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# **E2SHB 2673** - S COMM AMD By Committee on Ways & Means

#### NOT ADOPTED 03/07/2006

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

3 "PART I

#### LOCAL INFRASTRUCTURE IMPROVEMENT FINANCING--GENERAL PROVISIONS

NEW SECTION. Sec. 101. The legislature recognizes that the state as a whole benefits from investment in public infrastructure because it promotes community and economic development. Public investment stimulates business activity and helps create jobs; stimulates the redevelopment of brownfields and blighted areas in the inner city; lowers the cost of housing; and promotes efficient land use. The legislature finds that these activities generate revenue for the state and that it is in the public interest to invest in these projects through a credit against the state sales and use tax and an allocation of property tax revenue to those sponsoring local governments that can demonstrate the expected returns to the state.

- NEW SECTION. Sec. 102. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
  - (1) "Base year" means the first calendar year following the creation of an infrastructure improvement area.
    - (2) "Department" means the department of revenue.
    - (3) "Excess state excise taxes" means the amount of excise taxes received by the state during the measurement year from taxable activity within the infrastructure improvement area over and above the amount of excise taxes received by the state during the base year from taxable activity within the infrastructure improvement area. However, if a local government creates an infrastructure improvement area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding

- 1 the creation of the infrastructure improvement area within the
- 2 boundaries of the area that became the infrastructure improvement area,
- 3 "excess state excise taxes" means the entire amount of excise taxes
- 4 received by the state during a calendar year period beginning with the
- 5 calendar year immediately following the creation of the infrastructure
- 6 improvement area and continuing with each measurement year thereafter.
- 7 (4) "Excise taxes" means the state retail sales and use taxes 8 imposed under chapters 82.08 and 82.12 RCW.
- 9 (5) "Fiscal year" has the same meaning as in section 104(3) of this 10 act.
- 11 (6) "Infrastructure improvement area" means the geographic area 12 from which taxes are to be used to finance public improvements 13 authorized under this chapter.
- 14 (7) "Local government" means any city, town, county, port district, 15 or any combination thereof.
  - (8) "Local infrastructure improvement financing" means the sales and use tax authorized in section 201 of this act and the tax allocation revenues authorized in section 204 of this act.
  - (9) "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 excise taxes required to be used to finance public improvement costs associated with public improvements financed in whole or in part by local infrastructure improvement financing.
  - (10) "Ordinance" means any appropriate method of taking legislative action by a local government.
  - (11) "Participating taxing authority" means a taxing authority that has entered into a written agreement with a local government for the use of local infrastructure improvement financing to the extent of allocating excess excise taxes to the local government for the purpose of financing all or a portion of the costs of designated public improvements.
    - (12) "Public improvements" means:

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- 34 (a) Infrastructure improvements within the infrastructure 35 improvement area that include:
- (i) Street and road construction and maintenance, including highwayinterchange construction;

- 1 (ii) Water and sewer system construction and improvements, 2 including wastewater reuse facilities;
  - (iii) Sidewalks and streetlights;

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- (iv) Parking, terminal, and dock facilities;
- 5 (v) Park and ride facilities of a transit authority;
- 6 (vi) Park facilities and recreational areas, including trails; and
- 7 (vii) Storm water and drainage management systems; and
- 8 (b) Expenditures for any of the following purposes:
- 9 (i) Providing environmental analysis, professional management, 10 planning, and promotion within the infrastructure improvement area, 11 including the management and promotion of retail trade activities in 12 the infrastructure improvement area;
- 13 (ii) Providing maintenance and security for common or public areas 14 in the infrastructure improvement area; or
- 15 (iii) Historic preservation activities authorized under RCW 16 35.21.395.
  - (13) "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; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and (e) 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 local infrastructure improvement financing to fund the costs of the public improvements.
  - (14) "Tax allocation revenues" means those tax revenues derived from the receipt of excess excise taxes under section 204 of this act.
  - (15) "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 infrastructure improvement area.

NEW SECTION. Sec. 103. A local government may finance public improvements using local infrastructure improvement financing subject to the following conditions:

- (1) The local government adopts an ordinance designating an infrastructure improvement area within its boundaries and the ordinance specifies the public improvements proposed to be financed in whole or in part with the use of local infrastructure improvement financing. An infrastructure improvement area shall be geographically restricted to the location of the public improvement and adjacent locations that the local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block. An infrastructure improvement area shall not encompass any one political jurisdiction in its entirety;
- (2) The public improvements proposed to be financed in whole or in part using local infrastructure improvement financing are expected to encourage private development within the infrastructure improvement area;
- (3) The local government has entered or expects to enter into a contract with a private developer relating to the development of private improvements within the infrastructure improvement area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the infrastructure improvement area;
- (4) Private development that is anticipated to occur within the infrastructure improvement area, 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;
- (5) The local government may not use local infrastructure improvement financing to finance the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of public facilities funded with taxes collected under RCW 82.14.048;
- (6) The governing body of the local government must make a finding that local infrastructure improvement financing: (a) Will not be used for the purpose of relocating a business from outside the infrastructure improvement area, but within this state, into the

