

EHB 2299 - S AMD 280

By Senators Hobbs, Delvin

PULLED 04/16/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 35.57.010 and 2007 c 486 s 1 are each amended to read
4 as follows:

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

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

12 (c) The legislative authority of any town or city, or any
13 contiguous group of towns or cities, located in a county with a
14 population of less than one million and the legislative authority of a
15 contiguous county, or the legislative authority of the county or
16 counties in which the towns or cities are located, may enter into an
17 agreement under chapter 39.34 RCW for the creation and joint operation
18 of a public facilities district.

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

24 (e) At least two legislative authorities, one or more of which
25 previously created a public facilities district or districts under (b)
26 or (c) of this subsection, may create an additional public facilities
27 district notwithstanding the fact that one or more of those towns or
28 cities, with or without a county or counties, previously have created
29 one or more public facilities districts within the geographic
30 boundaries of the additional public facilities district. Those

1 existing districts may continue their full corporate existence and
2 activities notwithstanding the creation and existence of the additional
3 district within all or part of the same geographic area. Additional
4 public facilities districts formed under this subsection may be
5 comprised of a maximum of three contiguous towns or cities separately
6 or in combination with a maximum of two contiguous counties.

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

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

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

33 (b) A public facilities district created by a contiguous group of
34 cities and towns shall be governed by a board of directors consisting
35 of seven members selected as follows: (i) Three members appointed by
36 the legislative authorities of the cities and towns; and (ii) four
37 members appointed by the legislative (~~authority~~) authorities of the
38 cities and towns based on recommendations from local organizations.

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

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

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

37 (d)(i) A public facilities district created under subsection (1)(e)
38 of this section may provide, in the agreement providing for its

1 creation and operation, that the district must be governed by a board
2 of directors appointed under (b) or (c) of this subsection, or by a
3 board of directors of not more than nine members who are also members
4 of the legislative authorities that created the public facilities
5 district or of the governing boards of the public facilities district
6 or districts, or both, previously created by those legislative
7 authorities.

8 (ii) A board of directors formed under this subsection must have an
9 equal number of members representing each city, town, or county
10 participating in the public facilities district. If a public
11 facilities district is created by an even number of legislative
12 authorities, the members representing or appointed by those legislative
13 authorities shall appoint an additional board member. For a board
14 formed under this subsection to approve a proposition, the proposition
15 must be approved by a majority of the members representing or appointed
16 by each legislative authority participating in the public facilities
17 district.

18 (4) A public facilities district is a municipal corporation, an
19 independent taxing "authority" within the meaning of Article VII,
20 section 1 of the state Constitution, and a "taxing district" within the
21 meaning of Article VII, section 2 of the state Constitution.

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

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

34 **Sec. 2.** RCW 35.57.020 and 2002 c 363 s 2 and 2002 c 218 s 25 are
35 each reenacted and amended to read as follows:

36 (1)(a) Except for a public facilities district created under RCW
37 35.57.010(1)(e), a public facilities district is authorized to acquire,

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

19 (b) A public facilities district created under RCW 35.57.010(1)(e)
20 is authorized to acquire, construct, own, remodel, maintain, equip,
21 reequip, repair, finance, and operate one or more recreational
22 facilities other than a ski area.

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

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

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

34 (5) Notwithstanding the establishment of a career, civil, or merit
35 service system, a public facilities district may contract with a public
36 or private entity for the operation or management of its public
37 facilities.

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

5 (7) A city or town in conjunction with any special agency,
6 authority, or other district established by a county or any other
7 governmental agency is authorized to use the supplemental alternative
8 public works contracting procedures set forth in chapter 39.10 RCW in
9 connection with the design, construction, reconstruction, remodel, or
10 alteration of any regional center funded in whole or in part by a
11 public facilities district.

12 **Sec. 3.** RCW 82.14.048 and 2008 c 86 s 103 are each amended to read
13 as follows:

14 (1) The governing board of a public facilities district under
15 chapter 36.100 or 35.57 RCW may submit an authorizing proposition to
16 the voters of the district, and if the proposition is approved by a
17 majority of persons voting, impose a sales and use tax in accordance
18 with the terms of this chapter.

