
SENATE BILL 5211

State of Washington

67th Legislature

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By Senators Frockt, Mullet, Conway, Kuderer, and Rolfes

Read first time 01/14/21. Referred to Committee on Business,
Financial Services & Trade.

1 AN ACT Relating to tax increment financing; amending RCW
2 84.55.010; and adding a new chapter to Title 39 RCW.

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

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

7 (1) "Assessed value of real property" means the valuation of real
8 property as placed on the last completed assessment roll.

9 (2) "Increment area" means the geographic area from which taxes
10 are to be appropriated to finance public improvements authorized
11 under this chapter.

12 (3) "Increment value" means 100 percent of any increase in the
13 true and fair value of real property in an increment area that is
14 placed on the tax rolls after the increment area is created.

15 (4) "Local government" means any city, town, county, port
16 district, or any combination thereof.

17 (5) "Ordinance" means any appropriate method of taking
18 legislative action by a local government.

19 (6) "Public improvement costs" means the costs of: (a) Design,
20 planning, acquisition, required permitting, required environmental
21 studies and mitigation, seismic studies or surveys, archaeological

1 studies or surveys, land surveying, site preparation, construction,
2 reconstruction, rehabilitation, improvement, and installation of
3 public improvements and other directly related costs; (b) purchasing,
4 rehabilitating, retrofitting for energy efficiency, and constructing
5 housing for the purpose of creating or preserving permanently
6 affordable housing; (c) purchasing, rehabilitating, retrofitting for
7 energy efficiency, and constructing child care facilities serving
8 children and youth that are low-income, homeless, or in foster care;
9 (d) relocating, maintaining, and operating property pending
10 construction of public improvements; (e) relocating utilities as a
11 result of public improvements; (f) financing public improvements,
12 including capitalized interest for up to six months following
13 completion of construction, legal and other professional services,
14 taxes, insurance, principal and interest costs on general
15 indebtedness issued to finance public improvements, and any necessary
16 reserves for general indebtedness; (g) assessments incurred in
17 revaluing real property for the purpose of determining the tax
18 allocation base value that are in excess of costs incurred by the
19 assessor in accordance with the revaluation plan under chapter 84.41
20 RCW, and the costs of apportioning the taxes and complying with this
21 chapter and other applicable law; and (h) administrative expenses and
22 feasibility studies reasonably necessary and related to these costs,
23 including related costs that may have been incurred before adoption
24 of the ordinance authorizing the public improvements and the use of
25 tax increment financing to fund the costs of the public improvements.

26 (7) "Public improvements" means:

27 (a) Infrastructure improvements owned by a local government
28 within or outside of and serving the increment area that include:

- 29 (i) Street and road construction and maintenance;
30 (ii) Water and sewer system construction and improvements;
31 (iii) Sidewalks and streetlights;
32 (iv) Parking, terminal, and dock facilities;
33 (v) Park and ride facilities of a transit authority;
34 (vi) Park and community facilities and recreational areas;
35 (vii) Stormwater and drainage management systems;
36 (viii) Electric, broadband, or rail service; and
37 (ix) Mitigation of brownfields.

38 (b) Expenditures for any of the following purposes:

- 39 (i) Providing environmental analysis and mitigation, professional
40 management, planning, and promotion within the increment area,

1 including the management and promotion of retail trade activities in
2 the increment area;

3 (ii) Providing maintenance and security for common or public
4 areas in the increment area;

5 (iii) Relocation and construction of a government-owned facility,
6 with written permission from the agency owning the facility and the
7 office of financial management; or

8 (iv) Historic preservation activities authorized under RCW
9 35.21.395.

10 (8) "Regular property taxes" means regular property taxes as
11 defined in RCW 84.04.140, except: (a) Regular property taxes levied
12 by port districts or public utility districts specifically for the
13 purpose of making required payments of principal and interest on
14 general indebtedness; and (b) regular property taxes levied by the
15 state for the support of the common schools under RCW 84.52.065.
16 Regular property taxes do not include excess property tax levies that
17 are exempt from the aggregate limits for junior and senior taxing
18 districts as provided in RCW 84.52.043.

19 (9) "Tax allocation base value" means the true and fair value of
20 real property located within an increment area for taxes imposed in
21 the year in which the increment area is created.

