
SECOND SUBSTITUTE HOUSE BILL 1281

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Finance (originally sponsored by Representatives Pettigrew, Skinner, Gombosky, Clibborn, Anderson, Rockefeller, Grant, Tom, O'Brien, Cody, Moeller, McDonald, Woods, Hunter, Kagi, Morrell, Benson, Kessler, Wood, Upthegrove, Conway, Linville and Morris; by request of Governor Locke)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to community revitalization financing; amending RCW
2 39.89.010, 39.89.020, 39.89.030, 39.89.050, 39.89.060, 39.89.070, and
3 39.89.080; adding new sections to chapter 39.89 RCW; adding new
4 sections to chapter 82.14 RCW; adding a new section to chapter 82.32
5 RCW; and creating new sections.

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

7 **PART I**

8 **COMMUNITY REVITALIZATION FINANCING--GENERAL PROVISIONS**

9 NEW SECTION. **Sec. 101.** The legislature recognizes that the state
10 as a whole benefits from investment in public infrastructure because it
11 promotes community and economic development. Public investment
12 stimulates business activity and helps create jobs; stimulates the
13 development of affordable housing; stimulates the redevelopment of
14 brownfields and blighted areas in the inner city; and promotes
15 efficient land use. The legislature finds that these activities
16 generate revenue for the state and that it is in the public interest to
17 invest in these projects through a credit against the state sales and

1 use tax to those local governments that can demonstrate the expected
2 returns to the state.

3 **Sec. 102.** RCW 39.89.010 and 2001 c 212 s 1 are each amended to
4 read as follows:

5 (1) It is declared to be the public policy of the state of
6 Washington to promote and facilitate the orderly development and
7 economic stability of its communities. Local governments need the
8 ability to raise revenue to finance public improvements that are
9 designed to encourage economic growth and development in geographic
10 areas characterized by high levels of unemployment and stagnate
11 employment and income growth. The construction of necessary public
12 improvements in accordance with local economic development plans will
13 encourage investment in job-producing private development and expand
14 the public tax base.

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

16 (a) To encourage taxing districts to cooperate in the allocation of
17 future tax revenues that are used to finance public improvements
18 designed to encourage private development in selected areas, in
19 particular in those local governments that are located adjacent to
20 another state or international border;

21 (b) To assist those local governments that have a competitive
22 disadvantage in its ability to attract business, private investment, or
23 commercial development due to its location near a state or
24 international border; (~~and~~)

25 (c) To prevent or arrest the decay of selected areas due to the
26 inability of existing financial methods to provide needed public
27 improvements, and to encourage private investment designed to promote
28 and facilitate the orderly redevelopment of selected areas; and

29 (d) To encourage an appropriate balance between job creation and
30 the development or preservation of affordable housing.

31 **Sec. 103.** RCW 39.89.020 and 2001 c 212 s 2 are each amended to
32 read as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Assessed value of real property" means the valuation of
36 taxable real property as placed on the last completed assessment roll.

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

2 (3) "Increment area" means the geographic area from which taxes are
3 to be appropriated to finance public improvements authorized under this
4 chapter.

5 (4) "Increment value" means seventy-five percent of any increase in
6 the assessed value of real property in an increment area due to the
7 placement of new construction and improvements to property on the
8 assessment rolls after the increment area is created, where the new
9 construction or improvements occur entirely after the increment area is
10 created. Increment value does not include any increase in the assessed
11 value of real property representing new construction and improvements
12 to property occurring after their initial placement on the assessment
13 rolls, except that for new construction which represents entire
14 buildings, increment value includes seventy-five percent of any
15 increase in the assessed value of such new construction in the years
16 following its initial placement on the assessment rolls. There is no
17 increment value if the assessed value of real property in an increment
18 area has not increased due to new construction and improvements to
19 property occurring after the increment area is created.

20 (5) "Local government" means any city, town, county, port district,
21 or any combination thereof.

22 ~~((3))~~ (6) "Ordinance" means any appropriate method of taking
23 legislative action by a local government.

24 ~~((4))~~ (7) "Participating taxing authority" means a taxing
25 authority that has entered into a written agreement with a local
26 government for the use of community revitalization financing to the
27 extent of allocating excess excise taxes to the local government for
28 the purpose of financing all or a portion of the costs of designated
29 public improvements.

30 (8) "Participating taxing district" means a taxing district that
31 has entered into a written agreement with a local government for the
32 use of community revitalization financing to finance all or a portion
33 of the costs of designated public improvements.

