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**HOUSE BILL 1285**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By** Representatives Kelley, Ericks, Probst, Green, VanDeWege, Williams, Sullivan, Morrell, Seaquist, Jacks, Maxwell, Simpson, Driscoll, and Orwall

Read first time 01/16/09.      Referred to Committee on Community & Economic Development & Trade.

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

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

**PART I**

**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 redevelopment of brownfields and blighted areas in the inner city;  
 14 lowers the cost of housing; and promotes efficient land use.    The  
 15 legislature finds that these activities generate revenue for the state  
 16 and that it is in the public interest to invest in these projects  
 17 through a credit against the state sales and use tax to those local  
 18 governments that can demonstrate the expected returns to the state.

1       **Sec. 102.** RCW 39.89.020 and 2001 c 212 s 2 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

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

7       (2) "Base year" means the first calendar year following the  
8 creation of an increment area.

9       (3) "Community revitalization financing" means the funding of  
10 public improvements using tax allocation revenues as authorized by RCW  
11 39.89.070 and section 202 of this act.

12       (4) "Department" means the department of revenue.

13       (5) "Excess excise taxes" means the amount of excise taxes received  
14 by the local government during the measurement year from taxable  
15 activity within the increment area over and above the amount of excise  
16 taxes received by the local government during the base year from  
17 taxable activity within the increment area. However, if a local  
18 government creates an increment area and reasonably determines that no  
19 activity subject to tax under chapters 82.08 and 82.12 RCW occurred in  
20 the twelve months immediately preceding the creation of the increment  
21 area within the boundaries of the area that became the increment  
22 area, "excess excise taxes" means the entire amount of excise taxes received  
23 by the local government during a calendar year period beginning with  
24 the calendar year immediately following the creation of the increment  
25 area and continuing with each measurement year thereafter.

26       (6) "Excise taxes" means local retail sales and use taxes  
27 authorized in RCW 82.14.030.

28       (7) "Increment area" means the geographic area from which taxes are  
29 to be appropriated to finance public improvements authorized under this  
30 chapter.

31       (8) "Increment value" means seventy-five percent of any increase in  
32 the assessed value of real property in an increment area due to the  
33 placement of new construction and improvements to property on the  
34 assessment rolls after the increment area is created, where the new  
35 construction or improvements occur entirely after the increment area is  
36 created. "Increment value" does not include any increase in the  
37 assessed value of real property representing new construction and  
38 improvements to property occurring after their initial placement on the

1 assessment rolls, except that for new construction which represents  
2 entire buildings increment value includes seventy-five percent of any  
3 increase in the assessed value of such new construction in the years  
4 following its initial placement on the assessment rolls. There is no  
5 increment value if the assessed value of real property in an increment  
6 area has not increased due to new construction and improvements to  
7 property occurring after the increment area is created.

8 (9) "Local government" means any city, town, county, port district,  
9 or any combination thereof.

10 ((+3)) (10) "Measurement year" means a calendar year, beginning  
11 with the calendar year following the base year and each calendar year  
12 thereafter, that is used annually to measure the amount of excess  
13 excise taxes required to be used to finance public improvement costs  
14 associated with public improvements financed in whole or in part by  
15 community revitalization financing.

16 (11) "Ordinance" means any appropriate method of taking legislative  
17 action by a local government.

18 ((+4)) (12) "Participating taxing authority" means a taxing  
19 authority that has entered into a written agreement with a local  
20 government for the use of community revitalization financing to the  
21 extent of allocating excess excise taxes to the local government for  
22 the purpose of financing all or a portion of the costs of designated  
23 public improvements.

24 (13) "Participating taxing district" means all taxing districts  
25 levying regular property taxes on real property within an increment  
26 area, where a local government has obtained written agreement for the  
27 use of community revitalization financing to finance all or a portion  
28 of the costs of designated public improvements as provided in RCW  
29 39.89.030(8). However, a fire protection district is not a  
30 participating taxing district unless it has entered into a signed,  
31 written agreement with a local government to provide limited funding  
32 under community revitalization financing as provided in RCW  
33 39.89.030(8)(a).