22 (10) "Tax allocation revenues" means those tax revenues derived
23 from the imposition of regular property taxes on the increment value
24 and distributed to finance public improvements.

25 (11) "Taxing districts" means a governmental entity that levies
26 or has levied for it regular property taxes upon real property
27 located within a proposed or approved increment area.

28 (12) "Value of taxable property" means the value of the taxable
29 property as defined in RCW 39.36.015.

30 NEW SECTION. **Sec. 2.** (1) A local government may finance public
31 improvements using tax increment financing subject to the following
32 conditions:

33 (a) The local government must adopt an ordinance designating an
34 increment area within its boundaries and specifying the public
35 improvements proposed to be financed in whole or in part with the use
36 of tax increment financing;

37 (b) The increment area or combined increment areas cannot include
38 the area of the entire jurisdiction of the local government;

1 (c) A local government can have no more than three active
2 increment areas at any given time and they may not physically overlap
3 by including the same land in more than one increment area at any
4 time;

5 (d) An increment area under this section must be retired no more
6 than 25 years after the adoption of the ordinance designating the
7 increment area; and

8 (e) The local government must make a finding that:

9 (i) The public improvements proposed to be financed in whole or
10 in part using tax increment financing are expected to encourage
11 private development within the increment area and to increase the
12 fair market value of real property within the increment area;

13 (ii) Private development that is anticipated to occur within the
14 increment area as a result of the public improvements financed in
15 whole or in part using tax increment financing will be processed
16 consistent with the permitting jurisdiction's applicable zoning and
17 development standards;

18 (iii) The proposed development would not reasonably be expected
19 to occur solely through private investment within the reasonably
20 foreseeable future; and

21 (iv) The increased assessed value of the site that could
22 reasonably be expected to occur without the use of tax increment
23 financing would be less than the increase in the assessed value
24 estimated to result from the proposed development.

25 (2) Prior to establishing an increment area the local government
26 must complete a project analysis that shall include, but need not be
27 limited to, the following:

28 (a) A statement of objectives of the local government for the
29 public improvement project;

30 (b) A statement as to the property within the project, if any,
31 that the local government intends to acquire, identified by parcel
32 number, identifiable property name, block, or other appropriate means
33 indicating the area in which the local government intends to acquire
34 properties;

35 (c) The duration of the tax increment financing area;

36 (d) Identification of all parcels to be included in the area;

37 (e) A description of the private development and estimated value
38 of the project, and expected taxes generated;

1 (f) A description of the public infrastructure needs, estimated
2 costs, and anticipated type and terms of the obligations to be
3 issued;

4 (g) The most recent assessed valuation of the property and an
5 estimate of the value of the property after development;

6 (h) An assessment of whether or not the private development would
7 occur without tax increment financing;

8 (i) An assessment of the project job creation from the
9 development;

10 (j) An assessment of any impacts and any necessary mitigation to
11 address the impacts identified on the following:

12 (i) Affordable and low-income housing;

13 (ii) The local business community;

14 (iii) The local school districts; and

15 (iv) The local fire service.

16 (3) The local government may charge a private developer an
17 application fee sufficient to reimburse the staff time spent
18 preparing the project analysis and other administrative costs related
19 to establishing the tax increment financing increment area.

20 (4) Nothing in this section prohibits the local government from
21 entering into an agreement per chapter 39.34 RCW with another local
22 government for the administration or other activities related to tax
23 increment financing authorized under this section.

24 NEW SECTION. **Sec. 3.** (1) Public improvements that are financed
25 with tax increment financing may be undertaken and coordinated with
26 other programs or efforts undertaken by the local government and
27 other taxing districts and may be funded in part from revenue sources
28 other than tax increment financing.

29 (2) Public improvements that are constructed by a private
30 developer must meet all applicable state and local laws.

31 NEW SECTION. **Sec. 4.** The local government shall:

32 (1) Publish notice in a legal newspaper of general circulation
33 within the increment area that describes the public improvement,
34 describes the boundaries of the increment area, and identifies the
35 location and times where the ordinance and other public information
36 concerning the public improvement may be inspected; and

1 (2) Deliver a certified copy of the ordinance to the county
2 treasurer, the county assessor, and the governing body of each taxing
3 district within which the increment area is located.

