

**Chapter 39.100 RCW
HOSPITAL BENEFIT ZONES**

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RCW 39.100.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Benefit zone" means the geographic zone from which taxes are to be appropriated to finance public improvements authorized under this chapter and in which a hospital that has received a certificate of need is to be constructed.

(2) "Department" means the department of revenue.

(3) "Local government" means any city, town, county, or any combination thereof.

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

(5) "Participating taxing authority" means a taxing authority that has entered into a written agreement with a local government for the use of hospital benefit zone financing to the extent of allocating excess local excise taxes to the local government for the purpose of financing all or a portion of the costs of designated public improvements.

(6) "Public improvements" means:

(a) Infrastructure improvements within the benefit zone that include:

- (i) Street and road construction and maintenance;
- (ii) Water and sewer system construction and improvements;
- (iii) Sidewalks and streetlights;
- (iv) Parking, terminal, and dock facilities;
- (v) Park and ride facilities of a transit authority;
- (vi) Park facilities and recreational areas; and
- (vii) Stormwater and drainage management systems; and

(b) The construction, maintenance, and improvement of state highways that are connected to the benefit zone, including interchanges connected to the benefit zone.

(7) "Public improvement costs" means the costs of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) relocating utilities as a result of public improvements; and (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on indebtedness issued

to finance public improvements, and any necessary reserves for indebtedness; and administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of hospital benefit zone financing to fund the costs of the public improvements.

(8) "Tax allocation revenues" means those tax revenues derived from the receipt of excess local excise taxes under RCW 39.100.050 and distributed by a local government, participating taxing authority, or both, to finance public improvements.

(9) "Taxing authority" means a governmental entity that imposes a sales or use tax under chapter 82.14 RCW upon the occurrence of any taxable event within a proposed or approved benefit zone. [2011 c 363 s 1; 2007 c 266 s 2; 2006 c 111 s 1.]

Finding—2007 c 266: "The legislature finds that local governments need flexible financing for public improvements that do not increase the combined state and local sales tax rate." [2007 c 266 s 1.]

Application—2007 c 266: "This act applies retroactively to July 1, 2006." [2007 c 266 s 10.]

Effective date—2007 c 266: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." [2007 c 266 s 11.]

RCW 39.100.020 Conditions for financing public improvements. A local government may finance public improvements using hospital benefit zone financing subject to the following conditions:

(1) (a) The local government adopts an ordinance designating a benefit zone within its boundaries and specifying the public improvements proposed to be financed in whole or in part with the use of hospital benefit zone financing;

(b) A local government may modify the public improvements to be financed in whole or in part with the use of hospital benefit zone financing by amending the ordinance adopted under (a) of this subsection and holding a public hearing consistent with RCW 39.100.030(1)(b); provided that the total cost of the public improvements is not increased;

(2) The public improvements proposed to be financed in whole or in part using hospital benefit zone financing are expected both to encourage private development within the benefit zone and to support the development of a hospital that has received a certificate of need;

(3) Private development that is anticipated to occur within the benefit zone, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(4) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using hospital benefit zone financing are reasonably likely to:

(a) Increase private investment within the benefit zone;

(b) Increase employment within the benefit zone; and

(c) Generate, over the period of time that the local sales and use tax will be imposed under RCW 82.14.465, excess state excise taxes that are equal to or greater than the state contributions made under this chapter;

(5) The boundaries of a hospital benefit zone may not overlap any part of the boundaries of another hospital benefit zone or a revenue development area defined in chapter 39.102 RCW; and

(6) The boundaries of a hospital benefit zone may not change once the hospital benefit zone is established and approved by the department. [2011 c 363 s 2; 2007 c 266 s 3; 2006 c 111 s 2.]

Finding—Application—Effective date—2007 c 266: See notes following RCW 39.100.010.

RCW 39.100.030 Benefit zone creation—Agreement, hearing, and notice requirements—Ordinance requirements. (1) Before adopting an ordinance creating the benefit zone, a local government must:

(a) Obtain written agreement for the use of hospital benefit zone financing to finance all or a portion of the costs of the designated public improvements from any taxing authority that imposes a sales or use tax under chapter 82.14 RCW within the benefit zone if the taxing authority chooses to participate in the public improvements to the extent of providing limited funding under hospital benefit zone financing authorized under this chapter. The agreement must be authorized by the governing body of such participating taxing authorities; and

(b) Hold a public hearing on the proposed financing of the public improvement in whole or in part with hospital benefit zone financing.

(i) Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed benefit zone at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed benefit zone.

