

E2SHB 2354 - S COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 03/01/2024

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

3 **"Sec. 1.** RCW 39.114.010 and 2023 c 354 s 1 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Assessed value of real property" means the valuation of
8 taxable real property as placed on the last completed assessment roll
9 prepared pursuant to Title 84 RCW.

10 (2) "Increment area" means the geographic area within which
11 regular property tax revenues are to be apportioned to pay public
12 improvement costs, as authorized under this chapter.

13 (3) "Increment value" means 100 percent of any increase in the
14 true and fair value of real property in an increment area that is
15 placed on the tax rolls after the increment area takes effect. The
16 increment value shall not be less than zero.

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

19 (5) "Ordinance" means any appropriate method of taking
20 legislative action by a local government, including a resolution
21 adopted by a port district organized under Title 53 RCW.

22 (6) "Public improvement costs" means the costs of:

23 (a) Design, planning, acquisition, required permitting, required
24 environmental studies and mitigation, seismic studies or surveys,
25 archaeological studies or surveys, land surveying, site acquisition,
26 including appurtenant rights and site preparation, construction,
27 reconstruction, rehabilitation, improvement, expansion, and
28 installation of public improvements, and other directly related
29 costs;

30 (b) Relocating, maintaining, and operating property pending
31 construction of public improvements;

32 (c) Relocating utilities as a result of public improvements;

1 (d) Financing public improvements, including capitalized interest
2 for up to six months following completion of construction, legal and
3 other professional services, taxes, insurance, principal and interest
4 costs on general indebtedness issued to finance public improvements,
5 and any necessary debt service reserves;

6 (e) Expenses incurred in revaluing real property for the purpose
7 of determining the tax allocation base value by a county assessor
8 under chapter 84.41 RCW and expenses incurred by a county treasurer
9 under chapter 84.56 RCW in apportioning the taxes and complying with
10 this chapter and other applicable law. For purposes of this
11 subsection (6)(e), "expenses incurred" means actual staff and
12 software costs directly related to the implementation and ongoing
13 administration of increment areas under this chapter; (~~and~~)

14 (f) Administrative expenses and feasibility studies reasonably
15 necessary and related to these costs, including related costs that
16 may have been incurred before adoption of the ordinance authorizing
17 the public improvements and the use of tax increment financing to
18 fund the costs of the public improvements; and

19 (g) Funding for mitigation to impacted taxing districts as
20 allowed in RCW 39.114.020.

21 (7) "Public improvements" means:

22 (a) Infrastructure improvements owned by a state or local
23 government within or outside of and serving the increment area and
24 real property owned or acquired by a local government within the
25 increment area including:

26 (i) Street and road construction;

27 (ii) Water and sewer system construction, expansion, and
28 improvements;

29 (iii) Sidewalks and other nonmotorized transportation
30 improvements and streetlights;

31 (iv) Parking, terminal, and dock facilities;

32 (v) Park and ride facilities or other transit facilities;

33 (vi) Park and community facilities and recreational areas;

34 (vii) Stormwater and drainage management systems;

35 (viii) Electric, broadband, or rail service;

36 (ix) Mitigation of brownfields; or

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

38 (i) Purchasing, rehabilitating, retrofitting for energy
39 efficiency, and constructing housing for the purpose of creating or
40 preserving long-term affordable housing;

1 (ii) Purchasing, rehabilitating, retrofitting for energy
2 efficiency, and constructing child care facilities serving children
3 and youth that are low-income, homeless, or in foster care;

4 (iii) Providing maintenance and security for the public
5 improvements;

6 (iv) Historic preservation activities authorized under RCW
7 35.21.395; or

8 (v) Relocation and construction of a government-owned facility,
9 with written permission from the agency owning the facility and the
10 office of financial management.

11 (8) "Real property" means:

12 (a) Real property as defined in RCW 84.04.090; and

13 (b) Privately owned or used improvements located on publicly
14 owned land that are subject to property taxation or leasehold excise
15 tax.

16 (9) "Regular property taxes" means regular property taxes as
17 defined in RCW 84.04.140, except: (a) Regular property taxes levied
18 by port districts or public utility districts to the extent necessary
19 for the payments of principal and interest on general obligation
20 debt; and (b) regular property taxes levied by the state for the
21 support of the common schools under RCW 84.52.065. Regular property
22 taxes do not include excess property tax levies that are exempt from
23 the aggregate limits for junior and senior taxing districts as
24 provided in RCW 84.52.043. "Regular property taxes" does not include
25 excess property taxes levied by local school districts.

26 (10) "Tax allocation base value" means the assessed value of real
27 property located within an increment area for taxes imposed in the
28 year in which the increment area takes effect.

