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**HOUSE BILL 2354**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Street, Orcutt, Bronoske, Robertson, Chambers, Callan, Bateman, Doglio, and Reed

Read first time 01/12/24. Referred to Committee on Local Government.

1 AN ACT Relating to creating an option for impacted taxing  
2 districts to provide a portion of their new revenue to support any  
3 tax increment area proposed within their jurisdiction and clarifying  
4 that a tax increment area must be dissolved when all bond obligations  
5 are paid; and amending RCW 39.114.020 and 39.114.050.

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

7 **Sec. 1.** RCW 39.114.020 and 2023 c 354 s 2 are each amended to  
8 read as follows:

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

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

16 (b) The local government may not designate increment area  
17 boundaries such that the entirety of its territory falls within an  
18 increment area;

19 (c) The increment area may not have an assessed valuation of more  
20 than \$200,000,000 or more than 20 percent of the sponsoring  
21 jurisdiction's total assessed valuation, whichever is less, when the

1 ordinance is passed. If a sponsoring jurisdiction creates two  
2 increment areas, the total combined assessed valuation in both of the  
3 two increment areas may not equal more than \$200,000,000 or more than  
4 20 percent of the sponsoring jurisdiction's total assessed valuation,  
5 whichever is less, when the ordinances are passed creating the  
6 increment areas;

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

11 (e) The ordinance must set a sunset date for the increment area,  
12 which may be no more than 25 years after the first year in which tax  
13 allocation revenues are collected from the increment area, except  
14 that the increment area expires prior to the sunset date if tax  
15 allocation revenues are no longer necessary or obligated to pay any  
16 bonded indebtedness issued solely to fund the public improvement  
17 costs pursuant to RCW 39.114.050;

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

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

26 (h) The sponsoring jurisdiction may not add additional public  
27 improvements to the project after adoption of the ordinance creating  
28 the increment area or change the boundaries of the increment area.  
29 The sponsoring jurisdiction may expand, alter, or add to the original  
30 public improvements when doing so is necessary to assure the  
31 originally approved improvements can be constructed or operated;

32 (i) The ordinance must impose a deadline by which commencement of  
33 construction of the public improvements shall begin, which deadline  
34 must be at least five years into the future and for which extensions  
35 shall be made available for good cause; and

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

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

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

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

8 (iv) The increased assessed value within the increment area that  
9 could reasonably be expected to occur without the proposed public  
10 improvements would be less than the increase in the assessed value  
11 estimated to result from the proposed development with the proposed  
12 public improvements.

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

17 (a) A statement of objectives of the local government for the  
18 designated increment area;

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

21 (c) The duration of the increment area;

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

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

26 (f) A description of the public improvements, estimated public  
27 improvement costs, and the estimated amount of bonds or other  
28 obligations expected to be issued to finance the public improvement  
29 costs and repaid with tax allocation revenues;

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

34 (h) An estimate of the job creation reasonably expected to result  
35 from the public improvements and the private development expected to  
36 occur in the increment area; and

37 (i) An assessment of any impacts and any necessary mitigation to  
38 address the impacts identified on the following:

39 (i) Affordable and low-income housing;

40 (ii) The local business community;

1 (iii) The local school districts; and

2 (iv) The local fire service and emergency medical services.

3 (3) The local government may charge a private developer, who  
4 agrees to participate in creating the increment area, a fee  
5 sufficient to cover the cost of the project analysis and establishing  
6 the increment area, including staff time, professionals and  
7 consultants, and other administrative costs related to establishing  
8 the increment area.

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

13 ~~(5) ((If the project analysis indicates that an increment area  
14 will impact at least 20 percent of the assessed value in a fire  
15 protection district or regional fire protection service authority, or  
16 the fire service agency's annual report demonstrates an increase in  
17 the level of service directly related to the increment area, the  
18 local government must negotiate a mitigation plan with the fire  
19 protection district or regional fire protection service authority to  
20 address level of service issues in the increment area.~~

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

23 ~~((7))~~ (6) Prior to the adoption of an ordinance authorizing  
24 creation of an increment area, the local government must:

25 (a) Hold at least two public briefings for the community solely  
26 on the tax increment project that include the description of the  
27 increment area, the public improvements proposed to be financed with  
28 the tax allocation revenues, and a detailed estimate of tax revenues  
29 for the participating local governments and taxing districts,  
30 including the amounts allocated to the increment public improvements.  
31 The briefings must be announced at least two weeks prior to the date  
32 being held, including publishing in a legal newspaper of general  
33 circulation and posting information on the local government website  
34 and all local government social media sites; and

35 (b) Submit the project analysis to the office of the treasurer  
36 for review and consider any comments that the treasurer may provide  
37 upon completion of their review of the project analysis as provided  
38 under this subsection. The treasurer must complete the review within  
39 90 days of receipt of the project analysis and may consult with other  
40 agencies and outside experts as necessary. Upon completing their

1 review, the treasurer must promptly provide to the local government  
2 any comments regarding suggested revisions or enhancements to the  
3 project analysis that the treasurer deems appropriate based on the  
4 requirements in subsection (2) of this section.

