
SENATE BILL 5823

State of Washington

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By Senators Das, Robinson, Keiser, Kuderer, Nguyen, and Nobles

Read first time 01/12/22. Referred to Committee on Housing & Local Government.

1 AN ACT Relating to local infrastructure project areas; and
2 amending RCW 39.108.120, 84.55.010, 84.55.015, 84.55.020, 84.55.030,
3 84.55.120, and 39.108.010.

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

5 **Sec. 1.** RCW 39.108.120 and 2011 c 318 s 601 are each amended to
6 read as follows:

7 (1) Before adopting an ordinance or resolution creating one or
8 more local infrastructure project areas, a sponsoring city must:

9 (a) Provide notice to the county assessor, county treasurer, and
10 county within the proposed local infrastructure project area of the
11 sponsoring city's intent to create one or more local infrastructure
12 project areas. This notice must be provided at least one hundred
13 eighty days in advance of the public hearing as required by (b) of
14 this subsection;

15 (b) Hold a public hearing on the proposed formation of the local
16 infrastructure project area.

17 (2) A sponsoring city may create one or more local infrastructure
18 project areas by ordinance or resolution that:

19 (a) Describes the proposed public improvements, identified in the
20 plan under RCW 39.108.080, to be financed in each local
21 infrastructure project area;

1 (b) Describes the boundaries of each local infrastructure project
2 area, subject to the limitations in RCW 39.108.130; and

3 (c) Provides the date when the use of local property tax
4 allocation revenues will commence and a list of the participating
5 taxing districts.

6 (3) The sponsoring city must deliver a certified copy of the
7 adopted ordinance or resolution to the county assessor, county
8 treasurer, and each other participating taxing district within which
9 the local infrastructure project area is located.

10 (4) The sponsoring city must adopt the department of commerce
11 transfer of development rights interlocal terms and conditions in WAC
12 365-198-040 and 365-198-060, or its successors, and, if required by
13 an eligible county, enter into a superseding interlocal agreement
14 prior to the date when the use of local property tax allocation
15 revenues will commence for any local infrastructure project area
16 formed after the effective date of this section. An interlocal
17 agreement under this subsection shall define the roles and
18 responsibilities of the parties with respect to the transfer of
19 development rights as determined by the parties.

20 **Sec. 2.** RCW 84.55.010 and 2021 c 207 s 10 are each amended to
21 read as follows:

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

33 (a) New construction;

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

1 (c) Improvements to property;

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

4 (e) Any increase in the assessed value of real property, as that
5 term is defined in RCW 39.114.010, within an increment area as
6 designated by any local government in RCW 39.114.020 provided that
7 such increase is not included elsewhere under this section. This
8 subsection (1)(e) does not apply to levies by the state or by port
9 districts and public utility districts for the purpose of making
10 required payments of principal and interest on general indebtedness;
11 and

12 (f) For taxing districts defined in RCW 39.108.010(23) in any
13 year in which distributions may be made under RCW 39.108.150, any
14 increase in the assessed value within any local infrastructure
15 project area, as defined in RCW 39.108.010(5), to the extent that
16 such increase in assessed value is not included under (a) through (e)
17 of this subsection.

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

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

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

23 **Sec. 3.** RCW 84.55.015 and 2014 c 4 s 2 are each amended to read
24 as follows:

25 If a taxing district has not levied since 1985 and elects to
26 restore a regular property tax levy subject to applicable statutory
27 limitations then such first restored levy must be set so that the
28 regular property tax payable does not exceed the amount which was
29 last levied, plus an additional dollar amount calculated by
30 multiplying the property tax rate which is proposed to be restored,
31 or the maximum amount which could be lawfully levied in the year such
32 a restored levy is proposed, by the increase in assessed value in the
33 district since the last levy resulting from:

34 (1) New construction;

35 (2) Increases in assessed value due to construction of wind
36 turbine, solar, biomass, and geothermal facilities, if such
37 facilities generate electricity and the property is not included
38 elsewhere under this section for purposes of providing an additional

1 dollar amount. The property may be classified as real or personal
2 property;

3 (3) Improvements to property; (~~and~~)

4 (4) Any increase in the assessed value of state-assessed
5 property; and

6 (5) For taxing districts defined in RCW 39.108.010(23) in any
7 year in which distributions may be made under RCW 39.108.150, any
8 increase in the assessed value within any local infrastructure
9 project area, as defined in RCW 39.108.010(5), to the extent that
10 such increase in assessed value is not included under subsections (1)
11 through (4) of this section.