29 (11) "Tax allocation revenues" means those revenues derived from
30 the imposition of regular property taxes on the increment value.

31 (12) "Taxing district" means a governmental entity that levies or
32 has levied for it regular property taxes upon real property located
33 within a proposed or approved increment area.

34 **Sec. 2.** RCW 39.114.020 and 2023 c 354 s 2 are each amended to
35 read as follows:

36 (1) A local government may designate an increment area under this
37 chapter and use the tax allocation revenues to pay public improvement
38 costs, subject to the following conditions:

1 (a) The local government must adopt an ordinance designating an
2 increment area within its boundaries and describing the public
3 improvements proposed to be paid for, or financed with, tax
4 allocation revenues;

5 (b) The local government may not designate increment area
6 boundaries such that the entirety of its territory falls within an
7 increment area;

8 (c) The increment area may not have an assessed valuation of more
9 than \$200,000,000 or more than 20 percent of the sponsoring
10 jurisdiction's total assessed valuation, whichever is less, when the
11 ordinance is passed. If a sponsoring jurisdiction creates two
12 increment areas, the total combined assessed valuation in both of the
13 two increment areas may not equal more than \$200,000,000 or more than
14 20 percent of the sponsoring jurisdiction's total assessed valuation,
15 whichever is less, when the ordinances are passed creating the
16 increment areas;

17 (d) A local government can create no more than two active
18 increment areas at any given time and they may not physically overlap
19 by including the same land in more than one increment area at any
20 time;

21 (e) The ordinance must set a sunset date for the increment area,
22 which may be no more than 25 years after the first year in which tax
23 allocation revenues are collected from the increment area;

24 (f) The ordinance must identify the public improvements to be
25 financed and indicate whether the local government intends to issue
26 bonds or other obligations, payable in whole or in part, from tax
27 allocation revenues to finance the public improvement costs, and must
28 estimate the maximum amount of obligations contemplated;

29 (g) The ordinance must provide that the increment area takes
30 effect on June 1st following the adoption of the ordinance in (a) of
31 this subsection;

32 (h) The sponsoring jurisdiction may not add additional public
33 improvements to the project after adoption of the ordinance creating
34 the increment area or change the boundaries of the increment area.
35 The sponsoring jurisdiction may expand, alter, or add to the original
36 public improvements when doing so is necessary to assure the
37 originally approved improvements can be constructed or operated;

38 (i) The ordinance must impose a deadline by which commencement of
39 construction of the public improvements shall begin, which deadline

1 must be at least five years into the future and for which extensions
2 shall be made available for good cause; and

3 (j) The local government must make a finding that:

4 (i) The public improvements proposed to be paid or financed with
5 tax allocation revenues are expected to encourage private development
6 within the increment area and to increase the assessed value of real
7 property within the increment area;

8 (ii) Private development that is anticipated to occur within the
9 increment area as a result of the proposed public improvements will
10 be permitted consistent with the permitting jurisdiction's applicable
11 zoning and development standards;

12 (iii) The private development would not reasonably be expected to
13 occur solely through private investment within the reasonably
14 foreseeable future without the proposed public improvements; and

15 (iv) The increased assessed value within the increment area that
16 could reasonably be expected to occur without the proposed public
17 improvements would be less than the increase in the assessed value
18 estimated to result from the proposed development with the proposed
19 public improvements.

20 (2) In considering whether to designate an increment area, the
21 legislative body of the local government must prepare a project
22 analysis that shall include, but need not be limited to, the
23 following:

24 (a) A statement of objectives of the local government for the
25 designated increment area;

26 (b) A statement as to the property within the increment area, if
27 any, that the local government may intend to acquire;

28 (c) The duration of the increment area;

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

30 (e) A description of the expected private development within the
31 increment area, including a comparison of scenarios with the proposed
32 public improvements and without the proposed public improvements;

33 (f) A description of the public improvements, estimated public
34 improvement costs, and the estimated amount of bonds or other
35 obligations expected to be issued to finance the public improvement
36 costs and repaid with tax allocation revenues;

37 (g) The assessed value of real property listed on the tax roll as
38 certified by the county assessor under RCW 84.52.080 from within the
39 increment area and an estimate of the increment value and tax
40 allocation revenues expected to be generated;

1 (h) An estimate of the job creation reasonably expected to result
2 from the public improvements and the private development expected to
3 occur in the increment area; (~~and~~)

4 (i) An assessment of any impacts (~~and any necessary mitigation~~
5 ~~to address the impacts identified~~) on the following:

6 (i) Affordable and low-income housing;

7 (ii) The local business community;

8 (iii) The local school districts; and

9 (iv) The local fire service, public hospital service, and
10 emergency medical services; and

11 (j) The assessment of impacts under (i) of this subsection (2)
12 must include any necessary mitigation to the local fire service,
13 public hospital service, and emergency medical services; and

14 (k) An assessment of any impacts of any other junior taxing
15 districts not referenced in (i) of this subsection (2).

