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SENATE BILL 6795

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State of Washington                      60th Legislature                      2008 Regular Session

By Senators Kauffman and Prentice

Read first time 01/24/08. Referred to Committee on Ways & Means.

1            AN ACT Relating to a state sales and use tax credit for public  
2 facilities districts located within two counties; amending RCW  
3 35.57.010; reenacting and amending RCW 82.14.390; and providing an  
4 effective date.

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

6            **Sec. 1.** RCW 82.14.390 and 2007 c 486 s 2 and 2007 c 6 s 904 are  
7 each reenacted and amended to read as follows:

8            (1) Except as provided in subsection (7) of this section, the  
9 governing body of a public facilities district (a) created before July  
10 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction  
11 of a new regional center, or improvement or rehabilitation of an  
12 existing new regional center, before January 1, 2004; (b) created  
13 before July 1, 2006, under chapter 35.57 RCW in a county or counties in  
14 which there are no other public facilities districts on June 7, 2006,  
15 and in which the total population in the public facilities district is  
16 greater than ninety thousand that commences construction of a new  
17 regional center before February 1, 2007; (c) created under the  
18 authority of RCW 35.57.010(1)(d); (~~(e)~~) (d) created before September  
19 1, 2007, under chapter 35.57 or 36.100 RCW, in a county or counties in

1 which there are no other public facilities districts on July 22, 2007,  
2 and in which the total population in the public facilities district is  
3 greater than seventy thousand, that commences construction of a new  
4 regional center before January 1, 2009; or (e) created before September  
5 1, 2008, and in which the boundary of the public facilities district is  
6 included within two counties, that commences construction of a new  
7 regional center before July 1, 2010, may impose a sales and use tax in  
8 accordance with the terms of this chapter. The tax is in addition to  
9 other taxes authorized by law and shall be collected from those persons  
10 who are taxable by the state under chapters 82.08 and 82.12 RCW upon  
11 the occurrence of any taxable event within the public facilities  
12 district. The rate of tax shall not exceed 0.033 percent of the  
13 selling price in the case of a sales tax or value of the article used  
14 in the case of a use tax.

15 (2)(a) The governing body of a public facilities district imposing  
16 a sales and use tax under the authority of this section may increase  
17 the rate of tax up to 0.037 percent if, within three fiscal years of  
18 July 1, 2008, the department determines that, as a result of RCW  
19 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020,  
20 a public facilities district's sales and use tax collections for fiscal  
21 years after July 1, 2008, have been reduced by a net loss of at least  
22 0.50 percent from the fiscal year before July 1, 2008. The fiscal year  
23 in which this section becomes effective is the first fiscal year after  
24 July 1, 2008.

25 (b) The department shall determine sales and use tax collection net  
26 losses under this section as provided in RCW 82.14.500 (2) and (3).  
27 The department shall provide written notice of its determinations to  
28 public facilities districts. Determinations by the department of a  
29 public facilities district's sales and use tax collection net losses as  
30 a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to  
31 RCW 82.14.020 are final and not appealable.

32 (c) A public facilities district may increase its rate of tax after  
33 it has received written notice from the department as provided in (b)  
34 of this subsection. The increase in the rate of tax must be made in  
35 0.001 percent increments and must be the least amount necessary to  
36 mitigate the net loss in sales and use tax collections as a result of  
37 RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW

1 82.14.020. The increase in the rate of tax is subject to RCW  
2 82.14.055.

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

9 (4) No tax may be collected under this section before August 1,  
10 2000. The tax imposed in this section shall expire when the bonds  
11 issued for the construction of the regional center and related parking  
12 facilities are retired, but not more than twenty-five years after the  
13 tax is first collected.

14 (5) Moneys collected under this section shall only be used for the  
15 purposes set forth in RCW 35.57.020 and must be matched with an amount  
16 from other public or private sources equal to thirty-three percent of  
17 the amount collected under this section, provided that amounts  
18 generated from nonvoter approved taxes authorized under chapter 35.57  
19 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW  
20 shall not constitute a public or private source. For the purpose of  
21 this section, public or private sources includes, but is not limited to  
22 cash or in-kind contributions used in all phases of the development or  
23 improvement of the regional center, land that is donated and used for  
24 the siting of the regional center, cash or in-kind contributions from  
25 public or private foundations, or amounts attributed to private sector  
26 partners as part of a public and private partnership agreement  
27 negotiated by the public facilities district.

28 (6) The combined total tax levied under this section shall not be  
29 greater than 0.037 percent. If both a public facilities district  
30 created under chapter 35.57 RCW and a public facilities district  
31 created under chapter 36.100 RCW impose a tax under this section, the  
32 tax imposed by a public facilities district created under chapter 35.57  
33 RCW shall be credited against the tax imposed by a public facilities  
34 district created under chapter 36.100 RCW.

35 (7) A public facilities district created under chapter 36.100 RCW  
36 is not eligible to impose the tax under this section if the legislative  
37 authority of the county where the public facilities district is located  
38 has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

1       **Sec. 2.** RCW 35.57.010 and 2007 c 486 s 1 are each amended to read  
2 as follows:

3       (1)(a) The legislative authority of any town or city located  
4 partially or wholly in a county with a population of less than one  
5 million may create a public facilities district.