34 (9) "Public improvements" means infrastructure improvements within
35 the increment area that include:

36 (a) ~~((Infrastructure improvements within the increment area that~~
37 ~~include:~~

38 ~~(i))~~ Street and road construction and maintenance;

1 ~~((+ii))~~ (b) Water and sewer system construction and improvements;
2 ~~((+iii))~~ (c) Sidewalks and streetlights;
3 ~~((+iv))~~ (d) Parking, terminal, and dock facilities;
4 ~~((+v))~~ (e) Park and ride facilities of a transit authority;
5 ~~((+vi))~~ (f) Park facilities and recreational areas; ~~((and~~
6 ~~+vii))~~ (g) Storm water and drainage management systems; ~~((and~~
7 ~~(b) Expenditures for any of the following purposes:~~
8 ~~(i) Providing environmental analysis, professional management,~~
9 ~~planning, and promotion within the increment area, including the~~
10 ~~management and promotion of retail trade activities in the increment~~
11 ~~area;~~
12 ~~(ii) Providing maintenance and security for common or public areas~~
13 ~~in the increment area; or~~
14 ~~(iii))~~ (h) Historic preservation activities authorized under RCW
15 35.21.395; and
16 (i) Facilities and improvements that support affordable housing as
17 defined in RCW 43.63A.510.
18 ~~((+5))~~ (10) "Public improvement costs" means the costs of: (a)
19 Design, planning, acquisition including land acquisition, site
20 preparation including land clearing, construction, reconstruction,
21 rehabilitation, improvement, and installation of public improvements;
22 (b) demolishing, relocating, maintaining, and operating property
23 pending construction of public improvements; (c) relocating utilities
24 as a result of public improvements; (d) financing public improvements,
25 including interest during construction, legal and other professional
26 services, taxes, insurance, principal and interest costs on general
27 indebtedness issued to finance public improvements, and any necessary
28 reserves for general indebtedness; (e) assessments incurred in
29 revaluing real property for the purpose of determining the tax
30 allocation base value that are in excess of costs incurred by the
31 assessor in accordance with the revaluation plan under chapter 84.41
32 RCW, and the costs of apportioning the taxes and complying with this
33 chapter and other applicable law; and (f) administrative expenses and
34 feasibility studies reasonably necessary and related to these costs,
35 including related costs that may have been incurred before adoption of
36 the ordinance authorizing the public improvements and the use of
37 community revitalization financing to fund the costs of the public
38 improvements.

1 ~~((6))~~ (11) "Regular property taxes" means regular property taxes
2 as defined in RCW 84.04.140, except: (a) Regular property taxes levied
3 by port districts or public utility districts specifically for the
4 purpose of making required payments of principal and interest on
5 general indebtedness; ~~(and)~~ (b) regular property taxes levied by the
6 state for the support of the common schools under RCW 84.52.065; and
7 (c) regular property taxes levied under the authority of RCW 84.55.050
8 that are limited to a specific purpose as provided in RCW
9 84.55.050(3)(c). Regular property taxes do not include excess property
10 tax levies that are exempt from the aggregate limits for junior and
11 senior taxing districts as provided in RCW 84.52.043.

12 ~~((7))~~ (12) "Tax allocation base value" means the ~~((true and~~
13 ~~fair))~~ assessed value of real property located within an increment area
14 for taxes ~~((imposed))~~ levied in the year in which the increment area is
15 created for collection in the following year, plus ~~((twenty-five))~~ one
16 hundred percent of any increase in the ~~((true and fair))~~ assessed value
17 of real property located within an increment area that is placed on the
18 assessment rolls after the increment area is created, less the
19 increment value.

20 ~~((8))~~ (13) "Tax allocation revenues" means those tax revenues
21 derived from the ~~((imposition of))~~ receipt of excess excise taxes under
22 section 202 of this act and from regular property taxes levied on the
23 increment value and distributed to finance public improvements.

24 ~~((9) "Increment area" means the geographic area from which taxes~~
25 ~~are to be appropriated to finance public improvements authorized under~~
26 ~~this chapter.~~

27 ~~(10) "Increment value" means seventy five percent of any increase~~
28 ~~in the true and fair value of real property in an increment area that~~
29 ~~is placed on the tax rolls after the increment area is created.~~

30 ~~((11))~~ (14) "Taxing authority" means a governmental entity that
31 imposes a sales or use tax under chapter 82.14 RCW upon the occurrence
32 of any taxable event within a proposed or approved increment area.

33 (15) "Taxing ~~((districts))~~ district" means a governmental entity
34 that levies or has levied for it regular property taxes upon real
35 property located within a proposed or approved increment area.

36 ~~((12) "Value of taxable property" means the value of the taxable~~
37 ~~property as defined in RCW 39.36.015.)~~

1 **Sec. 104.** RCW 39.89.030 and 2002 c 12 s 1 are each amended to read
2 as follows:

3 (1) A local government may finance public improvements using
4 community revitalization financing subject to the following conditions:

5 ~~((1))~~ (a) The local government adopts an ordinance designating an
6 increment area within its boundaries and specifying the public
7 improvements proposed to be financed in whole or in part with the use
8 of community revitalization financing~~((+))~~. An increment area cannot
9 comprise an area containing more than twenty-five percent of the total
10 assessed value of taxable real property within the boundaries of the
11 local government creating the increment area and is limited to
12 contiguous tracts, lots, pieces, or parcels of land.

13 ~~((2))~~ (b) The public improvements proposed to be financed in
14 whole or in part using community revitalization financing are expected
15 to encourage private development within the increment area and to
16 increase the fair market value of real property within the increment
17 area~~((+))~~.

18 ~~((3))~~ (c) The local government has entered or expects to enter
19 into a contract with a private developer relating to the development of
20 private improvements within the increment area or has received a letter
21 of intent from a private developer relating to the developer's plans
22 for the development of private improvements within the increment area.

