
SENATE BILL 5087

State of Washington 61st Legislature 2009 Regular Session

By Senators Rockefeller, Sheldon, and Kilmer

Read first time 01/12/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to hospital benefit zones; and amending RCW
2 82.14.465, 82.14.470, and 39.100.040.

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

4 **Sec. 1.** RCW 82.14.465 and 2007 c 266 s 7 are each amended to read
5 as follows:

6 (1) A city, town, or county that creates a benefit zone and
7 finances public improvements pursuant to chapter 39.100 RCW may impose
8 a sales and use tax in accordance with the terms of this chapter and
9 subject to the criteria set forth in this section. Except as provided
10 in this section, the tax is in addition to other taxes authorized by
11 law and shall be collected from those persons who are taxable by the
12 state under chapters 82.08 and 82.12 RCW upon the occurrence of any
13 taxable event within the taxing jurisdiction of the city, town, or
14 county. The rate of tax shall not exceed the rate provided in RCW
15 82.08.020(1) in the case of a sales tax or the rate provided in RCW
16 82.12.020(5) in the case of a use tax, less the aggregate rates of any
17 other taxes imposed on the same events that are credited against the
18 state taxes imposed under chapters 82.08 and 82.12 RCW. The tax rate

1 shall be no higher than what is reasonably necessary for the local
2 government to receive its entire annual state contribution in a ten-
3 month period of time.

4 (2) The tax imposed under subsection (1) of this section shall be
5 deducted from the amount of tax otherwise required to be collected or
6 paid over to the department under chapter 82.08 or 82.12 RCW. The
7 department shall perform the collection of such taxes on behalf of the
8 city, town, or county at no cost to the city, town, or county.

9 (3) No tax may be imposed under this section before July 1, 2007.
10 Before imposing a tax under this section, the city, town, or county
11 shall first have received tax allocation revenues during the preceding
12 calendar year. The tax imposed under this section shall expire on the
13 earlier of the date: (a) The tax allocation revenues are no longer
14 used for public improvements and public improvement costs; (b) the
15 bonds issued under the authority of chapter 39.100 RCW are retired, if
16 the bonds are issued; or (c) that is thirty years after the tax is
17 first imposed.

18 (4) An ordinance adopted by the legislative authority of a city,
19 town, or county imposing a tax under this section shall provide that:

20 (a) The tax shall first be imposed on the first day of a fiscal
21 year;

22 (b) The amount of tax received by the local government in any
23 fiscal year shall not exceed the amount of the state contribution;

24 (c) The tax shall cease to be distributed for the remainder of any
25 fiscal year in which either:

26 (i) The amount of tax distributions totals the amount of the state
27 contribution;

28 (ii) The amount of tax distributions totals the amount of local
29 public sources, dedicated in the previous calendar year to finance
30 public improvements authorized under chapter 39.100 RCW, expended in
31 the previous year for public improvement costs or used to pay for other
32 bonds issued to pay for public improvements; or

33 (iii) The amount of revenue from taxes imposed under this section
34 by all cities, towns, and counties totals the annual state credit limit
35 as provided in RCW 82.32.700(3);

36 (d) The tax shall be distributed again, should it cease to be
37 distributed for any of the reasons provided in (c) of this subsection,

1 at the beginning of the next fiscal year, subject to the restrictions
2 in this section; and

3 (e) Any revenue generated by the tax in excess of the amounts
4 specified in (b) and (c) of this subsection shall belong to the state
5 of Washington.

6 (5) If both a county and a city or town impose a tax under this
7 section, the tax imposed by the city, town, or county shall be credited
8 as follows:

9 (a) If the county has created a benefit zone before the city or
10 town, the tax imposed by the county shall be credited against the tax
11 imposed by the city or town, the purpose of such credit is to give
12 priority to the county tax; and

13 (b) If the city or town has created a benefit zone before the
14 county, the tax imposed by the city or town shall be credited against
15 the tax imposed by the county, the purpose of such credit is to give
16 priority to the city or town tax.

17 (6) The department shall determine the amount of tax distributions
18 attributable to each city, town, and county imposing a sales and use
19 tax under this section and shall advise a city, town, or county when
20 the tax will cease to be distributed for the remainder of the fiscal
21 year as provided in subsection (4)(c) of this section. Determinations
22 by the department of the amount of taxes attributable to a city, town,
23 or county are final and shall not be used to challenge the validity of
24 any tax imposed under this section. The department shall remit any tax
25 revenues in excess of the amounts specified in subsection (4)(b) and
26 (c) of this section to the state treasurer who shall deposit the moneys
27 in the general fund.

28 (7) The definitions in this subsection apply throughout this
29 section and RCW 82.14.470 unless the context clearly requires
30 otherwise.

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

33 (b) "Benefit zone" has the same meaning as provided in RCW
34 39.100.010.

35 (c) "Excess local excise taxes" has the same meaning as provided in
36 RCW 39.100.050.