34 (14) "Public improvements" means:

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

37 (i) Street ((and)), road, bridge, and passenger rail construction  
38 and maintenance;

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

1 have been incurred before adoption of the ordinance authorizing the  
2 public improvements and the use of community revitalization financing  
3 to fund the costs of the public improvements.

4 ~~((+6))~~ (16) "Regular property taxes" means regular property taxes  
5 as defined in RCW 84.04.140, except: (a) Regular property taxes levied  
6 by port districts or public utility districts specifically for the  
7 purpose of making required payments of principal and interest on  
8 general indebtedness; ~~((and))~~ (b) regular property taxes levied by the  
9 state for the support of the common schools under RCW 84.52.065; and  
10 (c) regular property taxes levied under the authority of RCW 84.55.050  
11 that are limited to a specific purpose as provided in RCW  
12 84.55.050(4)(c). Regular property taxes do not include excess property  
13 tax levies that are exempt from the aggregate limits for junior and  
14 senior taxing districts as provided in RCW 84.52.043.

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

23 ~~((+8))~~ (18) "Tax allocation revenues" means those tax revenues  
24 derived from the ~~((imposition of))~~ receipt of excess excise taxes under  
25 section 202 of this act and from regular property taxes levied on the  
26 increment value and distributed to finance public improvements.

27 ~~((+9) "Increment area" means the geographic area from which taxes~~  
28 ~~are to be appropriated to finance public improvements authorized under~~  
29 ~~this chapter.~~

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

33 ~~((+11))~~ (19) "Taxing authority" means a governmental entity that  
34 imposes a sales or use tax under chapter 82.14 RCW upon the occurrence  
35 of any taxable event within a proposed or approved increment area.

36 (20) "Taxing district(~~(s)~~)" means a governmental entity that levies  
37 or has levied for it regular property taxes upon real property located  
38 within a proposed or approved increment area.

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

3       **Sec. 103.** RCW 39.89.030 and 2002 c 12 s 1 are each amended to read  
4 as follows:

5       A local government may finance public improvements using community  
6 revitalization financing subject to the following conditions:

7       (1) The local government ~~((adopts))~~ has adopted an ordinance  
8 designating an increment area within its boundaries and ~~((specifying))~~  
9 specified the public improvements proposed to be financed in whole or  
10 in part with the use of community revitalization financing. An  
11 increment area shall be geographically restricted to the location of  
12 the public improvement and adjacent locations that the local government  
13 finds to have a high likelihood of receiving direct positive business  
14 and economic impacts due to the public improvement, such as a  
15 neighborhood or a block. An increment area shall not encompass any one  
16 political jurisdiction in its entirety;

17       (2) The public improvements proposed to be financed in whole or in  
18 part using community revitalization financing are expected to encourage  
19 private development within the increment area and to increase the fair  
20 market value of real property within the increment area;

21       (3) The local government has entered or expects to enter into a  
22 contract with a private developer relating to the development of  
23 private improvements within the increment area or has received a letter  
24 of intent from a private developer relating to the developer's plans  
25 for the development of private improvements within the increment area;

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

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

35       ~~(5) In an increment area that includes any portion of a fire~~  
36 ~~protection district as defined in Title 52 RCW, the fire protection~~  
37 ~~district must agree to participate in the community revitalization~~

1 ~~financing of the project under chapter 212, Laws of 2001, for the~~  
2 ~~project to proceed. Approval by the fire protection district shall be~~  
3 ~~considered as part of the required participation by taxing districts~~  
4 ~~under subsection (4) of this section)) (5) The local government may not~~  
5 ~~use community revitalization financing to finance the costs associated~~  
6 ~~with the financing, design, acquisition, construction, equipping,~~  
7 ~~operating, maintaining, remodeling, repairing, and reequipping of~~  
8 ~~public facilities funded with taxes collected under RCW 82.14.048;~~