23 (d) Private development that is anticipated to occur within the
24 increment area, as a result of the public improvements, will be
25 consistent with the countywide planning policy adopted by the county
26 under RCW 36.70A.210 and the local government's comprehensive plan and
27 development regulations adopted under chapter 36.70A RCW~~((+)~~

28 ~~(4) Taxing districts, in the aggregate, that levy at least seventy-~~
29 ~~five percent of the regular property tax within which the increment~~
30 ~~area is located approves the community revitalization financing of the~~
31 ~~project under RCW 39.89.050(1); and~~

32 ~~(5) In an increment area that includes any portion of a fire~~
33 ~~protection district as defined in Title 52 RCW, the fire protection~~
34 ~~district must agree to participate in the community revitalization~~
35 ~~financing of the project under chapter 212, Laws of 2001, for the~~
36 ~~project to proceed. Approval by the fire protection district shall be~~
37 ~~considered as part of the required participation by taxing districts~~
38 ~~under subsection (4) of this section)).~~

1 (e) The local government may not use community revitalization
2 financing to finance the costs associated with the financing, design,
3 acquisition, construction, equipping, operating, maintaining,
4 remodeling, repairing, and reequipping of public facilities funded with
5 taxes collected under RCW 82.14.048.

6 (f) The governing body of the local government must make a finding
7 that community revitalization financing will:

8 (i) Not be used for the purpose of relocating a business from
9 outside the increment area, but within this state, into the increment
10 area; and

11 (ii) Improve the viability of existing business entities within the
12 increment area.

13 (g) The governing body of the local government finds that the
14 public improvements proposed to be financed in whole or in part using
15 community revitalization financing are reasonably likely to:

16 (i) Increase private investment within the increment area;

17 (ii) Increase employment within the increment area; and

18 (iii) Generate, over the period of time that the local sales and
19 use tax will be imposed under section 301 of this act, state and local
20 property, sales, and use tax revenues that are equal to or greater than
21 the respective state and local contributions made under this chapter.

22 (h) The local government may only use community revitalization
23 financing in areas within boundaries of the local government deemed in
24 need of economic development and/or redevelopment, and absent the
25 financing available under this act the proposed economic development
26 and/or redevelopment would not occur.

27 (2) For purposes of this section, "relocating a business" means the
28 closing of a business and the reopening of that business, or the
29 opening of a new business that engages in the same activities as the
30 previous business, in a different location within a one-year period,
31 when an individual or entity has an ownership interest in the business
32 at the time of closure and at the time of opening or reopening.
33 "Relocating a business" does not include the closing and reopening of
34 a business in a new location where the business has been acquired and
35 is under entirely new ownership at the new location, or the closing and
36 reopening of a business in a new location as a result of the exercise
37 of the power of eminent domain.

1 **Sec. 105.** RCW 39.89.050 and 2001 c 212 s 5 are each amended to
2 read as follows:

3 (1) Before adopting an ordinance creating the increment area, a
4 local government must:

5 ~~((1))~~ (a) Obtain written agreement for the use of community
6 revitalization financing to finance all or a portion of the costs of
7 the designated public improvements from any taxing ~~((districts that, in~~
8 ~~the aggregate, levy at least seventy five percent of the regular~~
9 ~~property tax on property within the increment area. A signed, written~~
10 ~~agreement from taxing districts that in the aggregate levy at least~~
11 ~~seventy five percent of the regular property tax within the increment~~
12 ~~area, constitutes concurrence by all taxing districts in the increment~~
13 ~~area in the public improvement and participation in the public~~
14 ~~improvement))~~ district that levies regular property taxes on real
15 property within the increment area, or from any taxing authority that
16 imposes a sales or use tax under chapter 82.14 RCW within the increment
17 area if the taxing district or taxing authority chooses to participate
18 in the public improvements to the extent of providing limited funding
19 under community revitalization financing authorized under this chapter.
20 The agreement must be authorized by the governing body of such
21 participating taxing districts ~~((that in the aggregate levy at least~~
22 ~~seventy five percent of the regular property tax on property within the~~
23 ~~increment area))~~ and taxing authorities;

24 ~~((2))~~ (b) Estimate the impact that the public improvements and
25 the anticipated development of private improvements will have on small
26 businesses and low-income housing, and provide a plan for mitigating
27 any negative impacts. Wherever possible, the mitigation plan should be
28 consistent with the development or redevelopment goals of the public
29 improvement project; and

30 (c) Hold a public hearing on the proposed financing of the public
31 improvement in whole or in part with community revitalization
32 financing.

33 (i) Notice of the public hearing must be published in a legal
34 newspaper of general circulation within the proposed increment area at
35 least ten days before the public hearing and posted in at least six
36 conspicuous public places located in the proposed increment area.

37 (ii) Notice must also be sent by United States mail to the property
38 owners and the business enterprises located within the proposed

1 increment area at least thirty days prior to the hearing. In
2 implementing provisions under this act, the local governing body may
3 also consult with business organizations, including the local chamber
4 of commerce, and the office of minority and women's business
5 enterprises to assist with providing appropriate notice to business
6 enterprises and property owners for whom English is a second language.

