# HOUSE BILL REPORT
# HB 2145

**As Reported by House Committee On:**
Ways & Means

**Title**: An act relating to a limited plan of finance upon a default of indebtedness issued by distressed public facilities districts.

**Brief Description**: Creating a limited plan of finance upon a default of indebtedness issued by distressed public facilities districts.

**Sponsors**: Representatives Armstrong, Condotta and Hunter; by request of State Treasurer.

**Brief History:**
**Committee Activity:**
Ways & Means: 12/2/11 [DP].

**Brief Summary of Bill**

- Authorizes the state to make an immediate $42 million loan to a public facilities district (PFD) that has defaulted on a debt before December 31, 2011.
- Authorizes a PFD receiving a state loan, as well as any cities and counties forming the PFD, to impose an additional 0.2 percent sales and use tax.
- Allows the State Treasurer to divert various local sales and use taxes imposed by a PFD receiving a state loan, as well as any cities or counties forming the PFD, until the state loan is repaid in full.

## HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report**: Do pass. Signed by 19 members: Representatives Hunter, Chair; Darneille, Vice Chair; Alexander, Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Hinkle, Hudgins, Hunt, Kagi, Kenney, Pettigrew, Seaquist, Springer and Sullivan.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Minority Report**: Do not pass. Signed by 8 members: Representatives Hasegawa, Vice Chair; Bailey, Assistant Ranking Minority Member; Haler, Ormsby, Parker, Ross, Schmick and Wilcox.

**Staff**: Rick Peterson (786-7150).

**Background**:

State law currently authorizes 25 different types of local sales and use taxes. The most common is a two-part (0.5 percent basic plus 0.5 percent optional) city and county sales and use tax of up to 1 percent. The tax is used for general local purposes. Almost all cities and counties levy the full 1 percent rate. The county sales and use tax is credited against the city tax; however, cities are required to share 15 percent of their tax with the counties.

Local sales and use taxes are deposited into the Local Sales and Use Tax Account (Account). On a monthly basis, the State Treasurer distributes taxes in the Account to the jurisdictions imposing local sales and use taxes. Because of the one-month lag between receipts and distributions of local sales and use taxes, the Account typically has a positive cash balance between $200 to $300 million.

Public facilities districts (PFDs) are municipal corporations with independent taxing authority and are taxing districts under the Washington Constitution. There are two enabling statutes, one for counties and another for cities or joint arrangements between a group of cities or a county and one or more cities. A PFD may charge fees for the use of its facilities, levy an admissions tax not exceeding 5 percent, impose a vehicle parking tax not exceeding 10 percent, and impose a voter-approved 0.2 percent sales and use tax.

In addition to these revenue sources, state law also authorizes certain PFDs to impose a local sales and use tax of up to 0.033 percent to finance regional centers. Regional centers are defined to include convention and conference centers and special events facilities, such as facilities for community events, sporting events, trade shows, and artistic performances. This tax is not an additional tax for consumers, and it does not change the overall retail sales or use tax rate. Rather, the receipts are credited against the state 6.5 percent tax, and therefore the burden is shifted to the State General Fund. Authority to levy the tax is limited to districts that were created by certain dates and that commenced the construction, improvement, or rehabilitation of eligible projects prior to certain dates.

Once imposed, the local sales and use tax to finance regional centers may remain in place until bonds that finance the construction of the facility are retired, but in no case may the tax be levied for longer than 25 years. In order to utilize the state-credited tax receipts, the statute requires that public or private matching funds must be obtained for the project. First levied in August 2000, the tax is currently utilized to fund 22 projects throughout the state.

In 2006 legislation was passed that extended the 0.033 percent local sales and use tax to the Greater Wenatchee Regional Events Center Public Facilities District (Wenatchee PFD), formed by Chelan and Douglas counties and the cities of Wenatchee, East Wenatchee, Entiat, Chelan, Waterville, Cashmere, and Rock Island. This local sales and use tax is used to finance a multi-purpose events center located in the city of Wenatchee, which has been open since 2008.

In 2008 the Wenatchee PFD issued $41,770,000 in short-term bonds to finance the events center. The bonds were due on December 1, 2011. The Wenatchee PFD has been unable to refinance the short-term bonds and failed to pay the principal that was due on its December 1 obligation.

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**Summary of Bill**:

The Distressed Public Facilities District Obligation Account (PFD Account) is created in the custody of the State Treasurer. On the effective date of the bill, $42 million will be transferred from the Local Sales and Use Tax Account to the PFD Account.

From the PFD Account, the State Treasurer is authorized to loan the distressed public facilities district (PFD) an amount no greater than the principal and interest that was due on the maturity date. The loan can be made with or without the consent of the distressed PFD. A "distressed public facilities district" is any PFD that has defaulted due to its inability to pay its indebtedness on or before December 31, 2011. The Greater Wenatchee Regional Events Center Public Facilities District meets this definition.