9 (6) The governing body of the local government must make a finding  
10 that community revitalization financing: (a) Will not be used for the  
11 purpose of relocating a business from outside the increment area, but  
12 within this state, into the increment area; (b) will improve the  
13 viability of existing business entities within the increment area; and  
14 (c) will be used exclusively in areas within the jurisdiction of the  
15 local government deemed in need of economic development and/or  
16 redevelopment, and absent the financing available under this act the  
17 proposed economic development and/or redevelopment would more than  
18 likely not occur;

19 (7) The governing body of the local government finds that the  
20 public improvements proposed to be financed in whole or in part using  
21 community revitalization financing are reasonably likely to:

22 (a) Increase private investment within the increment area;

23 (b) Increase employment within the increment area; and

24 (c) Generate, over the period of time that the local sales and use  
25 tax will be imposed under section 301 of this act, state and local  
26 property, sales, and use tax revenues that are equal to or greater than  
27 the respective state and local contributions made under this chapter;

28 (8) The local government obtains written agreement for the use of  
29 community revitalization financing to finance all or a portion of the  
30 costs of the designated public improvements from taxing districts that  
31 in the aggregate levy at least sixty percent of the regular property  
32 taxes on property within the increment area. The agreement must be  
33 authorized by the governing body of taxing districts that in the  
34 aggregate levy at least sixty percent of the regular property taxes on  
35 property within the increment area.

36 (a) A signed, written agreement from taxing districts that in the  
37 aggregate levy at least sixty percent of the regular property taxes  
38 within the increment area constitutes concurrence by all taxing

1 districts in the increment area in the public improvements and  
2 participation in the public improvements to the extent of providing  
3 limited funding under community revitalization financing authorized  
4 under this chapter. However, a fire protection district shall not be  
5 deemed to participate in the public improvements unless it has provided  
6 written notice to the local government of its decision to provide  
7 limited funding under community revitalization financing.

8 (b) For purposes of this subsection (8), "regular property taxes"  
9 means regular property taxes defined in RCW 84.04.140, except: (i)  
10 Regular property taxes levied by the state; and (ii) regular property  
11 taxes levied by a fire protection district if the fire protection  
12 district has not entered into a signed, written agreement with a local  
13 government to provide limited funding under community revitalization  
14 financing as provided in (a) of this subsection.

15 **Sec. 104.** RCW 39.89.050 and 2001 c 212 s 5 are each amended to  
16 read as follows:

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

19 ~~((+1))~~ (a) Obtain written agreement for the use of community  
20 revitalization financing to finance all or a portion of the costs of  
21 the designated public improvements from taxing districts ~~((that, in the~~  
22 aggregate, levy at least seventy five percent of the regular property  
23 tax on property within the increment area. A signed, written agreement  
24 from taxing districts that in the aggregate levy at least seventy five  
25 percent of the regular property tax within the increment area,  
26 constitutes concurrence by all taxing districts in the increment area  
27 in the public improvement and participation in the public improvement  
28 to the extent of providing limited funding under community  
29 revitalization financing authorized under this chapter. The agreement  
30 must be authorized by the governing body of taxing districts that in  
31 the aggregate levy at least seventy five percent of the regular  
32 property tax on property within the increment area)) as provided in RCW  
33 39.89.030(8); and

34 ~~((+2))~~ (b) Hold a public hearing on the proposed financing of the  
35 public improvement in whole or in part with community revitalization  
36 financing.



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

5        (ii) Notice must also be sent by United States mail to the property  
6 owners and the business enterprises located within the proposed  
7 increment area at least thirty days prior to the hearing. In  
8 implementing provisions under this act, the local governing body may  
9 also consult with business organizations, including the local chamber  
10 of commerce, and the office of minority and women's business  
11 enterprises to assist with providing appropriate notice to business  
12 enterprises and property owners for whom English is a second language.

13        (iii) Notices must describe the contemplated public improvements,  
14 estimate the costs of the public improvements, describe the portion of  
15 the costs of the public improvements to be borne by community  
16 revitalization financing, describe any other sources of revenue to  
17 finance the public improvements, describe the boundaries of the  
18 proposed increment area, and estimate the period during which community  
19 revitalization financing is contemplated to be used. The public  
20 hearing may be held by either the governing body of the local  
21 government, or a committee of the governing body that includes at least  
22 a majority of the whole governing body(~~(+and)~~).

