
HOUSE BILL 3198

State of Washington

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By Representatives Appleton, Kilmer, Haigh, Sells, Green and Morrell

Read first time 01/25/2006. Referred to Committee on Economic Development, Agriculture & Trade.

1 AN ACT Relating to community and economic development; amending RCW
2 84.55.010; adding a new chapter to Title 39 RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** DECLARATION--PURPOSE. (1) It is declared to
6 be the public policy of the state of Washington to promote and
7 facilitate community and economic development of its communities.
8 Community and economic development and renewal is found to be in the
9 interest of and a benefit to all local taxing districts. In
10 furtherance of this, local governments need the ability to finance
11 specific public improvements that encourage community and economic
12 development in both rural and urban areas characterized by high levels
13 of unemployment and stagnant employment and income growth. The
14 construction of necessary public improvements and the redevelopment of
15 depressed areas in accordance with local economic development and
16 growth management plans will benefit all local taxing districts,
17 encourage investment in job-producing private development, and expand
18 the public tax base for all local taxing districts.

19 (2) It is the purpose of this chapter:

1 (a) To encourage local taxing districts to cooperate in and
2 contribute tax revenues to the financing of public improvements that
3 will encourage private development and community renewal in selected
4 areas;

5 (b) To assist those local governments that have a competitive
6 disadvantage in attracting business, private investment, or commercial
7 development due to its location near a state or international border;
8 and

9 (c) To prevent or arrest the decay of selected areas due to the
10 inability of existing financial methods to provide needed public
11 improvements and community development, and to encourage private
12 investment designed to promote and facilitate the orderly redevelopment
13 of selected areas.

14 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
15 section apply throughout this chapter unless the context clearly
16 requires otherwise.

17 (1) "Assessed value" shall have the meaning given in RCW 84.04.030.

18 (2) "Community improvement district" means a district created
19 pursuant to this chapter.

20 (3) "Increment value" means the assessed value of property for the
21 relevant levy year less the tax allocation base value for that
22 property.

23 (4) "Local government" means any city, town, county, or port
24 district.

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

27 (6) "Public improvements" means:

28 (a) Publicly owned infrastructure improvements including without
29 limitation:

30 (i) Street, road, and other transportation facilities construction
31 and maintenance;

32 (ii) Water and sewer system construction and improvements;

33 (iii) Sidewalks and streetlights;

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

35 (v) Transit facility construction and maintenance, including park
36 and ride facilities;

37 (vi) Park facilities and recreational areas;

1 (vii) Storm water and drainage management systems;
2 (viii) Any housing project as defined in RCW 35.82.020;
3 (ix) To the extent not already described in this subsection, any
4 project that is a community renewal project as set forth in RCW
5 35.81.015; and
6 (b) Expenditures for any of the following purposes:
7 (i) Historic preservation activities authorized under RCW
8 35.21.395;
9 (ii) Housing for "persons of low income" as defined in RCW
10 35.82.020; or
11 (iii) Any costs of carrying out a community renewal plan under
12 chapter 35.81 RCW.
13 (7) "Public improvement costs" means the costs of: (a) Design,
14 planning, acquisition, site preparation, construction, reconstruction,
15 rehabilitation, improvement, and installation of public improvements;
16 (b) relocating, maintaining, and operating property pending
17 construction of public improvements; (c) relocating utilities as a
18 result of public improvements; (d) financing public improvements,
19 including interest during construction, legal and other professional
20 services, taxes, insurance, principal and interest costs on general
21 indebtedness issued to finance public improvements, and any necessary
22 reserves for general indebtedness; (e) administrative costs incurred in
23 determining the tax allocation base value and the increment value, to
24 the extent that such costs are in excess of costs normally incurred by
25 the assessor in accordance with the revaluation plan under chapter
26 84.41 RCW, and the administrative costs of allocating taxes and
27 complying with this chapter and other applicable law; (f)
28 administrative expenses and feasibility studies reasonably necessary
29 and related to these costs, including related costs that may have been
30 incurred before adoption of the ordinance authorizing the public
31 improvements and the use of community improvement financing to fund the
32 costs of the public improvements; and (g) expenses of carrying out a
33 community renewal plan under chapter 35.81 RCW.
34 (8) "Local regular property taxes" means regular property taxes as
35 defined in RCW 84.04.140, except regular property taxes levied by the
36 state for the support of the common schools under RCW 84.52.065.
37 (9) "Tax allocation base value" means the assessed value of real

1 property located within a community improvement district as determined
2 for the calendar year in which the ordinance creating the community
3 improvement district is adopted.