12 **Sec. 4.** RCW 84.55.020 and 2014 c 4 s 3 are each amended to read
13 as follows:

14 Notwithstanding the limitation set forth in RCW 84.55.010, the
15 first levy for a taxing district created from consolidation of
16 similar taxing districts must be set so that the regular property
17 taxes payable in the following year do not exceed the limit factor
18 multiplied by the sum of the amount of regular property taxes
19 lawfully levied for each component taxing district in the highest of
20 the three most recent years in which such taxes were levied for such
21 district plus the additional dollar amount calculated by multiplying
22 the regular property tax rate of each component district for the
23 preceding year by the increase in assessed value in each component
24 district resulting from:

25 (1) New construction;

26 (2) Increases in assessed value due to construction of wind
27 turbine, solar, biomass, and geothermal facilities, if such
28 facilities generate electricity and the property is not included
29 elsewhere under this section for purposes of providing an additional
30 dollar amount. The property may be classified as real or personal
31 property;

32 (3) Improvements to property; (~~and~~)

33 (4) Any increase in the assessed value of state-assessed
34 property; and

35 (5) For taxing districts defined in RCW 39.108.010(23) in any
36 year in which distributions may be made under RCW 39.108.150, any
37 increase in the assessed value within any local infrastructure
38 project area, as defined in RCW 39.108.010(5), to the extent that

1 such increase in assessed value is not included under subsections (1)
2 through (4) of this section.

3 **Sec. 5.** RCW 84.55.030 and 2014 c 4 s 4 are each amended to read
4 as follows:

5 For the first levy for a taxing district following annexation of
6 additional property, the limitation set forth in RCW 84.55.010 must
7 be increased by an amount equal to the aggregate assessed valuation
8 of the newly annexed property as shown by the current completed and
9 balanced tax rolls of the county or counties within which such
10 property lies, multiplied by the dollar rate that would have been
11 used by the annexing unit in the absence of such annexation, plus the
12 additional dollar amount calculated by multiplying the regular
13 property tax levy rate of that annexing taxing district for the
14 preceding year by the increase in assessed value in the annexing
15 district resulting from:

16 (1) New construction;

17 (2) Increases in assessed value due to construction of wind
18 turbine, solar, biomass, and geothermal facilities, if such
19 facilities generate electricity and the property is not included
20 elsewhere under this section for purposes of providing an additional
21 dollar amount. The property may be classified as real or personal
22 property;

23 (3) Improvements to property; ~~((and))~~

24 (4) Any increase in the assessed value of state-assessed
25 property; and

26 (5) For taxing districts defined in RCW 39.108.010(23) in any
27 year in which distributions may be made under RCW 39.108.150, any
28 increase in the assessed value within any local infrastructure
29 project area, as defined in RCW 39.108.010(5), to the extent that
30 such increase in assessed value is not included under subsections (1)
31 through (4) of this section.

32 **Sec. 6.** RCW 84.55.120 and 2021 c 207 s 11 are each amended to
33 read as follows:

34 (1) A taxing district, other than the state, that collects
35 regular levies must hold a public hearing on revenue sources for the
36 district's following year's current expense budget. The hearing must
37 include consideration of possible increases in property tax revenues
38 and must be held prior to the time the taxing district levies the

1 taxes or makes the request to have the taxes levied. The county
2 legislative authority, or the taxing district's governing body if the
3 district is a city, town, or other type of district, must hold the
4 hearing. For purposes of this section, "current expense budget" means
5 that budget which is primarily funded by taxes and charges and
6 reflects the provision of ongoing services. It does not mean the
7 capital, enterprise, or special assessment budgets of cities, towns,
8 counties, or special purpose districts.

9 (2) If the taxing district is otherwise required to hold a public
10 hearing on its proposed regular tax levy, a single public hearing may
11 be held on this matter.

12 (3)(a) Except as provided in (b) of this subsection (3), no
13 increase in property tax revenue may be authorized by a taxing
14 district, other than the state, except by adoption of a separate
15 ordinance or resolution, pursuant to notice, specifically authorizing
16 the increase in terms of both dollars and percentage. The ordinance
17 or resolution may cover a period of up to two years, but the
18 ordinance must specifically state for each year the dollar increase
19 and percentage change in the levy from the previous year.

20 (b) Exempt from the requirements of (a) of this subsection are
21 increases in revenue resulting from the addition of:

22 (i) New construction;

23 (ii) Increases in assessed value due to construction of wind
24 turbine, solar, biomass, and geothermal facilities, if such
25 facilities generate electricity and the property is not included
26 elsewhere under this section for purposes of providing an additional
27 dollar amount. The property may be classified as real or personal
28 property;

29 (iii) Improvements to property;

30 (iv) Any increase in the value of state-assessed property;
31 (~~and~~)

32 (v) Any increase in the assessed value of real property, as that
33 term is defined in RCW 39.114.010, within an increment area as
34 designated by any local government in RCW 39.114.020 provided that
35 such increase is not included elsewhere under this section. This
36 subsection (3)(b)(v) does not apply to levies by the state or by port
37 districts and public utility districts for the purpose of making
38 required payments of principal and interest on general indebtedness;
39 and

1 (vi) For taxing districts defined in RCW 39.108.010(23) in any
2 year in which distributions may be made under RCW 39.108.150, any
3 increase in the assessed value within any local infrastructure
4 project area, as defined in RCW 39.108.010(5), to the extent that
5 such increase in assessed value is not included under (b)(i) through
6 (v) of this subsection.