(ii) Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by hospital benefit zone financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed benefit zone, and estimate the period during which hospital benefit zone financing is contemplated to be used. The public hearing may be held by either the governing body of the local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) In order to create a benefit zone, a local government must adopt an ordinance establishing the benefit zone that:

(a) Describes the public improvements;

(b) Describes the boundaries of the benefit zone;

(c) Estimates the cost of the public improvements and the portion of these costs to be financed by hospital benefit zone financing;

(d) Estimates the time during which excess local excise taxes are to be used to finance public improvement costs associated with the public improvements financed in whole or in part by hospital benefit zone financing;

(e) Estimates the average amount of tax revenue to be received in all fiscal years through the imposition of a sales and use tax under RCW 82.14.465;

(f) Provides the date when the use of excess local excise taxes will commence; and

(g) Finds that the conditions of RCW 39.100.020 are met.

(3) For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th. [2007 c 266 s 4; 2006 c 111 s 3.]

Finding—Application—Effective date—2007 c 266: See notes following RCW 39.100.010.

RCW 39.100.040 Benefit zone ordinance, publicizing and delivery—Challenges to benefit zone formation. (1) A local government that adopts an ordinance creating a benefit zone under this chapter shall, within ninety days of adopting the ordinance:

(a) Publish notice in a legal newspaper of general circulation within the benefit zone that describes the public improvement, describes the boundaries of the benefit zone, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(b) Deliver a certified copy of the ordinance to the county treasurer, the county assessor, the department of revenue, and the governing body of each participating taxing authority within which the benefit zone is located.

(2) Any challenge to the formation shall be brought within sixty days of the later of the date of its formation or July 1, 2007. All parties, including the holders of bonds payable from tax revenue under chapter 266, Laws of 2007, may rely upon the presumption of validity of formation of the benefit zone following the expiration of the sixty-day period. [2007 c 266 s 5; 2006 c 111 s 4.]

Finding—Application—Effective date—2007 c 266: See notes following RCW 39.100.010.

RCW 39.100.050 Use of excess local excise tax—Boundary information—Definitions. (1) A local government that creates a benefit zone and has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465 may use annually any excess local excise taxes received by it from taxable activity within the benefit zone to finance public improvement costs associated with the public improvements financed in whole or in part by hospital benefit zone financing. The use of excess local excise taxes must cease when tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements. Any participating taxing authority is authorized to allocate excess local excise taxes to the local government as long as the local government has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465. The legislature declares that it is a proper purpose of a local government or participating taxing authority to allocate excess local excise taxes for purposes of financing public improvements under this chapter.

(2) A local government must provide the department accurate information describing the geographical boundaries of the benefit zone at least seventy-five days before the effective date of the ordinance

creating the benefit zone. The local government must ensure that the boundary information provided to the department is kept current.

(3) The department must provide the necessary information to calculate excess local excise taxes to each local government that has provided boundary information to the department as provided in this section and that has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Base year" means the calendar year immediately following the creation of a benefit zone.

(b) "Excess local excise taxes" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the benefit zone over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the benefit zone. However, if a local government creates the benefit zone and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the benefit zone within the boundaries of the area that became the benefit zone, "excess local excise taxes" means the entire amount of local excise taxes received by the local government during a calendar year period beginning with the calendar year immediately following the creation of the benefit zone and continuing with each measurement year thereafter.

(c) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the hospital benefit zone is approved by the department, except that if a local government reduces the rate of such tax after the hospital benefit zone was approved, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(d) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure the amount of excess state excise taxes and excess local excise taxes required to be used to finance public improvement costs associated with public improvements financed in whole or in part by hospital benefit zone financing. [2010 c 106 s 201; 2007 c 266 s 6; 2006 c 111 s 5.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Finding—Application—Effective date—2007 c 266: See notes following RCW 39.100.010.

RCW 39.100.060 Issuance of revenue bonds. (1) A local government may issue revenue bonds to fund public improvements, or portions of public improvements, that are located within a benefit zone and that it is authorized to provide or operate. Whenever revenue bonds are to be issued, the legislative authority of the local government shall create or have created a special fund or funds from which, along with any reserves created pursuant to RCW 39.44.140, the principal and interest on these revenue bonds shall exclusively be

payable. The legislative authority of the local government may obligate the local government to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the revenues obtained from within the benefit zone of the development, construction, operation, and maintenance of businesses supported by the public improvements that are funded by the revenue bonds. This amount or proportion is a lien and charge against these revenues, subject only to operating and maintenance expenses. The local government shall have due regard for the cost of operation and maintenance of the public improvements that are funded by the revenue bonds, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion, if any, of the revenue previously pledged. The local government may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(2) Revenue bonds issued pursuant to this section are not an indebtedness of the local government issuing the bonds, and the interest and principal on the bonds shall only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The owner or bearer of a revenue bond or any interest coupon issued pursuant to this section shall not have any claim against the local government arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each bond issued pursuant to this section.

(3) Revenue bonds with a maturity in excess of thirty years shall not be issued. The legislative authority of the local government shall by resolution determine for each revenue bond issue the amount, date, form, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued. [2006 c 111 s 6.]

RCW 39.100.900 Effective date—2006 c 111. This act takes effect July 1, 2006. [2006 c 111 s 11.]