4 (10) "Tax allocation revenues" means an amount equal to seventy-
5 five percent of the total revenues derived from the levy of local
6 regular property taxes on the increment value within a community
7 improvement district.

8 (11) "Local taxing district" means any taxing district, as defined
9 in RCW 84.04.120, that levies or has levied for it, local regular
10 property taxes upon real property located within a proposed or approved
11 community improvement district. "Local taxing district" does not
12 include the state of Washington.

13 NEW SECTION. **Sec. 3.** AUTHORITY--CONDITIONS. A local government
14 may finance public improvements using community improvement district
15 financing if the following conditions are met:

16 (1) The local government must adopt an ordinance that complies with
17 section 5 of this act, designating a community improvement district
18 within its boundaries and specifying the public improvements proposed
19 to be financed in whole or in part with the use of community
20 improvement financing;

21 (2) The boundaries of the community improvement district:

22 (a) Shall include, as near as may be determined in the sole
23 discretion of the local government, only such properties as are
24 reasonably expected to increase in assessed value as a result of the
25 public improvements identified in subsection (3) of this section,
26 provided that a community improvement district may include all or any
27 part of a community renewal area created under chapter 35.81 RCW;

28 (b) Shall consist of contiguous tracts, lots, or parcels of land
29 which, in the aggregate, comprise no more than twenty-five percent of
30 the total assessed value of taxable real property within the boundaries
31 of the local government creating the community improvement district;
32 and

33 (c) Shall not be subject to challenge by any local taxing district
34 or subject to review by a boundary review board;

35 (3) The local government must find that public improvements
36 proposed to be financed in whole or in part using community improvement

1 district financing are expected to encourage private development within
2 the community improvement district and to increase the assessed value
3 of real property within the community improvement district;

4 (4) The local government must obtain assurances, through
5 development agreements or other permitting processes, that all private
6 development that is anticipated to occur within the community
7 improvement district, as a result of the public improvements, will be
8 consistent with the growth management plan or plans applicable to the
9 area within the community improvement district and the community
10 renewal plan adopted under RCW 35.81.060;

11 (5) At least twenty percent of the public improvements proposed to
12 be financed must be housing for "persons of low income," as defined in
13 RCW 35.82.020, and the housing is to be located either within or
14 without the community improvement district; and

15 (6) No community improvement district may include territory that is
16 within any other community improvement district.

17 NEW SECTION. **Sec. 4.** ADMINISTRATION--COORDINATION WITH OTHER
18 PROGRAMS--IMPROVEMENTS BY PRIVATE DEVELOPER MUST MEET APPLICABLE STATE
19 AND LOCAL LAWS. (1) A local government may use community improvement
20 district financing in coordination with other programs or efforts
21 undertaken by the local government alone, or in cooperation with other
22 local taxing districts, and may be funded in part from revenue sources
23 other than community improvement financing.

24 (2) A local government that creates a community improvement
25 district may itself administer the functions of the community
26 improvement district or may elect to have such functions administered
27 by a community renewal agency appointed by the local government, or by
28 a public development authority created by the local government under
29 RCW 35.21.730. Appointment of an administrator shall be by ordinance
30 that includes a finding that the action is in the public interest and
31 describes the extent of the appointment. In the event the local
32 governing body elects to appoint an administrator, all subsequent
33 community improvement plans and community improvement public
34 improvements must be approved by the local government in such manner as
35 the local government may specify. In addition, a local government may
36 provide by interlocal contract that powers relating to a community

1 improvement district may be exercised jointly under chapter 39.34 RCW
2 in accordance with the terms of that interlocal contract, including
3 being exercised by an entity created pursuant to RCW 39.34.030.

4 (3) Public improvements within a community improvement district
5 that are constructed, improved, developed, or redeveloped by a private
6 developer must meet all applicable state and local laws.