- infrastructure improvement area; (b) will improve the viability of existing business entities within the infrastructure improvement area; and (c) will be used exclusively in areas within the jurisdiction of the local government deemed in need of economic development and/or redevelopment, and absent the financing available under this act the proposed economic development and/or redevelopment would more than likely not occur;
  - (7) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using local infrastructure improvement financing are reasonably likely to:

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- (a) Increase private investment within the infrastructure improvement area;
- 13 (b) Increase employment within the infrastructure improvement area; 14 and
- 15 (c) Generate, over the period of time that the local sales and use 16 tax will be imposed under section 201 of this act, state and local 17 sales and use tax revenues that are equal to or greater than the 18 respective state and local contributions made under this chapter.
- NEW SECTION. Sec. 104. (1) Before adopting an ordinance creating the infrastructure improvement area, a local government must hold a public hearing on the proposed financing of the public improvement in whole or in part with local infrastructure improvement financing.
  - (a) Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed infrastructure improvement area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed infrastructure improvement area.
  - (b) Notice must also be sent by United States mail to the property owners and the business enterprises located within the proposed infrastructure improvement area at least thirty days prior to the hearing. In implementing provisions under this act, the local governing body may also consult with business organizations, including the local chamber of commerce, and the office of minority and women's business enterprises to assist with providing appropriate notice to business enterprises and property owners for whom English is a second language.

- (c) Notices must describe the contemplated public improvements, 1 2 estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by 3 infrastructure improvement financing, describe any other sources of 4 revenue to finance the public improvements, describe the boundaries of 5 the proposed infrastructure improvement area, and estimate the period 6 during which local infrastructure improvement financing is contemplated 7 The public hearing may be held by either the governing 8 to be used. 9 body of the local government, or a committee of the governing body that 10 includes at least a majority of the whole governing body.
  - (2) In order to create an infrastructure improvement area, a local government must adopt an ordinance establishing the infrastructure improvement area that:
    - (a) Describes the public improvements;

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- 15 (b) Describes the boundaries of the infrastructure improvement 16 area;
  - (c) Estimates the cost of the public improvements and the portion of these costs to be financed by local infrastructure improvement financing;
    - (d) Estimates the time during which tax allocation revenue is to be used to finance public improvement costs associated with the public improvements financed in whole or in part by local infrastructure improvement financing;
    - (e) Estimates the average amount of tax allocation revenue to be received in all fiscal years through the imposition of a sales and use tax under section 201 of this act;
  - (f) Provides the date when the apportionment of tax allocation will commence; and
    - (g) Finds that the conditions of section 103 of this act are met.
- 30 (3) For purposes of this section, "fiscal year" means the year 31 beginning July 1st and ending the following June 30th.

### 32 <u>NEW SECTION.</u> **Sec. 105.** The local government shall:

33 (1) Publish notice in a legal newspaper of general circulation 34 within the infrastructure improvement area that describes the public 35 improvement, describes the boundaries of the infrastructure improvement 36 area, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(2) Deliver a certified copy of the ordinance to the county treasurer and the governing body of each participating taxing authority within which the infrastructure improvement area is located.

6 PART II

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## LOCAL INFRASTRUCTURE IMPROVEMENT FINANCING--

### SALES AND USE TAX REVENUE

9 <u>NEW SECTION.</u> **Sec. 201.** A new section is added to chapter 82.14 10 RCW to read as follows:

- (1) A city, town, or county that creates an infrastructure improvement area and finances public improvements pursuant to chapter 82. -- RCW (the new chapter created in section 404 of this act) may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city, town, or county. The rate of tax shall be calculated as provided in subsection (6) of this section, but shall not exceed the rate provided in RCW 82.08.020(1) in the case of a sales tax or the rate provided in RCW 82.12.020(5) in the case of a use tax, less the aggregate rates of any other taxes imposed on the same events that are credited against the state taxes imposed under chapters 82.08 and 82.12 RCW.
- (2) The tax imposed under subsection (1) of this section shall be credited against the amount of tax otherwise required to be deposited in the general fund under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the city, town, or county at no cost to the city, town, or county.
- 32 (3) No tax may be imposed under this section before July 1, 2008. 33 The tax imposed under this section shall expire when the bonds issued 34 under the authority of chapter 82.-- RCW (the new chapter created in 35 section 404 of this act) are retired, but not more than twenty-five 36 years after the tax is first imposed.