7 (iii) Notices must describe the contemplated public improvements,
8 estimate the costs of the public improvements, describe the portion of
9 the costs of the public improvements to be borne by community
10 revitalization financing, describe any other sources of revenue to
11 finance the public improvements, describe the boundaries of the
12 proposed increment area, estimate the impact that the public
13 improvements and the anticipated development of private improvements
14 will have on small businesses and low-income housing, and estimate the
15 period during which community revitalization financing is contemplated
16 to be used. The public hearing may be held by either the governing
17 body of the local government, or a committee of the governing body that
18 includes at least a majority of the whole governing body(~~(+and)~~).

19 ~~((+3))~~ (2) In order to create an increment area, a local
20 government must adopt an ordinance establishing the increment area
21 that:

22 (a) Describes the public improvements(~~(+)~~);

23 (b) Describes the boundaries of the increment area, which cannot
24 comprise an area containing more than twenty-five percent of the total
25 assessed value of real property within the boundaries of the local
26 government;

27 (c) Estimates the cost of the public improvements and the portion
28 of these costs to be financed by community revitalization
29 financing(~~(+)~~);

30 (d) Estimates the time during which regular property taxes are to
31 be apportioned(~~(+)~~) and, if applicable, excess excise taxes are to be
32 used to finance public improvement costs associated with the public
33 improvements financed in whole or in part by community revitalization
34 financing;

35 (e) Estimates the average amount of tax revenue to be received in
36 all fiscal years through the imposition of a sales and use tax under
37 section 301 of this act;

1 (f) Provides the date when the apportionment of the regular
2 property taxes and, if applicable, the use of excess excise taxes will
3 commence((τ)); and

4 (g) Finds that the conditions of RCW 39.89.030 are met.

5 (3) For purposes of this section, the following definitions apply:

6 (a) "Fiscal year" means the year beginning July 1st and ending the
7 following June 30th.

8 (b) "Small business" has the same meaning as in RCW 19.85.020.

9 **Sec. 106.** RCW 39.89.060 and 2001 c 212 s 6 are each amended to
10 read as follows:

11 The local government shall:

12 (1) Publish notice in a legal newspaper of general circulation
13 within the increment area that describes the public improvement,
14 describes the boundaries of the increment area, and identifies the
15 location and times where the ordinance and other public information
16 concerning the public improvement may be inspected; and

17 (2) Deliver a certified copy of the ordinance to the county
18 treasurer, the county assessor, and the governing body of each
19 participating taxing district within which the increment area is
20 located.

21 **PART II**

22 **COMMUNITY REVITALIZATION FINANCING--USE OF TAX**

23 **ALLOCATION REVENUES TO PAY THE COSTS OF PUBLIC IMPROVEMENTS**

24 **Sec. 201.** RCW 39.89.070 and 2001 c 212 s 7 are each amended to
25 read as follows:

26 (1) Commencing in the second calendar year following the passage of
27 the ordinance creating an increment area and authorizing the use of
28 community revitalization financing, the county treasurer shall
29 distribute receipts from regular taxes imposed on real property located
30 in the increment area as follows:

31 (a) Each participating taxing district and the local government
32 that created the increment area shall receive that portion of its
33 regular property taxes produced by the rate of tax levied by or for the
34 taxing district on the tax allocation base value for that community

1 revitalization financing project in the taxing district, or upon the
2 total assessed value of real property in the taxing district, whichever
3 is smaller; and

4 (b) The local government that created the increment area shall
5 receive an additional portion of the regular property taxes levied by
6 it and by or for each participating taxing district upon the increment
7 value within the increment area. However, if there is no increment
8 value, the local government shall not receive any additional regular
9 property taxes under this subsection (1)(b). The local government that
10 created the increment area may agree to receive less than the full
11 amount of ~~((this))~~ the additional portion of regular property taxes
12 under this subsection (1)(b) as long as bond debt service, reserve, and
13 other bond covenant requirements are satisfied, in which case the
14 balance of these tax receipts shall be allocated to the participating
15 taxing districts that ~~((imposed))~~ levied regular property taxes, or
16 have regular property taxes ~~((imposed))~~ levied for them, in the
17 increment area for collection that year in proportion to their regular
18 tax levy rates for collection that year. The local government may
19 request that the treasurer transfer this additional portion of the
20 property taxes to its designated agent. The portion of the tax
21 receipts distributed to the local government or its agent under this
22 subsection (1)(b) may only be expended to finance public improvement
23 costs associated with the public improvements financed in whole or in
24 part by community revitalization financing.

25 (2) The county assessor shall allocate ~~((twenty five percent of any~~
26 ~~increased real property value occurring in the increment area to the~~
27 ~~tax allocation base value and seventy five percent to the increment~~
28 ~~value))~~ any increase in the assessed value of real property occurring
29 in the increment area to the increment value and tax allocation base
30 value as appropriate. This section does not authorize revaluations of
31 real property by the assessor for property taxation that are not made
32 in accordance with the assessor's revaluation plan under chapter 84.41
33 RCW or under other authorized revaluation procedures.