7 NEW SECTION. **Sec. 5.** PROCEDURE FOR CREATING A COMMUNITY
8 IMPROVEMENT DISTRICT. (1) Before adopting an ordinance creating a
9 community improvement district, a local government shall:

10 (a) Obtain written agreement for the use of community improvement
11 financing that is entered into by local taxing districts whose local
12 regular property tax levies, in the aggregate, account for at least
13 seventy-five percent of the local regular property tax revenues
14 collected within the community improvement district. The agreement
15 shall constitute concurrence by each local taxing district having
16 territory within the community improvement district that the specified
17 public improvements in the proposed community improvement district will
18 benefit the taxpayers of each such local taxing district.

19 (b) Hold a public hearing, notice of which must be published at
20 least once, in a newspaper of general circulation within each local
21 taxing district having territory within the proposed community
22 improvement district, at least ten days before the public hearing and
23 posted in at least three conspicuous public places located in the
24 proposed community improvement district. The notice must describe the
25 specified public improvements, estimate the costs of the public
26 improvements, describe the portion of the costs of the public
27 improvements to be borne by community improvement financing, describe
28 any other sources of revenue to finance the public improvements,
29 describe the boundaries of the proposed community improvement district,
30 and estimate the period during which community improvement financing is
31 contemplated to be used. The public hearing may be held either by the
32 entire governing body of the local government or by a committee of the
33 governing body. The public hearing shall provide members of the public
34 and representatives of all local taxing districts the opportunity to
35 comment on the proposed formation of the community improvement
36 district.

1 (2) The ordinance establishing the community improvement district
2 shall describe the public improvements, describe the boundaries of the
3 community improvement district, estimate the cost of the public
4 improvements and the portion of these costs to be financed by community
5 improvement district financing, estimate the length of time for which
6 local regular property taxes are to be allocated, and provide the date
7 when the allocation of the local regular property taxes will commence,
8 and find that the conditions of section 3 of this act are met.

9 (3) A community improvement district shall be created upon adoption
10 of an ordinance described in this section and the publication of notice
11 required under section 6 of this act in accordance with the following:

12 (a) For a community improvement district for which the formation
13 ordinance was adopted on or before September 30th of any given calendar
14 year, the community improvement district shall be established as of
15 January 1st of the upcoming calendar year; and

16 (b) For a community improvement district for which the formation
17 ordinance was adopted on or after October 1st of any given calendar
18 year, the community improvement district shall be established as of
19 January 1st of the year following the upcoming calendar year.

20 NEW SECTION. **Sec. 6.** PUBLIC NOTICE--CONCLUSIVE PRESUMPTION OF
21 VALIDITY. (1) Upon formation of a community improvement district, the
22 local government shall:

23 (a) Publish notice in a legal newspaper of general circulation
24 within the community improvement district that describes the public
25 improvements, describes the boundaries of the community improvement
26 district, and identifies the location and times where the ordinance
27 forming the community improvement district and other public information
28 concerning the public improvements may be inspected; and

29 (b) Deliver a certified copy of the formation ordinance to the
30 county treasurer, the county assessor, and the governing body of each
31 local taxing district having territory within the community improvement
32 district.

33 (2) No direct or collateral attack on a public improvement,
34 community improvement district formation ordinance, or community
35 improvement district purported to be authorized or created in
36 conformance with applicable legal requirements, including this chapter,

1 may be commenced more than thirty days after publication of notice as
2 required by subsection (1) of this section.

3 NEW SECTION. **Sec. 7.** ALLOCATION OF TAXES. (1) Commencing in the
4 calendar year during which a community improvement district is first
5 established in accordance with section 5(3) of this act, the county
6 treasurer, or county treasurers, if a community improvement district
7 extends to more than a single county, shall allocate receipts from
8 local regular property taxes levied on real property located within the
9 community improvement district as follows:

10 (a) Each local taxing district, including the local government that
11 created the community improvement district, shall receive an amount
12 equal to: (i) The local taxing district's levy rate multiplied by the
13 tax allocation base value of the property located within the local
14 taxing district, plus (ii) twenty-five percent of the local taxing
15 district's levy rate multiplied by the increment value of the property
16 located within the local taxing district; and

17 (b) The local government that created the community improvement
18 district shall receive the tax allocation revenues for deposit into the
19 community improvement district funds and accounts. However, if the
20 local government that created the community improvement district
21 determines that the full amount of the tax allocation revenues is not
22 necessary to satisfy any and all pledges, obligations, and covenants of
23 the district, it may by ordinance direct the county treasurer to
24 allocate to the district less than the full amount of the tax
25 allocation revenues. In such case, the balance of tax receipts from
26 the community improvement district shall be reallocated to the local
27 taxing districts in accordance with their local regular property tax
28 levies. The tax receipts deposited into the community improvement
29 district funds and accounts under this subsection (1)(b) may be
30 expended solely to finance public improvement costs.