19 (2) The tax authorized in this section shall be in addition to any
20 other taxes authorized by law and shall be collected from those persons
21 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
22 the occurrence of any taxable event within the public facilities
23 district. The rate of tax shall not exceed two-tenths of one percent
24 of the selling price in the case of a sales tax, or value of the
25 article used, in the case of a use tax. A public facilities district
26 formed under RCW 35.57.010(1)(e) may not impose the tax authorized
27 under this subsection at a rate that exceeds two-tenths of one percent
28 minus the rate of the highest tax authorized by this subsection that is
29 imposed by any other public facilities district within its boundaries.
30 If a public facilities district formed under RCW 35.57.010(1)(e) has
31 imposed a tax under this subsection and issued or incurred obligations
32 pledging that tax, so long as those obligations are outstanding no
33 other public facilities district within its boundaries may thereafter
34 impose a tax under this subsection at a rate that would reduce the rate
35 of the tax that was pledged to the repayment of those obligations. A
36 public facilities district that imposes a tax under this subsection is
37 responsible for the payment of any costs incurred for the purpose of

1 administering the provisions of this subsection, RCW 35.57.010(1) (d)
2 and (e) and 35.57.020(1)(b), including any administrative costs
3 associated with the imposition of a tax under this subsection incurred
4 by either the department of revenue or local government, or both.

5 (3) Moneys received from any tax imposed under the authority of
6 this section shall be used for the purpose of providing funds for the
7 costs associated with the financing, design, acquisition, construction,
8 equipping, operating, maintaining, remodeling, repairing, and
9 reequipping of its public facilities.

10 **Sec. 4.** RCW 36.100.180 and 1995 c 396 s 15 are each amended to
11 read as follows:

12 (1) The public facilities district may secure services by means of
13 an agreement with a service provider. The public facilities district
14 shall publish notice, establish criteria, receive and evaluate
15 proposals, and negotiate with respondents under requirements set forth
16 by district resolution.

17 (2) For personal service contracts of one hundred fifty thousand
18 dollars or greater not otherwise governed by chapter 39.80 RCW,
19 contracts for architectural and engineering services, a competitive
20 solicitation process is required. The district shall establish the
21 process by resolution, which must at a minimum include the following:

22 (a) Notice. A notice inviting statements of either qualifications
23 or proposals, or both, from interested parties must be published in a
24 newspaper of general circulation throughout the county in which the
25 district is located at least ten days before the date for submitting
26 the statements of qualifications or proposals.

27 (b) Description of services required. The request for statements
28 of either qualifications or proposals, or both published or provided to
29 interested parties must describe the services required and list the
30 types of information and data required of each proposal. It may also
31 describe the evaluation criteria and state the relative importance of
32 the criteria if then available.

33 (c) Review and evaluation. The district shall establish a process
34 to review and evaluate statements of either qualifications or
35 proposals, or both. That process may include a selection board

1 identified by the district or some other panel of evaluators. If
2 appropriate, the reviewers may hear oral presentations by proposers.

3 (d) Selection. The evaluators shall select and rank the most
4 qualified proposers. In selecting and ranking such proposers, the
5 selection board shall consider the evaluation criteria established by
6 the district and may consider such other information as may be secured
7 during the evaluation process related to a proposer's qualifications
8 and experience.

9 (e) Negotiations. The district shall enter into contract
10 negotiations with the top-ranked proposer or proposers identified in
11 the selection process. Negotiations may be conducted concurrently or
12 sequentially as may be allowed by law.

13 (f) Approval. When negotiations are complete, the proposed
14 contract will be presented to the district's governing body at its next
15 regularly scheduled meeting for approval or ratification.

16 (3) Exceptions. The requirements of this section need not be met
17 in the following circumstances:

18 (a) Emergency. When the contracting authority makes a finding that
19 an emergency requires the immediate execution of the work involved. As
20 used in this subsection, "emergency" has the same meaning as provided
21 in RCW 39.29.006;

22 (b) Contract amendment. Amendments to existing service contracts
23 are exempt from these requirements; and

24 (c) Sole source. In the event that the services being sought can
25 only be obtained from a single source, then the district shall make a
26 formal written finding stating the factual basis for the exception and
27 the solicitation requirements of this section do not apply. As used in
28 this subsection, "sole source" has the same meaning as provided in RCW
29 39.29.006.

30 (4) Prospective application. Nothing in this section affects the
31 validity or effect of any district contract executed prior to the
32 effective date of this act."

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By Senators Hobbs, Delvin

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1 On page 1, line 2 of the title, after "districts;" strike the
2 remainder of the title and insert "amending RCW 35.57.010, 82.14.048,
3 and 36.100.180; and reenacting and amending RCW 35.57.020."

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