- 1 (4) An ordinance adopted by the legislative authority of a city, 2 town, or county imposing a tax under this section shall provide that:
- 3 (a) The tax shall first be imposed on the first day of a fiscal 4 year.

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- (b) The amount of tax received by the local government in any fiscal year shall not exceed the amount of the state contribution.
- (5) If both a county and a city or town impose a tax under this section, the tax imposed by the city, town, or county shall be credited as follows:
- (a) If the county has created an infrastructure improvement area before the city or town, the tax imposed by the county shall be credited against the tax imposed by the city or town, the purpose of such credit is to give priority to the county tax; and
- (b) If the city or town has created an infrastructure improvement area before the county, the tax imposed by the city or town shall be credited against the tax imposed by the county, the purpose of such credit is to give priority to the city or town tax.
- (6) The rate of tax shall be calculated to equal the excess state excise taxes in the infrastructure improvement area, except that the rate shall be an amount that will not exceed one million five hundred dollars per fiscal year. If the rate of tax produces an amount that is in excess of one million five hundred thousand dollars per fiscal year, the following year's tax rate shall be adjusted downward, and the amount over one million five hundred thousand dollars shall be a debt from the local government to the state until paid to the state.
- (7) The definitions in section 102 of this act and in this subsection apply throughout this section unless the context clearly requires otherwise.
- 29 (a) "State contribution" means the lesser of one million five 30 hundred thousand dollars or excess state excise taxes received by the 31 state during the preceding calendar year.
- 32 (b) "Tax allocation revenues" has the same meaning as in section 33 102 of this act.
- NEW SECTION. Sec. 202. A new section is added to chapter 82.14 RCW to read as follows:
- 36 (1) Moneys collected from the taxes imposed under section 201 of 37 this act shall be used only for the purpose of principal and interest

- payments on bonds issued under the authority of section 301 of this act and must be matched, dollar for dollar, with an amount from local public sources dedicated through December 31st of the previous calendar year to finance public improvements authorized under chapter 82. -- RCW (the new chapter created in section 404 of this act). Such local public sources include, but are not limited to, private monetary contributions and tax revenues other than the taxes imposed under section 201 of this act. Local public sources are dedicated to finance public improvements if they are actually expended to pay public improvement costs or are required by law or an agreement to be used exclusively to pay public improvement costs.
  - (2) A local government shall inform the department by the first day of March of the amount of local public sources dedicated in the preceding calendar year to finance public improvements authorized under chapter 82.-- RCW (the new chapter created in section 404 of this act).

- (3) If a local government fails to comply with subsection (2) of this section, no tax may be imposed under section 201 of this act in the subsequent fiscal year.
- (4) A local government shall provide a report to the department by March 1st of each year. The report shall contain the following information:
- (a) The amount of tax allocation revenues, taxes under section 201 of this act, and local public sources received by the local government during the preceding calendar year, and a summary of how these revenues were expended;
- (b) The names of any businesses locating within the infrastructure improvement area as a result of the public improvements undertaken by the local government and financed in whole or in part with local infrastructure improvement financing;
- (c) The total number of permanent jobs created as a result of the public improvements undertaken by the local government and financed in whole or in part with local infrastructure improvement financing;
- (d) The average wages and benefits received by all employees of businesses locating within the infrastructure improvement area as a result of the public improvements undertaken by the local government and financed in whole or in part with local infrastructure improvement financing; and

1 (e) That the local government is in compliance with section 2 103(6)(c) of this act.

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- (5) The department shall make a report available to the public and the legislature by June 1st of each year. The report shall include a list of public improvements undertaken by local governments and financed in whole or in part with local infrastructure improvement financing, and it shall also include a summary of the information provided to the department by local governments under subsection (4) of this section.
- 10 (6) The definitions in section 102 of this act apply to this 11 section.
- NEW SECTION. Sec. 203. A new section is added to chapter 82.32 RCW to read as follows:
  - (1) As a condition to imposing a sales and use tax under section 201 of this act, a city, town, or county must apply to the department at least seventy-five days before the effective date of any such tax. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information establishing that the applicant is eligible to impose such a tax, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th. The department shall make available forms to be used for this purpose. As part of the application, a city, town, or county must provide to the department a copy of the ordinance creating the infrastructure improvement area as required in section 103 of this act. The department shall rule on completed applications within sixty days of receipt. The department may begin accepting and approving applications August 1, 2006. No new applications shall be considered by the department after the thirtieth day of September of the third year following the year in which the first application was received by the department.
    - (2) The authority to impose the local option sales and use taxes under section 201 of this act is on a first-come basis. Priority for collecting the taxes authorized under section 201 of this act among approved applicants shall be based on the date that the approved

application was received by the department. As a part of the approval 1 2 of applications under this section, the department shall approve the amount of tax under section 201 of this act that an applicant may 3 impose. The amount of tax approved by the department shall not exceed 4 5 the average amount of tax revenue that the applicant estimates that it will receive in all fiscal years through the imposition of a sales and 6 7 use tax under section 201 of this act up to a maximum of one million five hundred dollars. A city, town, or county shall not receive, in 8 9 any fiscal year, more revenues from taxes imposed under section 201 of this act than the amount approved by the department. The department 10 shall not approve the receipt of more credit against the state sales 11 and use tax than is authorized under subsection (3) of this section. 12