7 **Sec. 7.** RCW 39.108.010 and 2011 c 318 s 201 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

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

13 (2) "Eligible county" means any county that borders Puget Sound,
14 that has a population of six hundred thousand or more, and that has
15 an established program for transfer of development rights.

16 (3) "Employment" means total employment in a county or city, as
17 applicable, estimated by the office of financial management.

18 (4) "Exchange rate" means an increment of development beyond what
19 base zoning allows that is assigned to a development right by a
20 sponsoring city for use in a receiving area.

21 (5) "Local infrastructure project area" means the geographic area
22 identified by a sponsoring city under RCW 39.108.120.

23 (6) "Local infrastructure project financing" means the use of
24 local property tax allocation revenue distributed to the sponsoring
25 city to pay or finance public improvement costs within the local
26 infrastructure project area in accordance with RCW 39.108.150.

27 (7) "Local property tax allocation revenue" means those tax
28 revenues derived from the receipt of regular property taxes levied on
29 the property tax allocation revenue value and used for local
30 infrastructure project financing.

31 (8) "Participating taxing district" means a taxing district that:

32 (a) Has a local infrastructure project area wholly or partially
33 within the taxing district's geographic boundaries; and

34 (b) Levies, or has levied on behalf of the taxing district,
35 regular property taxes as defined in this section.

36 (9) "Population" means the population of a city or county, as
37 applicable, estimated by the office of financial management.

1 (10) "Property tax allocation revenue base value" means the
2 assessed value of real property located within a local infrastructure
3 project area, less the property tax allocation revenue value.

4 (11)(a)(i) "Property tax allocation revenue value" means an
5 amount equal to the sponsoring city ratio multiplied by seventy-five
6 percent of any increase in the assessed value of real property in a
7 local infrastructure project area resulting from:

8 (A) The placement of new construction, improvements to property,
9 or both, on the assessment roll, where the new construction and
10 improvements are initiated after the local infrastructure project
11 area is created by the sponsoring city;

12 (B) The cost of new housing construction, conversion, and
13 rehabilitation improvements, when the cost is treated as new
14 construction for purposes of chapter 84.55 RCW as provided in RCW
15 84.14.020, and the new housing construction, conversion, and
16 rehabilitation improvements are initiated after the local
17 infrastructure project area is created by the sponsoring city;

18 (C) The cost of rehabilitation of historic property, when the
19 cost is treated as new construction for purposes of chapter 84.55 RCW
20 as provided in RCW 84.26.070, and the rehabilitation is initiated
21 after the local infrastructure project area is created by the
22 sponsoring city.

23 (ii) Increases in the assessed value of real property resulting
24 from (a)(i)(A) through (C) of this subsection are included in the
25 property tax allocation revenue value in the initial year. These same
26 amounts are also included in the property tax allocation revenue
27 value in subsequent years unless the property becomes exempt from
28 property taxation.

29 (b) "Property tax allocation revenue value" includes an amount
30 equal to the sponsoring city ratio multiplied by seventy-five percent
31 of any increase in the assessed value of new construction consisting
32 of an entire building in the years following the initial year, unless
33 the building becomes exempt from property taxation.

34 (c) Except as provided in (b) of this subsection, "property tax
35 allocation revenue value" does not include any increase in the
36 assessed value of real property after the initial year.

37 (d) There is no property tax allocation revenue value if the
38 assessed value of real property in a local infrastructure project
39 area has not increased as a result of any of the reasons specified in
40 (a)(i)(A) through (C) of this subsection.