6       (b) The legislative authorities of any contiguous group of towns or  
7 cities located in a county or counties each with a population of less  
8 than one million may enter an agreement under chapter 39.34 RCW for the  
9 creation and joint operation of a public facilities district.

10       (c) The legislative authority of any town or city, or any  
11 contiguous group of towns or cities, located in a county with a  
12 population of less than one million and the legislative authority of a  
13 contiguous county, or the legislative authority of the county or  
14 counties in which the towns or cities are located, may enter into an  
15 agreement under chapter 39.34 RCW for the creation and joint operation  
16 of a public facilities district.

17       (d) The legislative authority of a city located in a county with a  
18 population greater than one million may create a public facilities  
19 district, when the city has a total population of less than one hundred  
20 fifteen thousand but greater than eighty thousand and commences  
21 construction of a regional center prior to July 1, 2008.

22       (2)(a) A public facilities district shall be coextensive with the  
23 boundaries of the city or town or contiguous group of cities or towns  
24 that created the district.

25       (b) A public facilities district created by an agreement between a  
26 town or city, or a contiguous group of towns or cities, and a  
27 contiguous county or the county in which they are located, shall be  
28 coextensive with the boundaries of the towns or cities, and the  
29 boundaries of the county or counties as to the unincorporated areas of  
30 the county or counties. The boundaries shall not include incorporated  
31 towns or cities that are not parties to the agreement for the creation  
32 and joint operation of the district.

33       (3)(a) A public facilities district created by a single city or  
34 town shall be governed by a board of directors consisting of five  
35 members selected as follows: (i) Two members appointed by the  
36 legislative authority of the city or town; and (ii) three members  
37 appointed by legislative authority based on recommendations from local  
38 organizations. The members appointed under (a)(i) of this subsection,

1 shall not be members of the legislative authority of the city or town.  
2 The members appointed under (a)(ii) of this subsection, shall be based  
3 on recommendations received from local organizations that may include,  
4 but are not limited to the local chamber of commerce, local economic  
5 development council, and local labor council. The members shall serve  
6 four-year terms. Of the initial members, one must be appointed for a  
7 one-year term, one must be appointed for a two-year term, one must be  
8 appointed for a three-year term, and the remainder must be appointed  
9 for four-year terms.

10 (b) A public facilities district created by a contiguous group of  
11 cities and towns shall be governed by a board of directors consisting  
12 of seven members selected as follows: (i) Three members appointed by  
13 the legislative authorities of the cities and towns; and (ii) four  
14 members appointed by the legislative authority based on recommendations  
15 from local organizations. The members appointed under (b)(i) of this  
16 subsection shall not be members of the legislative authorities of the  
17 cities and towns. The members appointed under (b)(ii) of this  
18 subsection, shall be based on recommendations received from local  
19 organizations that include, but are not limited to the local chamber of  
20 commerce, local economic development council, local labor council, and  
21 a neighborhood organization that is directly affected by the location  
22 of the regional center in their area. The members of the board of  
23 directors shall be appointed in accordance with the terms of the  
24 agreement under chapter 39.34 RCW for the joint operation of the  
25 district and shall serve four-year terms. Of the initial members, one  
26 must be appointed for a one-year term, one must be appointed for a two-  
27 year term, one must be appointed for a three-year term, and the  
28 remainder must be appointed for four-year terms.

29 (c) A public facilities district created by a town or city, or a  
30 contiguous group of towns or cities, and a contiguous county or the  
31 county or counties in which they are located, shall be governed by a  
32 board of directors consisting of seven members selected as follows:  
33 (i) Three members appointed by the legislative authorities of the  
34 cities, towns, and county; and (ii) four members appointed by the  
35 legislative authority based on recommendations from local  
36 organizations. The members appointed under (c)(i) of this subsection  
37 shall not be members of the legislative authorities of the cities,  
38 towns, or county. The members appointed under (c)(ii) of this

1 subsection shall be based on recommendations received from local  
2 organizations that include, but are not limited to, the local chamber  
3 of commerce, the local economic development council, the local labor  
4 council, and a neighborhood organization that is directly affected by  
5 the location of the regional center in their area. The members of the  
6 board of directors shall be appointed in accordance with the terms of  
7 the agreement under chapter 39.34 RCW for the joint operation of the  
8 district and shall serve four-year terms. Of the initial members, one  
9 must be appointed for a one-year term, one must be appointed for a  
10 two-year term, one must be appointed for a three-year term, and the  
11 remainder must be appointed for four-year terms.

12 (4) A public facilities district is a municipal corporation, an  
13 independent taxing "authority" within the meaning of Article VII,  
14 section 1 of the state Constitution, and a "taxing district" within the  
15 meaning of Article VII, section 2 of the state Constitution.

16 (5) A public facilities district shall constitute a body corporate  
17 and shall possess all the usual powers of a corporation for public  
18 purposes as well as all other powers that may now or hereafter be  
19 specifically conferred by statute, including, but not limited to, the  
20 authority to hire employees, staff, and services, to enter into  
21 contracts, and to sue and be sued.

22 (6) A public facilities district may acquire and transfer real and  
23 personal property by lease, sublease, purchase, or sale. No direct or  
24 collateral attack on any public facilities district purported to be  
25 authorized or created in conformance with this chapter may be commenced  
26 more than thirty days after creation by the city and/or county  
27 legislative authority.

28 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2008.

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