
35 purposes set forth in RCW 35.57.020 and must be matched with an amount
36 from other public or private sources equal to thirty-three percent of
37 the amount collected under this section, provided that amounts
38 generated from nonvoter approved taxes authorized under chapter 35.57

1 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW
2 shall not constitute a public or private source. For the purpose of
3 this section, public or private sources includes, but is not limited to
4 cash or in-kind contributions used in all phases of the development or
5 improvement of the regional center, land that is donated and used for
6 the siting of the regional center, cash or in-kind contributions from
7 public or private foundations, or amounts attributed to private sector
8 partners as part of a public and private partnership agreement
9 negotiated by the public facilities district.

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

17 (b) A public facilities district under subsection (1)(c) of this
18 section may not impose a tax greater than 0.0017 percent. The district
19 may not impose the tax if the county in which the district is located
20 currently imposes the tax under RCW 82.14.0485.

21 (6) A public facilities district created under chapter 36.100 RCW
22 before the effective date of this act is not eligible to impose the tax
23 under this section if the legislative authority of the county where the
24 public facilities district is located has imposed a sales and use tax
25 under RCW 82.14.0485 or 82.14.0494.

26 NEW SECTION. Sec. 7. A new section is added to chapter 35.57 RCW
27 to read as follows:

28 (1) The governing board of a public facilities district created
29 under the authority of RCW 35.57.010(1)(d), may apply for deferral of
30 taxes on the construction of buildings, site preparation, and the
31 acquisition of related tangible personal property for a new regional
32 center. Application shall be made to the department in a form and
33 manner prescribed by the department. The application shall contain
34 information regarding the location of the regional center, estimated or
35 actual costs, time schedules for completion and operation, and other
36 information required by the department. The department shall approve

1 the application within sixty days if it meets the requirements of this
2 section.

3 (2) The department shall issue a sales and use tax deferral
4 certificate for state and local sales and use taxes due under chapters
5 82.08, 82.12, 82.14, and 81.104 RCW on the new regional center.

6 (3) The public facilities district shall begin paying the deferred
7 taxes in the fifth year after the date certified by the department as
8 the date on which the regional center is operationally complete. The
9 first payment is due on December 31st of the fifth calendar year after
10 such certified date, with subsequent annual payments due on December
11 31st of the following nine years. Each payment shall equal ten percent
12 of the deferred tax.

13 (4) The department may authorize an accelerated repayment schedule
14 upon request of the public facilities district.

15 (5) Interest shall not be charged on any taxes deferred under this
16 section for the period of deferral, although all other penalties and
17 interest applicable to delinquent excise taxes may be assessed and
18 imposed for delinquent payments under this section. The debt for
19 deferred taxes is not extinguished by insolvency or other failure of
20 the public facilities district.

21 (6) Applications and any other information received by the
22 department under this section are not confidential and are subject to
23 disclosure. Chapter 82.32 RCW applies to the administration of this
24 section.

25 (7) As used in this section, the following definitions apply:

26 (a) "Department" means the department of revenue.

27 (b) "Regional center" means a regional center constructed by a
28 public facilities district created under the authority of RCW
29 35.57.010(1)(d), where construction of that regional center commences
30 before July 1, 2008.

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