34 (3) The apportionment of increases in assessed valuation in an
35 increment area, and the associated distribution to the local government
36 of receipts from regular property taxes that are imposed on the
37 increment value, must cease when tax allocation revenues are no longer
38 necessary or obligated to pay the costs of the public improvements.

1 Any excess tax allocation revenues derived from regular property taxes
2 and earnings on (~~the~~) these tax allocation revenues, remaining at the
3 time the apportionment of tax receipts terminates, must be returned to
4 the county treasurer and distributed to the participating taxing
5 districts that imposed regular property taxes, or had regular property
6 taxes imposed for it, in the increment area for collection that year,
7 in proportion to the rates of their regular property tax levies for
8 collection that year.

9 NEW SECTION. Sec. 202. A new section is added to chapter 39.89
10 RCW to read as follows:

11 (1) A local government that creates an increment area and has
12 received approval from the department under section 303 of this act to
13 impose the local option sales and use tax authorized in section 301 of
14 this act may use annually any excess excise taxes received by it from
15 taxable activity within the increment area to finance public
16 improvement costs associated with the public improvements financed in
17 whole or in part by community revitalization financing. The use of
18 excess excise taxes must cease when tax allocation revenues are no
19 longer necessary or obligated to pay the costs of the public
20 improvements. Any participating taxing authority is authorized to
21 allocate excess excise taxes to the local government as long as the
22 local government has received approval from the department under
23 section 303 of this act to impose the local option sales and use tax
24 authorized in section 301 of this act. The legislature declares that
25 it is a proper purpose of a local government or participating taxing
26 authority to allocate excess excise taxes for purposes of financing
27 public improvements under this chapter.

28 (2) A local government consisting solely of a port district may use
29 excess excise taxes as provided in this section only to the extent that
30 any participating taxing authority allocates excess excise taxes to the
31 local government.

32 (3) A local government consisting of a port district and any city,
33 town, or county may use excess excise taxes as provided in this section
34 only if:

35 (a) The city, town, or county realizes excess excise taxes from
36 taxable activity within the increment area; or

1 (b) Any participating taxing authority allocates excess excise
2 taxes to the local government.

3 (4) A local government shall provide the department accurate
4 information describing the geographical boundaries of the increment
5 area at least seventy-five days before the effective date of the
6 ordinance creating the increment area. The local government shall
7 ensure that the boundary information provided to the department is kept
8 current.

9 (5) The department shall provide each local government that has
10 provided boundary information to the department as provided in this
11 section and that has received approval from the department under
12 section 303 of this act to impose the local option sales and use tax
13 authorized in section 301 of this act with the necessary information to
14 calculate excess excise taxes.

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

17 (a) "Base year" means the first calendar year following the
18 creation of an increment area.

19 (b)(i) Except as provided in (b)(ii) of this subsection (6),
20 "excess excise taxes" means the amount of excise taxes received by the
21 local government during the measurement year from taxable activity
22 within the increment area over and above the amount of excise taxes
23 received by the local government during the base year from taxable
24 activity within the increment area. However, if a local government
25 creates an increment area and reasonably determines that no activity
26 subject to tax under chapters 82.08 and 82.12 RCW occurred in the
27 twelve months immediately preceding the creation of the increment area
28 within the boundaries of the area that became the increment area,
29 "excess excise taxes" means the entire amount of excise taxes received
30 by the local government during a calendar year period beginning with
31 the calendar year immediately following the creation of the increment
32 area and continuing with each measurement year thereafter.

33 (ii) For increment areas created in calendar year 2004, "excess
34 excise taxes" means the amount of excise taxes received by the local
35 government during the measurement year from taxable activity within the
36 increment area over and above an amount calculated as follows:

37 (A) All excise taxes received by the local government during the

1 months of April through December of the base year from taxable activity
2 within the increment area;

3 (B) Plus an amount equal to the number three multiplied by the
4 average monthly excise tax receipts of the local government for the
5 months of April through December of the base year from taxable activity
6 within the increment area.

7 (c) "Excise taxes" means local retail sales and use taxes
8 authorized in RCW 82.14.030.

9 (d) "Measurement year" means a calendar year, beginning with the
10 calendar year following the base year and each calendar year
11 thereafter, that is used annually to measure the amount of excess
12 excise taxes required to be used to finance public improvement costs
13 associated with public improvements financed in whole or in part by
14 community revitalization financing.

15 **PART III**

16 **COMMUNITY REVITALIZATION FINANCING--STATE CONTRIBUTION**

17 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.14
18 RCW to read as follows:

19 (1) A city, town, or county that creates an increment area and
20 finances public improvements pursuant to chapter 39.89 RCW may impose
21 a sales and use tax in accordance with the terms of this chapter and
22 subject to the criteria set forth in this section. Except as provided
23 in this section, the tax is in addition to other taxes authorized by
24 law and shall be collected from those persons who are taxable by the
25 state under chapters 82.08 and 82.12 RCW upon the occurrence of any
26 taxable event within the taxing jurisdiction of the city, town, or
27 county. The rate of tax shall not exceed the rate provided in RCW
28 82.08.020(1) in the case of a sales tax or the rate provided in RCW
29 82.12.020(5) in the case of a use tax, less the aggregate rates of any
30 other taxes imposed on the same events that are credited against the
31 state taxes imposed under chapters 82.08 and 82.12 RCW.