Additional sales and use tax authority is provided to the cities and counties forming the distressed PFD as well as the PFD itself. The tax rate may not exceed 0.2 percent. The tax is in addition to any other sales and use taxes imposed within the jurisdiction(s) imposing the tax. The additional tax is not credited against the state sales and use tax. The tax may be imposed by the distressed PFD only with voter approval. The PFD may use the additional tax only for repayment of the state loan and any other debt service associated with the events center. A city or county may impose the additional sales and use tax with a majority vote of the governing body or by referral to the voters. The city or county may also use the additional tax for capital improvements and the maintenance and operation of the public facility as long as the state loan has been paid back and revenues are sufficient to cover debt service on the facility. A city or county is required to lower its tax rate for the new sales and use tax by an amount necessary to keep the total new tax rate by the PFD and any city or county imposing the new sales and use tax at or below 0.2 percent. Authority for these taxes ends on December 31 of the year in which the original amount of the debt is repaid or defeased.

The state is authorized to divert various local sales and use taxes imposed by the distressed PFD, or the counties and cities forming the PFD, or both, until the state loan is repaid in full. The amount diverted is generally based on the outstanding amount of the state loan amortized over a 10-year period. (Since repayment is not required to begin until 2013, the total period of the state loan is actually 11 years.) Interest accrues at a variable rate equal to the 20 bond general obligation bond buyer index plus one percentage point. Interest begins accruing on January 1, 2012. (As an example of a typical interest rate using the index, the November 17, 2011, interest rate was 4.09 percent.)

The manner in which local sales and use taxes may be diverted depends upon whether the distressed PFD imposes the full 0.2 percent rate for the additional sales and use tax.

If the distressed PFD imposes the full 0.2 percent rate for the additional sales and use tax, local sales and use taxes will be diverted on a monthly basis in the following priority:

1. All of the 0.033 percent sales and use tax imposed by the distressed PFD beginning on January 1, 2013;
2. All of the additional sales and use tax imposed by the distressed PFD beginning on the date that the tax would first be disbursed to the PFD;
3. All of the additional sales and use tax imposed by the city in which the PFD facility is located; i.e., the anchor jurisdiction, beginning on the date that the tax would first be disbursed to the city;
4. All of the additional sales and use taxes imposed by jurisdictions other than the anchor jurisdiction beginning on the date that the tax would first be disbursed to the jurisdiction(s); and
5. The portion of the anchor jurisdiction's general sales and use tax that is necessary to cover any remaining amount required for the monthly state loan repayment beginning January 1, 2013.

If the distressed PFD does not impose the full 0.2 percent rate for the additional sales and use tax, local sales and use taxes will be diverted on a monthly basis in the following priority:

1. All of the 0.033 percent sales and use tax imposed by the distressed PFD beginning January 1, 2013;
2. All of the additional sales and use tax imposed by the distressed PFD beginning on the date that the tax would first be disbursed to the PFD;
3. All of the additional sales and use tax imposed by any of the cities or counties forming the distressed PFD beginning on the date that the tax would first be disbursed to the jurisdiction(s);
4. General sales and use taxes imposed by the cities and counties forming the distressed PFD on a pro rata basis. The combined contribution by all cities and counties is limited to 50 percent of the monthly state loan repayment; and
5. The portion of the anchor jurisdiction's general sales and use tax and other revenues of the anchor jurisdiction necessary to cover any remaining amount on the monthly state loan repayment.

The provisions of the bill supersede any terms or conditions of prior agreements between the jurisdictions forming the distressed PFD to the extent that those terms or conditions are inconsistent with the provisions of the bill.

The State Treasurer and State Auditor are required to examine the financial condition of all local governments and report back to the Legislature by January 10, 2012.

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**Appropriation**: None.

**Fiscal Note**: Requested on December 1, 2012.

**Effective Date**: The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony**:

(In support) It is time to take action on this bill. We have between four and seven days to act after yesterday's default. Some of the bondholders have expressed a willingness to hold off for a few days. This is a tough bill for legislators and for constituents. The community has the resources to pay the debt. They tried a 20-year bond in September 2008 but had to do a three-year note because the bond market fell apart during the financial crisis. We need some time for the local folks to find a solution.

If the debt is not paid then lawsuits between the bondholders and the public facilities district (PFD) and the PFD participants will occur. The lawsuits will likely last three to five years. Local jurisdictions will lose control over the situation to the courts.

Cities and towns have worked hard to gain AA ratings on recent bond issues. We are concerned that the default will have a chilling effect on local bond issues and that a AA rating will not be possible with the increased scrutiny. A lower bond rating means higher interest costs and less access to the bond market.

Unemployment remains high in the construction trades and local borrowing for projects is one of the few options to create jobs. We cannot jeopardize the ability to use bonded projects to put people back to work.

(Neutral) School districts are concerned about the cost of future bonds for school construction. Every dollar paid in higher interest is one less dollar to build facilities.

(Opposed) None.

**Persons Testifying**: (In support) Representative Armstrong, prime sponsor; Representative Condotta; Wolfgang Opitz and Jay Reich, Office of the State Treasurer; John Caulfield, City of Mountlake Terrace; Ehman Sheldon, City of Othello; Dan Steele, Washington Association of School Administrators; Mitch Denning, Alliance of Education Associations; Rebecca Johnson, Washington State Labor Council; and Cody Arledge, Sheet Metal Workers Local 66.

(Neutral) Marie Sullivan, Washington State School Directors Association.

**Persons Signed In To Testify But Not Testifying**: None.