16 (3) The local government may charge a private developer, who
17 agrees to participate in creating the increment area, a fee
18 sufficient to cover the cost of the project analysis and establishing
19 the increment area, including staff time, professionals and
20 consultants, and other administrative costs related to establishing
21 the increment area.

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

26 (5) (a) If the project analysis indicates that an increment area
27 will impact at least 20 percent of the assessed value in a public
28 hospital district, fire protection district, or regional fire
29 protection service authority, or if the public hospital district's or
30 the fire service agency's annual report, or other governing board-
31 adopted capital facilities plan, demonstrates an increase in the
32 level of service directly related to the increased development in the
33 increment area, the local government must (~~negotiate~~) enter into
34 negotiations for a mitigation plan with the impacted public hospital
35 district, fire protection district, or regional fire protection
36 service authority to address level of service issues in the increment
37 area.

38 (b) If the parties cannot agree pursuant to (a) of this
39 subsection (5), the parties must proceed to arbitration to determine
40 the appropriate mitigation plan. The board of arbitrators must

1 consist of three persons: One appointed by the local government
2 seeking to designate the increment area and one appointed by the
3 junior taxing district, both of whom must be appointed within 60 days
4 of the date when arbitration is requested, and a third arbitrator who
5 must be appointed by agreement of the other two arbitrators within 90
6 days of the date when arbitration is requested. If the two are unable
7 to agree on the appointment of the third arbitrator within this 90-
8 day period, then the third arbitrator must be appointed by a judge in
9 the superior court of the county within which the largest portion of
10 the increment area is located. The determination by the board of
11 arbitrators is binding on both the local government seeking to impose
12 the increment area and the junior taxing district.

13 (6) The local government may reimburse the assessor and treasurer
14 for their costs as provided in RCW 39.114.010(6)(e).

15 (7) Prior to the adoption of an ordinance authorizing creation of
16 an increment area, the local government must:

17 (a) Hold at least two public briefings for the community solely
18 on the tax increment project that include the description of the
19 increment area, the public improvements proposed to be financed with
20 the tax allocation revenues, and a detailed estimate of tax revenues
21 for the participating local governments and taxing districts,
22 including the amounts allocated to the increment public improvements.
23 The briefings must be announced at least two weeks prior to the date
24 being held, including publishing in a legal newspaper of general
25 circulation and posting information on the local government website
26 and all local government social media sites, and must occur no
27 earlier than 90 days after submitting the project analysis to the
28 office of the treasurer and all local governments and taxing
29 districts impacted by the increment area; ((and))

30 (b) Submit the project analysis to all local governments and
31 taxing districts impacted by the increment area no less than 90 days
32 prior to the adoption of the ordinance; and

33 (c) Submit the project analysis to the office of the treasurer
34 for review and consider any comments that the treasurer may provide
35 upon completion of their review of the project analysis as provided
36 under this subsection. The treasurer must complete the review within
37 90 days of receipt of the project analysis and may consult with other
38 agencies and outside experts as necessary. Upon completing their
39 review, the treasurer must promptly provide to the local government
40 any comments regarding suggested revisions or enhancements to the

1 project analysis that the treasurer deems appropriate based on the
2 requirements in subsection (2) of this section.

3 **Sec. 3.** RCW 39.114.040 and 2023 c 354 s 3 are each amended to
4 read as follows:

5 The local government designating the increment area must:

6 (1) Provide written notice to the governing body of each taxing
7 district within which the increment area is located a minimum of 90
8 days before submitting the project analysis to the office of the
9 treasurer as required in RCW 39.114.020(7)(c).

10 (2) Publish notice in a legal newspaper of general circulation
11 within the jurisdiction of the local government at least two weeks
12 before the date on which the ordinance authorizing creation of an
13 increment area is adopted that describes the public improvements,
14 describes the boundaries of the increment area, and identifies the
15 location and times where the ordinance and other public information
16 concerning the public improvement may be inspected; and

17 ~~((2))~~ (3) Deliver a certified copy of the adopted ordinance to
18 the county treasurer, the county assessor, and the governing body of
19 each taxing district within which the increment area is located at
20 the respective addresses specified pursuant to RCW 42.56.040 within
21 10 days of the date on which the ordinance was adopted."

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22 On page 1, line 5 of the title, after "paid;" strike the
23 remainder of the title and insert "and amending RCW 39.114.010,
24 39.114.020, and 39.114.040."

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