37 (d) "Excess state excise taxes" means the amount of excise taxes
38 received by the state during the measurement year from taxable activity

1 within the benefit zone over and above the amount of excise taxes
2 received by the state during the base year from taxable activity within
3 the benefit zone. However, if a local government creates the benefit
4 zone and reasonably determines that no activity subject to tax under
5 chapters 82.08 and 82.12 RCW occurred in the twelve months immediately
6 preceding the creation of the benefit zone within the boundaries of the
7 area that became the benefit zone, "excess state excise taxes" means
8 the entire amount of state excise taxes the state receives during a
9 calendar year period beginning with the calendar year immediately
10 following the creation of the benefit zone and continuing with each
11 measurement year thereafter.

12 (e) "State excise taxes" means revenues derived from state retail
13 sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount
14 of tax distributions from all local retail sales and use taxes imposed
15 on the same taxable events that are credited against the state retail
16 sales and use taxes under chapters 82.08 and 82.12 RCW except for the
17 local tax authorized in this section.

18 (f) "Fiscal year" has the same meaning as provided in RCW
19 39.100.030.

20 (g) "Measurement year" means a calendar year, beginning with the
21 calendar year following the base year and each calendar year
22 thereafter, that is used annually to measure the amount of excess state
23 excise taxes and excess local excise taxes.

24 (h) "State contribution" means the lesser of (~~two~~) four million
25 dollars or an amount equal to excess state excise taxes received by the
26 state during the preceding calendar year.

27 (i) "Tax allocation revenues" has the same meaning as provided in
28 RCW 39.100.010.

29 (j) "Public improvements" and "public improvement costs" have the
30 same meanings as provided in RCW 39.100.010.

31 (k) "Local public sources" includes, but is not limited to, private
32 monetary contributions, assessments, dedicated local government funds,
33 and tax allocation revenues. "Local public sources" does not include
34 local government funds derived from any state loan or state grant, any
35 local tax that is credited against the state sales and use taxes, or
36 any other state funds.

1 **Sec. 2.** RCW 82.14.470 and 2007 c 266 s 8 are each amended to read
2 as follows:

3 (1)(a)(i) Moneys collected from the taxes imposed under RCW
4 82.14.465 shall be used only for the following purposes:

5 (A) Principal and interest payments on bonds issued under the
6 authority of RCW 39.100.060;

7 (B) Principal and interest payments on other bonds issued by the
8 local government to finance public improvements; or

9 (C) Payments for public improvement costs.

10 (ii) Moneys collected and used as provided in (a)(i) of this
11 subsection must be matched with an amount from local public sources
12 dedicated through December 31st of the previous calendar year to
13 finance public improvements authorized under chapter 39.100 RCW.
14 Available local matching funds that exceed the match requirements of
15 this subsection (1)(a)(ii) for the current year may be applied to the
16 match requirements of any succeeding year.

17 (b) Local public sources are dedicated to finance public
18 improvements if they: (i) Are actually expended to pay public
19 improvement costs or debt service on bonds issued for public
20 improvements; or (ii) are required by law or an agreement to be used
21 exclusively to pay public improvement costs or debt service on bonds
22 issued for public improvements.

23 (2) A local government shall inform the department by the first day
24 of March of the amount of local public sources dedicated in the
25 preceding calendar year to finance public improvements authorized under
26 chapter 39.100 RCW.

27 (3) If a local government fails to comply with subsection (2) of
28 this section, no tax may be imposed under RCW 82.14.465 in the
29 subsequent fiscal year. The list of public improvements may be amended
30 by the submitting local government to reflect additions or deletions.

31 (4) A local government shall provide a report to the department and
32 the state auditor by March 1st of each year. A local government shall
33 make a good faith effort to provide information required for the
34 report.

35 The report shall contain the following information:

36 (a) The amount of tax allocation revenues, taxes under RCW
37 82.14.465, and local public sources received by the local government

1 during the preceding calendar year, and a summary of how these revenues
2 were expended; and

3 (b) The names of any businesses known to the local government that
4 have located within the benefit zone as a result of the public
5 improvements undertaken by the local government and financed in whole
6 or in part with hospital benefit zone financing.

7 (5) The department shall make a report available to the public and
8 the legislature by June 1st of each year. The report shall include a
9 list of public improvements undertaken by local governments and
10 financed in whole or in part with hospital benefit zone financing, and
11 it shall also include a summary of the information provided to the
12 department by local governments under subsection (4) of this section.

13 **Sec. 3.** RCW 39.100.040 and 2007 c 266 s 5 are each amended to read
14 as follows:

15 (1) A local government that adopts an ordinance creating a benefit
16 zone under this chapter and that has within the benefit zone a
17 nonprofit hospital that has received a certificate of need from the
18 state department of health for the construction of a new hospital
19 within the benefit zone shall, within ninety days of adopting the
20 ordinance:

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

26 (ii) A public improvement description made under this subsection
27 (1)(a) may be amended by the submitting local government; and

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

32 (2) Any challenge to the formation shall be brought within sixty
33 days of (~~the later of~~) the date of its formation (~~or July 1, 2007~~).
34 All parties, including the holders of bonds payable from tax revenue
35 under chapter 266, Laws of 2007, may rely upon the presumption of

1 validity of formation of the benefit zone following the expiration of
2 the sixty-day period.

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