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

1 (3) No tax may be imposed under this section before July 1, 2006.
2 Before imposing a tax under this section, the city, town, or county
3 shall first have received tax allocation revenues derived from either
4 regular property taxes or excess excise taxes, or both, during the
5 preceding calendar year. The tax imposed under this section shall
6 expire when the bonds issued under the authority of chapter 39.89 RCW
7 are retired, but not more than twenty-five years after the tax is first
8 imposed.

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

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

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

15 (c) The tax shall cease to be imposed for the remainder of any
16 fiscal year in which either:

17 (i) The amount of tax receipts totals the amount of the state
18 contribution;

19 (ii) The amount of tax receipts totals the amount of "local public
20 sources," as that term is used in section 302 of this act, dedicated in
21 the previous calendar year to finance public improvements authorized
22 under chapter 39.89 RCW; or

23 (iii) The amount of revenue from taxes imposed under this section
24 by all cities, towns, and counties totals the annual state credit limit
25 as provided in section 303(3) of this act;

26 (d) The tax shall be reimposed, should it cease to be imposed for
27 any of the reasons provided in (c) of this subsection, at the beginning
28 of the next fiscal year, subject to the restrictions in this section;
29 and

30 (e) Any revenue generated by the tax in excess of the amounts
31 specified in (a), (b), and (c) of this subsection shall belong to the
32 state of Washington.

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

36 (a) If the county has created an increment area before the city or
37 town, the tax imposed by the county shall be credited against the tax

1 imposed by the city or town, the purpose of such credit is to give
2 priority to the county tax; and

3 (b) If the city or town has created an increment area before the
4 county, the tax imposed by the city or town shall be credited against
5 the tax imposed by the county, the purpose of such credit is to give
6 priority to the city or town tax.

7 (6) The department shall determine the amount of tax receipts
8 attributable to each city, town, and county imposing a sales and use
9 tax under this section and shall advise a city, town, or county when it
10 must cease imposing the tax for the remainder of the fiscal year as
11 provided in subsection (4)(c) of this section. Determinations by the
12 department of the amount of taxes attributable to a city, town, or
13 county are final and shall not be used to challenge the validity of any
14 tax imposed under this section. The department shall remit any tax
15 receipts in excess of the amounts specified in subsection (4)(a), (b),
16 and (c) of this section to the state treasurer who shall deposit the
17 moneys in the general fund.

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

20 (a) "Base year" means the first calendar year following the
21 creation of an increment area.

22 (b)(i) Except as provided in (b)(ii) of this subsection (7),
23 "excess state excise taxes" means the amount of excise taxes received
24 by the state during the measurement year from taxable activity within
25 the increment area over and above the amount of excise taxes received
26 by the state during the base year from taxable activity within the
27 increment area. However, if a local government creates an increment
28 area and reasonably determines that no activity subject to tax under
29 chapters 82.08 and 82.12 RCW occurred in the twelve months immediately
30 preceding the creation of the increment area within the boundaries of
31 the area that became the increment area, "excess state excise taxes"
32 means the entire amount of excise taxes received by the state during a
33 calendar year period beginning with the calendar year immediately
34 following the creation of the increment area and continuing with each
35 measurement year thereafter.

36 (ii) For increment areas created in calendar year 2004, "excess
37 state excise taxes" means the amount of excise taxes received by the

1 state during the measurement year from taxable activity within the
2 increment area over and above an amount calculated as follows:

3 (A) All excise taxes received by the state during the months of
4 April through December of the base year from taxable activity within
5 the increment area;

6 (B) Plus an amount equal to the number three multiplied by the
7 average monthly excise tax receipts of the state for the months of
8 April through December of the base year from taxable activity within
9 the increment area.

10 (c) "Excise taxes" means the state retail sales and use taxes
11 imposed under chapters 82.08 and 82.12 RCW.

12 (d) "Fiscal year" has the same meaning as in RCW 39.89.050(3).

13 (e) "Increment area" has the same meaning as in RCW 39.89.020.

14 (f) "Measurement year" means a calendar year, beginning with the
15 calendar year following the base year and each calendar year
16 thereafter, that is used annually to measure the amount of excess
17 excise taxes required to be used to finance public improvement costs
18 associated with public improvements financed in whole or in part by
19 community revitalization financing.

20 (g) "State contribution" means the lesser of one million dollars or
21 an amount equal to:

22 (i) State property tax allocation revenues received by the state
23 during the preceding calendar year; and

24 (ii) Excess state excise taxes received by the state during the
25 preceding calendar year.

26 (h) "State property tax allocation revenues" means those tax
27 revenues derived from the imposition of property taxes levied by the
28 state for the support of common schools under RCW 84.52.065 on the
29 increment value as defined in RCW 39.89.020.

30 (i) "Tax allocation revenues" has the same meaning as in RCW
31 39.89.020.