4 NEW SECTION. **Sec. 5.** Apportionment of taxes shall be as
5 follows:

6 (1) Commencing in the calendar year following the passage of the
7 ordinance, the county treasurer shall distribute receipts from
8 regular taxes imposed on real property located in the increment area
9 as follows:

10 (a) Each taxing district shall receive that portion of its
11 regular property taxes produced by the rate of tax levied by or for
12 the taxing district on the tax allocation base value for that tax
13 increment financing project in the taxing district;

14 (b) The local government that created the increment area shall
15 receive an additional portion of the regular property taxes levied by
16 or for each taxing district upon the increment value within the
17 increment area. The local government that created the increment area
18 may agree to receive less than the full amount of this portion as
19 long as bond debt service, reserve, and other bond covenant
20 requirements are satisfied, in which case the balance of these tax
21 receipts shall be allocated to the taxing districts that imposed
22 regular property taxes, or have regular property taxes imposed for
23 them, in the increment area for collection that year in proportion to
24 their regular tax levy rates for collection that year. The local
25 government may request that the treasurer transfer this additional
26 portion of the property taxes to its designated agent. The portion of
27 the tax receipts distributed to the local government or its agent
28 under this subsection (1)(b) may only be expended to finance public
29 improvement costs associated with the public improvements financed in
30 whole or in part by tax increment financing; and

31 (c) This section shall not apply to any portion of the property
32 tax levied by the state for the support of the common schools under
33 RCW 84.52.065.

34 (2) The apportionment of increases in assessed valuation in an
35 increment area, and the associated distribution to the local
36 government of receipts from regular property taxes that are imposed
37 on the increment value, must cease when tax allocation revenues are
38 no longer necessary or obligated to pay the costs of the public
39 improvements. Any excess tax allocation revenues and earnings on the

1 tax allocation revenues remaining at the time the apportionment of
2 tax receipts terminates must be returned to the county treasurer and
3 distributed to the taxing districts that imposed regular property
4 taxes, or had regular property taxes imposed for it, in the increment
5 area for collection that year, in proportion to the rates of their
6 regular property tax levies for collection that year.

7 (3) The apportionment and distribution of portions of the regular
8 property taxes levied by or for each taxing district upon the
9 increment value within the increment area pursuant to and subject to
10 the requirements of this chapter is declared to be a public purpose
11 of and benefit each such taxing district.

12 (4) The apportionment and distribution of portions of the regular
13 property taxes levied by or for each taxing district upon the
14 increment value within the increment area pursuant to this section
15 shall not affect or be deemed to affect the rate of taxes levied by
16 or within any such taxing district or the consistency of any such
17 levies with the uniformity requirement of Article VII, section 1 of
18 the state Constitution.

19 NEW SECTION. **Sec. 6.** (1) A local government designating a tax
20 increment financing area may incur general indebtedness, and issue
21 general obligation bonds, to finance the public improvements and
22 retire the indebtedness in whole or in part from tax allocation
23 revenues it receives, subject to the following requirements: The
24 ordinance adopted by the local government creating the increment area
25 and authorizing the use of tax increment financing indicates an
26 intent to incur this indebtedness and the maximum amount of this
27 indebtedness that is contemplated.

28 (2) The general indebtedness incurred under subsection (1) of
29 this section may be payable from other tax revenues, the full faith
30 and credit of the local government, and nontax income, revenues,
31 fees, and rents from the public improvements, as well as
32 contributions, grants, and nontax money available to the local
33 government for payment of costs of the public improvements or
34 associated debt service on the general indebtedness.

35 (3) In addition to the requirements in subsection (1) of this
36 section, a local government designating an increment area and
37 authorizing the use of tax increment financing may require the
38 nonpublic participant to provide adequate security to protect the

1 public investment in the public improvement within the increment
2 area.

3 NEW SECTION. **Sec. 7.** A direct or collateral attack on a public
4 improvement, public improvement ordinance, or increment area
5 purported to be authorized or created in conformance with applicable
6 legal requirements, including this chapter, may not be commenced more
7 than 30 days after publication of notice as required by section 4 of
8 this act.