(3) The amount of credit against the state sales and use tax is limited to no more than five million dollars of credit against the state sales and use tax received by all cities, towns, and counties imposing a tax under section 201 of this act. This amount shall be adjusted annually, beginning in the fiscal year beginning July 1, 2008, by an amount representing the fiscal growth factor as defined in RCW 43.135.025.

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- 20 (4) The credit against the state sales and use tax shall be 21 available to any city, town, or county imposing a tax under section 201 22 of this act only as long as the city, town, or county has outstanding 23 indebtedness under RCW 39.89.080.
- 24 (5) The department may adopt rules under chapter 34.05 RCW 25 necessary for the administration of sections 201 through 204 of this 26 act.

<u>NEW SECTION.</u> **Sec. 204.** (1) A local government that creates an 27 infrastructure improvement area and has received approval from the 28 department under section 203 of this act to impose the local option 29 sales and use tax authorized in section 201 of this act may use 30 31 annually any excess excise taxes received by it from taxable activity within the infrastructure improvement area 32 to finance improvement costs associated with the public improvements financed in 33 whole or in part by local infrastructure improvement financing. 34 use of excess excise taxes must cease when tax allocation revenues are 35 36 no longer necessary or obligated to pay the costs of the public 37 improvements.

- (2) A local government consisting solely of a port district may use excess excise taxes as provided in this section only to the extent that any participating taxing authority allocates excess excise taxes to the local government.
- (3) A local government shall provide the department accurate information describing the geographical boundaries of the infrastructure improvement area at least seventy-five days before the effective date of the ordinance creating the infrastructure improvement area. The local government shall ensure that the boundary information provided to the department is kept current.
- (4) The department shall provide 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 section 203 of this act to impose the local option sales and use tax authorized in section 201 of this act with the necessary information to calculate excess excise taxes.

## 17 PART III

### BOND AUTHORIZATION

- NEW SECTION. Sec. 301. (1) A local government designating an infrastructure improvement area and authorizing the use of local infrastructure improvement financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from tax allocation revenues and from the sales and use tax authorized in section 201 of this act it receives, subject to the following requirements:
- (a) The ordinance adopted by the local government creating the infrastructure improvement area and authorizing the use of local infrastructure improvement financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and
- (b) The local government includes this statement of the intent in all notices required by section 104 of this act.
- (2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants,

and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

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- (3) In addition to the requirements in subsection (1) of this section, a local government designating an infrastructure improvement area and authorizing the use of local infrastructure improvement financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the infrastructure improvement area.
- (4) Bonds issued under this section shall be authorized by ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without such premium, be secured in manner, and have such other characteristics, as may be provided by such ordinance or trust indenture or mortgage issued pursuant thereto.
- (5) The local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any tax allocation revenues derived from property or business activity within the infrastructure improvement area containing the public improvements funded by the bonds, such payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under section 201 of this act, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under section 201 of this act are subject to the use restriction in section 202 of this act.
- (6) In case any of the public officials of the local government whose signatures appear on any bonds or any coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office

- until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.
- 4 (7) Notwithstanding subsections (4) through (6) of this section, 5 bonds issued under this section may be issued and sold in accordance 6 with chapter 39.46 RCW.
- NEW SECTION. Sec. 302. A local government that issues bonds under section 301 of this act to finance public improvements may pledge for the payment of such bonds all or part of any tax allocation revenues derived from the public improvements. All of such tax revenues are subject to the use restriction in section 202 of this act.
- NEW SECTION. Sec. 303. The bonds issued by a local government under section 301 of this act to finance public improvements shall not constitute an obligation of the state of Washington, either general or special.

16 PART IV

### 17 MISCELLANEOUS

- NEW SECTION. Sec. 401. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
- NEW SECTION. Sec. 402. Part headings used in this act do not constitute any part of the law.
- NEW SECTION. Sec. 403. Nothing in this act shall be construed to give port districts the authority to impose a sales or use tax under chapter 82.14 RCW.
- NEW SECTION. Sec. 404. Sections 101 through 105, 204, 301 through 303, and 403 of this act constitute a new chapter in Title 82 RCW."

# **E2SHB 2673** - S COMM AMD By Committee on Ways & Means

### NOT ADOPTED 03/07/2006

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "adding new sections to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW; and creating a new section."

--- END ---