31 (2) Upon receipt of a formation ordinance for a community
32 improvement district under section 6 of this act, the county assessor,
33 or assessors, if the district extends to more than a single county,
34 shall determine and notify each local taxing district of the tax
35 allocation base value for all property within that taxing district that
36 is also within the community improvement district. Thereafter, for as
37 long as the community improvement district exists, the county assessor,

1 or assessors, shall annually calculate the increment value for the
2 property by subtracting the tax allocation base value from the assessed
3 value. This section does not authorize revaluations of real property
4 by the assessor for property taxation that are not made in accordance
5 with the assessor's revaluation plan under chapter 84.41 RCW or under
6 other authorized revaluation procedures.

7 (3) The county treasurer and assessor shall continue to perform the
8 duties described in this section until tax allocation revenues are no
9 longer necessary or obligated to pay the costs of the public
10 improvements, as determined by ordinance of the local government in
11 accordance with section 10 of this act. However, no community
12 improvement district shall continue to exist, and no allocation of tax
13 allocation revenues within a community improvement district shall
14 continue, for a period longer than thirty years after taxes are first
15 allocated under this chapter.

16 (4) The allocation to the community improvement district of
17 portions of the local regular property taxes levied by or for each
18 local taxing district upon the increment value within that community
19 improvement district, is declared to be a public purpose of and benefit
20 to each such local taxing district.

21 (5) The allocation of tax allocation revenues pursuant to this
22 section shall not affect or be deemed to affect the rate of taxes
23 levied by or within any local taxing district or the consistency of any
24 such levies with the uniformity requirement of Article VII, section 1
25 of the state Constitution.

26 NEW SECTION. **Sec. 8. GENERAL INDEBTEDNESS--SECURITY.** (1) In
27 order to finance the public improvements and retire the indebtedness in
28 whole or in part from tax allocation revenues it receives, a local
29 government, whether or not it is the local government that created the
30 community improvement district, may authorize and issue general
31 obligation bonds, notes, or other evidences of indebtedness not
32 exceeding an amount, together with any existing indebtedness of the
33 community improvement district, equal to one and one-half percent of
34 the value of the taxable property within the boundaries of the local
35 government.

36 (2) The obligations issued under subsection (1) of this section may
37 be payable from tax allocation revenues and from other tax revenues or

1 the full faith and credit of the local government if the legislative
2 authority of the local government pledges such tax revenues or its full
3 faith and credit. The obligations issued under subsection (1) of this
4 section may also be secured by nontax income, revenues, fees, and rents
5 from the public improvements, as well as contributions, grants, and
6 nontax money available to the community improvement district for
7 payment of costs of the public improvements or associated debt service
8 on the general obligation indebtedness. A community improvement
9 district may also accept gifts or grants of money or property of any
10 kind for the same purposes for which it is authorized to borrow money
11 in subsection (1) of this section.

12 (3) In addition to the provisions of subsections (1) and (2) of
13 this section, a local government may, in connection with the use of
14 community improvement financing, require any nonpublic participant to
15 provide adequate security to protect the public investment in the
16 public improvement within the community improvement district.

17 (4) Bonds authorized under this section may be issued and sold in
18 accordance with chapter 39.46 RCW.