32 NEW SECTION. **Sec. 302.** A new section is added to chapter 82.14
33 RCW to read as follows:

34 (1) Moneys collected from the taxes imposed under section 301 of
35 this act shall be used only for the purpose of principal and interest
36 payments on bonds issued under the authority of RCW 39.89.080 and must
37 be matched with an amount from local public sources dedicated through

1 December 31st of the previous calendar year to finance public
2 improvements authorized under chapter 39.89 RCW. Such local public
3 sources include but are not limited to private monetary contributions
4 and tax allocation revenues. Local public sources are dedicated to
5 finance public improvements if they are actually expended to pay public
6 improvement costs or are required by law or an agreement to be used
7 exclusively to pay public improvement costs.

8 (2) A local government shall inform the department by the first day
9 of March of the amount of:

10 (a) Local public sources dedicated in the preceding calendar year
11 to finance public improvements authorized under chapter 39.89 RCW; and

12 (b) Tax allocation revenues derived in the preceding calendar year
13 from the imposition of regular property taxes on the increment value
14 and distributed to finance public improvements. Upon request of a
15 local government, the county assessor shall assist the local government
16 in determining the amount of tax allocation revenues derived in the
17 preceding calendar year and distributed to finance public improvements.

18 (3) If a local government fails to comply with subsection (2) of
19 this section, no tax may be imposed under section 301 of this act in
20 the subsequent fiscal year.

21 (4) A local government shall provide a report to the department by
22 March 1st of each year. The report shall contain the following
23 information:

24 (a) The amount of tax allocation revenues, taxes under section 301
25 of this act, and local public sources received by the local government
26 during the preceding calendar year, and a summary of how these revenues
27 were expended;

28 (b) The names of any businesses locating within the increment area
29 as a result of the public improvements undertaken by the local
30 government and financed in whole or in part with community
31 revitalization financing;

32 (c) The total number of permanent jobs created as a result of the
33 public improvements undertaken by the local government and financed in
34 whole or in part with community revitalization financing;

35 (d) The average wages and benefits received by all employees of
36 businesses locating within the increment area as a result of the public
37 improvements undertaken by the local government and financed in whole
38 or in part with community revitalization financing; and

1 (e) That the local government is in compliance with RCW
2 39.89.030(1)(f).

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

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

11 (a) "Public improvement costs" has the same meaning as in RCW
12 39.89.020.

13 (b) "Tax allocation revenues" has the same meaning as in RCW
14 39.89.020.

15 NEW SECTION. **Sec. 303.** A new section is added to chapter 82.32
16 RCW to read as follows:

17 (1) As a condition to imposing a sales and use tax under section
18 301 of this act, a city, town, or county must apply to the department
19 at least seventy-five days before the effective date of any such tax.
20 The application shall be in a form and manner prescribed by the
21 department and shall include but is not limited to information
22 establishing that the applicant is eligible to impose such a tax, the
23 anticipated effective date for imposing the tax, the estimated number
24 of years that the tax will be imposed, and the estimated amount of tax
25 revenue to be received in each fiscal year that the tax will be
26 imposed. For purposes of this section, "fiscal year" means the year
27 beginning July 1st and ending the following June 30th. The department
28 shall make available forms to be used for this purpose. As part of the
29 application, a city, town, or county must provide to the department a
30 copy of the ordinance creating the increment area as required in RCW
31 39.89.050. The department shall rule on completed applications within
32 sixty days of receipt. The department may begin accepting and
33 approving applications August 1, 2004. No new applications shall be
34 considered by the department after the thirtieth day of September of
35 the third year following the year in which the first application was
36 received by the department.

1 (2) The authority to impose the local option sales and use taxes
2 under section 301 of this act is on a first-come basis. Priority for
3 collecting the taxes authorized under section 301 of this act among
4 approved applicants shall be based on the date that the approved
5 application was received by the department. As a part of the approval
6 of applications under this section, the department shall approve the
7 amount of tax under section 301 of this act that an applicant may
8 impose. The amount of tax approved by the department shall not exceed
9 the lesser of one million dollars or the average amount of tax revenue
10 that the applicant estimates that it will receive in all fiscal years
11 through the imposition of a sales and use tax under section 301 of this
12 act. A city, town, or county shall not receive, in any fiscal year,
13 more revenues from taxes imposed under section 301 of this act than the
14 amount approved by the department. The department shall not approve
15 the receipt of more credit against the state sales and use tax than is
16 authorized under subsection (3) of this section.

17 (3) The amount of credit against the state sales and use tax is
18 limited as follows:

19 (a) Except as provided in this subsection (3), no more than five
20 million dollars of credit against the state sales and use tax may be
21 received by all cities, towns, and counties imposing a tax under
22 section 301 of this act.

23 (b) During the fiscal years beginning July 1, 2007, through June
24 30, 2010, and for each subsequent fiscal year, the total amount of
25 credit against the state sales and use tax that may be received by all
26 cities, towns, and counties imposing a tax under section 301 of this
27 act shall be increased as follows:

28 (i) In the fiscal year beginning July 1, 2007, the limit in (a) of
29 this subsection shall be increased by the same percentage as the
30 percentage increase in the assessed value of all taxable property
31 within this state from calendar year 2004 through calendar year 2005,
32 as determined by the department;

33 (ii) In the fiscal year beginning July 1, 2008, the limit in (a) of
34 this subsection shall be increased by the same percentage as the
35 percentage increase in the assessed value of all taxable property
36 within this state from calendar year 2004 through calendar year 2006,
37 as determined by the department;

1 (iii) In the fiscal year beginning July 1, 2009, and in each
2 subsequent fiscal year, the limit in (a) of this subsection shall be
3 increased by the same percentage as the percentage increase in the
4 assessed value of all taxable property within this state from calendar
5 year 2004 through calendar year 2007, as determined by the department.