9 NEW SECTION. **Sec. 8.** (1) A local government may issue revenue
10 bonds to fund revenue-generating public improvements, or portions of
11 public improvements, that are located within an increment area and
12 that it is authorized to provide or operate. Whenever revenue bonds
13 are to be issued, the legislative authority of the local government
14 shall create or have created a special fund or funds from which,
15 along with any reserves created pursuant to RCW 39.44.140, the
16 principal and interest on these revenue bonds shall exclusively be
17 payable. The legislative authority of the local government may
18 obligate the local government to set aside and pay into the special
19 fund or funds a fixed proportion or a fixed amount of the revenues
20 from the public improvements that are funded by the revenue bonds.
21 This amount or proportion is a lien and charge against these
22 revenues, subject only to operating and maintenance expenses. The
23 local government shall have due regard for the cost of operation and
24 maintenance of the public improvements that are funded by the revenue
25 bonds, and shall not set aside into the special fund or funds a
26 greater amount or proportion of the revenues that in its judgment
27 will be available over and above the cost of maintenance and
28 operation and the amount or proportion, if any, of the revenue
29 previously pledged. The local government may also provide that
30 revenue bonds payable out of the same source or sources of revenue
31 may later be issued on a parity with any revenue bonds being issued
32 and sold.

33 (2) Revenue bonds issued under this section are not an
34 indebtedness of the local government issuing the bonds, and the
35 interest and principal on the bonds shall only be payable from the
36 revenues lawfully pledged to meet the principal and interest
37 requirements and any reserves created pursuant to RCW 39.44.140. The
38 owner or bearer of a revenue bond or any interest coupon issued under

1 this section shall not have any claim against the local government
2 arising from the bond or coupon except for payment from the revenues
3 lawfully pledged to meet the principal and interest requirements and
4 any reserves created pursuant to RCW 39.44.140. The substance of the
5 limitations included in this subsection shall be plainly printed,
6 written, or engraved on each bond issued under this section.

7 (3) Revenue bonds with a maturity in excess of 30 years shall not
8 be issued under this section.

9 (4) The legislative authority of the local government shall by
10 resolution determine for each revenue bond issue the amount, date,
11 form, terms, conditions, denominations, maximum fixed or variable
12 interest rate or rates, maturity or maturities, redemption rights,
13 registration privileges, manner of execution, manner of sale,
14 callable provisions, if any, and covenants including the refunding of
15 existing revenue bonds. Facsimile signatures may be used on the bonds
16 and any coupons. Refunding revenue bonds may be issued in the same
17 manner as revenue bonds are issued.

18 NEW SECTION. **Sec. 9.** This chapter supplements and neither
19 restricts nor limits any powers that the state or any local
20 government might otherwise have under any laws of this state.

21 **Sec. 10.** RCW 84.55.010 and 2017 3rd sp.s. c 13 s 302 are each
22 amended to read as follows:

23 (1) Except as provided in this chapter, the levy for a taxing
24 district in any year must be set so that the regular property taxes
25 payable in the following year do not exceed the limit factor
26 multiplied by the amount of regular property taxes lawfully levied
27 for such district in the highest of the three most recent years in
28 which such taxes were levied for such district plus an additional
29 dollar amount calculated by multiplying the regular property tax levy
30 rate of that district for the preceding year by the increase in
31 assessed value in that district resulting from:

32 (a) New construction;

33 (b) Increases in assessed value due to construction of wind
34 turbine, solar, biomass, and geothermal facilities, if such
35 facilities generate electricity and the property is not included
36 elsewhere under this section for purposes of providing an additional
37 dollar amount. The property may be classified as real or personal
38 property;

1 (c) Improvements to property; (~~and~~)

2 (d) Any increase in the assessed value of state-assessed
3 property; and

4 (e) Any increase in the assessed value within a tax increment
5 area as established by any local government in section 2 of this act
6 provided that such increase is not included elsewhere under this
7 section. The property may be classified as real or personal property.

8 (2) The requirements of this section do not apply to:

9 (a) State property taxes levied under RCW 84.52.065(1) for
10 collection in calendar years 2019 through 2021; and

11 (b) State property taxes levied under RCW 84.52.065(2) for
12 collection in calendar years 2018 through 2021.

13 NEW SECTION. Sec. 11. Sections 1 through 9 of this act
14 constitute a new chapter in Title 39 RCW.

15 NEW SECTION. Sec. 12. If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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