1 (e) For purposes of this subsection, "initial year" means:
2 (i) For new construction and improvements to property added to
3 the assessment roll, the year during which the new construction and
4 improvements are initially placed on the assessment roll;
5 (ii) For the cost of new housing construction, conversion, and
6 rehabilitation improvements, when the cost is treated as new
7 construction for purposes of chapter 84.55 RCW, the year when the
8 cost is treated as new construction for purposes of levying taxes for
9 collection in the following year; and
10 (iii) For the cost of rehabilitation of historic property, when
11 the cost is treated as new construction for purposes of chapter 84.55
12 RCW, the year when such cost is treated as new construction for
13 purposes of levying taxes for collection in the following year.
14 (12)(a) "Public improvements" means:
15 (i) Infrastructure improvements within the local infrastructure
16 project area that include:
17 (A) Street, road, bridge, and rail construction and maintenance;
18 (B) Water and sewer system construction and improvements;
19 (C) Sidewalks, streetlights, landscaping, and streetscaping;
20 (D) Parking, terminal, and dock facilities;
21 (E) Park and ride facilities of a transit authority and other
22 facilities that support transportation efficient development;
23 (F) Park facilities, recreational areas, bicycle paths, and
24 environmental remediation;
25 (G) Stormwater and drainage management systems;
26 (H) Electric, gas, fiber, and other utility infrastructures;
27 ((and))
28 (I) Affordable housing as defined in RCW 36.70A.030(2), either
29 provided directly by the sponsoring city, or funded in part or in
30 full by the sponsoring city through municipal governments or
31 nonprofit organizations that fund or provide housing;
32 (ii) Expenditures for facilities and improvements that support
33 affordable housing;
34 (iii) Providing maintenance and security for common or public
35 areas in the local infrastructure project area; or
36 (iv) Historic preservation activities authorized under RCW
37 35.21.395.
38 (b) Public improvements do not include the acquisition by a
39 sponsoring city of transferable development rights.

1 (13) "Real property" has the same meaning as in RCW 84.04.090 and
2 also includes any privately owned improvements located on publicly
3 owned land that are subject to property taxation.

4 (14)(a) "Regular property taxes" means regular property taxes as
5 defined in RCW 84.04.140, except: (i) Regular property taxes levied
6 by port districts or public utility districts specifically for the
7 purpose of making required payments of principal and interest on
8 general indebtedness; (ii) regular property taxes levied by the state
9 for the support of common schools under RCW 84.52.065; (~~and~~) (iii)
10 regular property taxes authorized by RCW 84.55.050 that are limited
11 to a specific purpose; and (iv) any regular property tax levy made
12 for any specific statutory purpose other than use in the county
13 current expense fund.

14 (b) "Regular property taxes" do not include:

15 (i) Excess property tax levies that are exempt from the aggregate
16 limits for junior and senior taxing districts as provided in RCW
17 84.52.043; and

18 (ii) Property taxes that are specifically excluded through an
19 interlocal agreement between the sponsoring local government and a
20 participating taxing district as set forth in RCW 39.104.060(3).

21 (15) "Receiving areas," for purposes of this chapter, are those
22 designated lands within local infrastructure project areas in which
23 transferable development rights from sending areas may be used.

24 (16) "Receiving city" means any incorporated city with population
25 plus employment equal to twenty-two thousand five hundred or greater
26 within an eligible county.

27 (17) "Receiving city allocated share" means the total number of
28 transferable development rights from agricultural and forestland of
29 long-term commercial significance and rural zoned lands designated
30 under RCW 39.108.050 within the eligible counties allocated to a
31 receiving city under RCW 39.108.070 (1) and (2).

32 (18) "Sending areas" means those lands within an eligible county
33 that meet conservation criteria as described in RCW 39.108.030 and
34 39.108.050.

35 (19) "Sponsoring city" means a receiving city that accepts all or
36 a portion of its receiving city allocated share, adopts a plan for
37 development of infrastructure within one or more proposed local
38 infrastructure project areas in accordance with RCW 39.108.080, and
39 creates one or more local infrastructure project areas, as specified
40 in RCW 39.108.070(4).

1 (20) "Sponsoring city allocated share" means the total number of
2 transferable development rights a sponsoring city agrees to accept,
3 under RCW 39.108.070(4), from agricultural and forestland of
4 long-term commercial significance and rural zoned lands designated
5 under RCW 39.108.050 within the eligible counties, plus the total
6 number of transferable development rights transferred to the
7 sponsoring city from another receiving city under RCW 39.108.070(5).

8 (21) "Sponsoring city ratio" means the ratio of the sponsoring
9 city specified portion to the sponsoring city allocated share.

10 (22) "Sponsoring city specified portion" means the portion of a
11 sponsoring city allocated share which may be used within one or more
12 local infrastructure project areas, as set forth in the sponsoring
13 city's plan for development of infrastructure under RCW 39.108.080.

14 (23) "Taxing district" means a city or county that levies or has
15 levied on behalf of the taxing district, regular property taxes upon
16 real property located within a local infrastructure project area.

17 (24) "Transfer of development rights" includes methods for
18 protecting land from development by voluntarily removing the
19 development rights from a sending area and transferring them to one
20 or more receiving areas for the purpose of increasing development
21 density or intensity.

22 (25) "Transferable development rights" means a right to develop
23 one or more residential units in a sending area that can be sold and
24 transferred.

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