6 (4) The credit against the state sales and use tax shall be
7 available to any city, town, or county imposing a tax under section 301
8 of this act only as long as the city, town, or county has outstanding
9 indebtedness under RCW 39.89.080.

10 (5) The department may adopt any rules under chapter 34.05 RCW it
11 considers necessary for the administration of sections 202 through 303
12 of this act.

13 **PART IV**
14 **BOND AUTHORIZATION**

15 **Sec. 401.** RCW 39.89.080 and 2001 c 212 s 8 are each amended to
16 read as follows:

17 (1) A local government designating an increment area and
18 authorizing the use of community revitalization financing may incur
19 general indebtedness, and issue general obligation bonds, to finance
20 the public improvements and retire the indebtedness in whole or in part
21 from tax allocation revenues it receives, subject to the following
22 requirements:

23 (a) The ordinance adopted by the local government creating the
24 increment area and authorizing the use of community revitalization
25 financing indicates an intent to incur this indebtedness and the
26 maximum amount of this indebtedness that is contemplated; and

27 (b) The local government includes this statement of the intent in
28 all notices required by RCW 39.89.050.

29 (2) The general indebtedness incurred under subsection (1) of this
30 section may be payable from other tax revenues, the full faith and
31 credit of the local government, and nontax income, revenues, fees, and
32 rents from the public improvements, as well as contributions, grants,
33 and nontax money available to the local government for payment of costs
34 of the public improvements or associated debt service on the general
35 indebtedness.

1 (3) In addition to the requirements in subsection (1) of this
2 section, a local government designating an increment area and
3 authorizing the use of community revitalization financing may require
4 the nonpublic participant to provide adequate security to protect the
5 public investment in the public improvement within the increment area.

6 (4) Bonds issued under this section shall be authorized by
7 ordinance of the local governing body and may be issued in one or more
8 series and shall bear such date or dates, be payable upon demand or
9 mature at such time or times, bear interest at such rate or rates, be
10 in such denomination or denominations, be in such form either coupon or
11 registered as provided in RCW 39.46.030, carry such conversion or
12 registration privileges, have such rank or priority, be executed in
13 such manner, be payable in such medium of payment, at such place or
14 places, and be subject to such terms of redemption with or without
15 premium, be secured in such manner, and have such other
16 characteristics, as may be provided by such ordinance or trust
17 indenture or mortgage issued pursuant thereto.

18 (5) The local government may annually pay into a fund to be
19 established for the benefit of bonds issued under this section a fixed
20 proportion or a fixed amount of any tax allocation revenues derived
21 from property or business activity within the increment area containing
22 the public improvements funded by the bonds, such payment to continue
23 until all bonds payable from the fund are paid in full. The local
24 government may also annually pay into the fund established in this
25 section a fixed proportion or a fixed amount of any revenues derived
26 from taxes imposed under section 301 of this act, such payment to
27 continue until all bonds payable from the fund are paid in full.
28 Revenues derived from taxes imposed under section 301 of this act are
29 subject to the use restriction in section 302 of this act.

30 (6) In case any of the public officials of the local government
31 whose signatures appear on any bonds or any coupons issued under this
32 chapter shall cease to be such officials before the delivery of such
33 bonds, such signatures shall, nevertheless, be valid and sufficient for
34 all purposes, the same as if such officials had remained in office
35 until such delivery. Any provision of any law to the contrary
36 notwithstanding, any bonds issued under this chapter are fully
37 negotiable.

1 (7) Notwithstanding subsections (4) through (6) of this section,
2 bonds issued under this section may be issued and sold in accordance
3 with chapter 39.46 RCW.

4 NEW SECTION. Sec. 402. A new section is added to chapter 39.89
5 RCW to read as follows:

6 A local government that issues bonds under RCW 39.89.080 to finance
7 public improvements may pledge for the payment of such bonds all or
8 part of any tax allocation revenues derived from the public
9 improvements. The local government may also pledge all or part of any
10 revenues derived from taxes imposed under section 301 of this act and
11 held in connection with the public improvements. All of such tax
12 revenues are subject to the use restriction in section 302 of this act.

13 NEW SECTION. Sec. 403. A new section is added to chapter 39.89
14 RCW to read as follows:

15 The bonds issued by a local government under RCW 39.89.080 to
16 finance public improvements shall not constitute an obligation of the
17 state of Washington, either general or special.

18 **PART V**
19 **MISCELLANEOUS**

20 NEW SECTION. Sec. 501. If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. Sec. 502. Part headings used in this act do not
25 constitute any part of the law.

26 NEW SECTION. Sec. 503. Nothing in this act shall be construed to
27 give port districts the authority to impose a sales or use tax under
28 chapter 82.14 RCW.

 --- END ---