19 NEW SECTION. **Sec. 9.** REVENUE BONDS. (1) A local government,
20 whether or not it is the local government that created the community
21 improvement district, a community renewal agency, or a public
22 development authority may issue revenue bonds to fund public
23 improvements, or portions of public improvements, that are located
24 within a community improvement district that it is authorized to
25 provide or operate. Whenever revenue bonds are to be issued, the
26 legislative authority of the local government shall create or have
27 created a special fund or funds from which, along with any reserves,
28 the principal of and interest on these revenue bonds shall exclusively
29 be payable. The legislative authority of the local government may
30 obligate the local government to set aside and pay into the special
31 fund or funds a fixed proportion or a fixed amount of tax allocation
32 revenues pledged to be transferred to the local government from the
33 community improvement district and other revenues available to the
34 community improvement district. This amount or proportion shall be a
35 lien and charge against those revenues. The local government may also
36 provide that revenue bonds payable out of the same source or sources of
37 revenue may later be issued on a parity with any revenue bonds being

1 issued and sold. Revenue bonds issued under this section that are
2 issued by an entity other than a local taxing district may pledge tax
3 allocation revenues that have been made available to it for community
4 improvement district purposes.

5 (2) Revenue bonds issued pursuant to this section shall not be
6 considered an indebtedness of a local government or other entity
7 issuing the bonds unless the local government expressly pledges its
8 full faith, credit, and taxing power to the repayment of the bonds.
9 The principal of and interest on the bonds shall, unless that full
10 faith and credit pledge has been expressly provided, be payable solely
11 from the revenues lawfully pledged to meet the principal and interest
12 requirements and providing for any required reserves and the owner of
13 any such revenue bond issued shall not have any claim against the local
14 government arising from the bond except for payment from the revenues
15 lawfully pledged to meet the principal and interest requirements and
16 any required reserves.

17 (3) The legislative authority of the local government shall by
18 ordinance determine for each revenue bond issued the amount, date,
19 form, terms, conditions, denominations, maximum fixed or variable
20 interest rate or rates, maturity or maturities, redemption rights,
21 registration privileges, manner of execution, manner of sale, callable
22 provisions, if any, and covenants including the refunding of existing
23 revenue bonds. Facsimile signatures may be used on the bonds and any
24 coupons. Refunding revenue bonds may be issued in the same manner as
25 revenue bonds are issued. Notwithstanding the forgoing, bonds may be
26 issued and sold in accordance with chapter 39.46 RCW.

27 NEW SECTION. **Sec. 10.** DISSOLUTION OF COMMUNITY IMPROVEMENT
28 DISTRICT. A community improvement district may be dissolved by
29 ordinance of the local government which created that community
30 improvement district, when all obligations, including all indebtedness
31 to which community improvement district revenues are pledged, have been
32 discharged and all other contractual obligations of the community
33 improvement district have been discharged or assumed by another
34 governmental entity. Each community improvement district shall be
35 dissolved on or before December 31st of the year that is thirty years
36 after the first year in which it received tax allocation revenues.

1 Any amounts remaining in the funds and accounts of the community
2 improvement district at the time of its dissolution shall be
3 transferred to the county treasurer and then allocated to the local
4 taxing district that imposed local regular property taxes, or had local
5 regular property taxes imposed for it, in the community improvement
6 district for collection that year, in proportion to their current levy
7 rates.

8 **Sec. 11.** RCW 84.55.010 and 1997 c 3 s 202 are each amended to read
9 as follows:

10 Except as provided in this chapter, the levy for a taxing district
11 in any year shall be set so that the regular property taxes payable in
12 the following year shall not exceed the limit factor multiplied by the
13 amount of regular property taxes lawfully levied for such district in
14 the highest of the three most recent years in which such taxes were
15 levied for such district plus an additional dollar amount calculated by
16 multiplying the increase in assessed value in that district resulting
17 from new construction, improvements to property, any increase in
18 assessed value of property within a community improvement district
19 created under chapter 39.-- RCW (sections 1 through 10 and 12 of this
20 act), and any increase in the assessed value of state-assessed property
21 by the regular property tax levy rate of that district for the
22 preceding year.

23 NEW SECTION. **Sec. 12.** SUPPLEMENTAL NATURE OF CHAPTER. This
24 chapter supplements and neither restricts nor limits any powers which
25 the state or any local government might otherwise have under any laws
26 of this state.

27 NEW SECTION. **Sec. 13.** SEVERABILITY. If any provision of this act
28 or its application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 14.** Captions used in this act are not any part
32 of the law.

1 NEW SECTION. **Sec. 15.** Sections 1 through 10 and 12 of this act
2 constitute a new chapter in Title 39 RCW.

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