5 (7) A governing body of any taxing district within the increment  
6 area must approve, by majority vote and according to the governing  
7 body's ordinance and publication procedures, the taxing district's  
8 partial or full participation in the tax increment project. If the  
9 governing body does not approve its participation, the taxing  
10 district's property taxes are not subject to apportionment under this  
11 chapter and the taxing district is excluded from the provisions in  
12 this chapter.

13 **Sec. 2.** RCW 39.114.050 and 2023 c 354 s 4 are each amended to  
14 read as follows:

15 Apportionment of taxes shall be as follows:

16 (1) Commencing in the calendar year immediately following the  
17 calendar year in which the increment area takes effect in accordance  
18 with RCW 39.114.020, the county treasurer shall distribute receipts  
19 from regular property taxes imposed on real property located in the  
20 increment area as follows:

21 (a) Each taxing district shall receive that portion of its  
22 regular property taxes produced by the rate of tax levied by or for  
23 the taxing district on the tax allocation base value for that  
24 increment area;

25 (b) The local government that designated the increment area shall  
26 be entitled to receive an additional amount equal to the amount  
27 derived from the regular property taxes levied by or for each taxing  
28 district upon the increment value within the increment area. The  
29 local government that designated the increment area shall receive no  
30 more than is needed to pay or repay costs directly associated with  
31 the public improvements identified in the approved ordinance and may  
32 agree to receive less than the full amount of this portion, as long  
33 as bond debt service, reserve, and other bond covenant requirements  
34 are satisfied, in which case the balance of these tax receipts shall  
35 be allocated to the taxing districts that imposed regular property  
36 taxes, or have regular property taxes imposed for them, in the  
37 increment area for collection that year in proportion to their  
38 regular tax levy rates for collection that year. The local government  
39 may request that the treasurer transfer this additional portion of

1 the property taxes to its designated agent. The portion of the tax  
2 receipts distributed to the local government or its agent under this  
3 subsection (1)(b) may only be expended to finance public improvement  
4 costs associated with the public improvements financed in whole or in  
5 part by tax increment financing; and

6 (c) This section shall not apply to any receipts from the regular  
7 property taxes levied by:

8 (i) The state for the support of the common schools under RCW  
9 84.52.065;

10 (ii) Local school district excess levies; and

11 (iii) Port districts or public utility districts specifically for  
12 the purpose of making required payments of principal and interest or  
13 general indebtedness.

14 (2) The apportionment of tax allocation revenues must cease when  
15 the taxing district certifies to the county assessor in writing that  
16 tax allocation revenues are no longer necessary or obligated to pay  
17 any bonded indebtedness issued solely to fund the public improvement  
18 costs, but in no event shall the apportionment of tax allocation  
19 revenues continue beyond the sunset date established pursuant to RCW  
20 39.114.020(1)(e). Any excess tax allocation revenues and earnings on  
21 the tax allocation revenues remaining at the time the apportionment  
22 of tax receipts terminates must be returned to the county treasurer  
23 and distributed to the taxing districts that imposed regular property  
24 taxes, or had regular property taxes imposed for it, in the increment  
25 area for collection that year, in proportion to the rates of their  
26 regular property tax levies for collection that year.

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

32 (4) The apportionment and distribution of portions of the regular  
33 property taxes levied by or for each taxing district upon the  
34 increment value within the increment area pursuant to this section  
35 shall not affect or be deemed to affect the rate of taxes levied by  
36 or within any such taxing district or the consistency of any such  
37 levies with the uniformity requirement of Article VII, section 1 of  
38 the state Constitution.

39 (5)(a) For a local government having a designated increment area  
40 under this chapter as of May 9, 2023, the county assessor must adjust

1 the tax allocation base value for that increment area to include the  
2 assessed value of any privately owned improvements located on  
3 publicly owned land for taxes imposed in the year in which the  
4 increment area was first designated. However, no adjustment is  
5 required if the increment area does not include any privately owned  
6 improvements located on publicly owned land subject to property  
7 taxation as of the date the increment area became effective.

8 (b) The adjusted tax allocation base value under this subsection  
9 (5) does not impact any apportionment and distribution under this  
10 section occurring in calendar years before calendar year 2024.

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