23        ((+3+)) (2) In order to create an increment area, a local  
24 government must adopt an ordinance establishing the increment area  
25 that:

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

27        (b) Describes the boundaries of the increment area(~~(+)~~);

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

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

36        (e) Estimates the average amount of tax revenue to be received in  
37 all fiscal years through the imposition of a sales and use tax under  
38 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))i; and

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

5       (3) For purposes of this section, "fiscal year" means the year  
6 beginning July 1st and ending the following June 30th.

7       **Sec. 105.** RCW 39.89.060 and 2001 c 212 s 6 are each amended to  
8 read as follows:

9       The local government shall:

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

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

## 19                                       PART II

### 20   COMMUNITY REVITALIZATION FINANCING

#### 21 **USE OF TAX ALLOCATION REVENUES TO PAY THE COSTS OF PUBLIC IMPROVEMENTS**

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

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

29       (a) Each participating taxing district and the local government  
30 that created the increment area shall receive that portion of its  
31 regular property taxes produced by the rate of tax levied by or for the  
32 taxing district on the tax allocation base value for that community  
33 revitalization financing project in the taxing district, or upon the  
34 total assessed value of real property in the taxing district, whichever  
35 is smaller; and

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

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

31 (3) The apportionment of increases in assessed valuation in an  
32 increment area, and the associated distribution to the local government  
33 of receipts from regular property taxes that are imposed on the  
34 increment value, must cease when tax allocation revenues are no longer  
35 necessary or obligated to pay the costs of the public improvements.  
36 Any excess tax allocation revenues derived from regular property taxes  
37 and earnings on ~~((the))~~ such tax allocation revenues, remaining at the  
38 time the apportionment of tax receipts terminates, must be returned to

1 the county treasurer and distributed to the participating taxing  
2 districts that imposed regular property taxes, or had regular property  
3 taxes imposed for it, in the increment area for collection that year,  
4 in proportion to the rates of their regular property tax levies for  
5 collection that year.

6 NEW SECTION. **Sec. 202.** A new section is added to chapter 39.89  
7 RCW to read as follows:

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

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

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

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

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

36 (4) A local government shall provide the department accurate  
37 information describing the geographical boundaries of the increment

1 area at least seventy-five days before the effective date of the  
2 ordinance creating the increment area. The local government shall  
3 ensure that the boundary information provided to the department is kept  
4 current.

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

11 **PART III**  
12 **COMMUNITY REVITALIZATION FINANCING--STATE CONTRIBUTION**

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

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

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

33 (3) No tax may be imposed under this section before July 1, 2011.  
34 Before imposing a tax under this section, the city, town, or county  
35 shall first have received tax allocation revenues derived from either  
36 regular property taxes or excess excise taxes, or both, during the

1 preceding calendar year. The tax imposed under this section shall  
2 expire when the bonds issued under the authority of chapter 39.89 RCW  
3 are retired, but not more than twenty-five years after the tax is first  
4 imposed.

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

7 (a) The tax shall first be imposed on the first day of a fiscal  
8 year.

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

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

13 (i) The amount of tax receipts totals the amount of the state  
14 contribution;

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

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

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

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

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

32 (a) If the county has created an increment area before the city or  
33 town, the tax imposed by the county shall be credited against the tax  
34 imposed by the city or town, the purpose of such credit is to give  
35 priority to the county tax; and

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

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

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

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

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

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

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

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

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

35 (f) "Measurement year" means a calendar year, beginning with the  
36 calendar year following the base year and each calendar year  
37 thereafter, that is used annually to measure the amount of excess

1 excise taxes required to be used to finance public improvement costs  
2 associated with public improvements financed in whole or in part by  
3 community revitalization financing.

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

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

8 (ii) Excess state excise taxes received by the state during the  
9 preceding calendar year.

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

14 (i) "Tax allocation revenues" has the same meaning as in RCW  
15 39.89.020.

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

18 (1) Moneys collected from the taxes imposed under section 301 of  
19 this act shall be used only for the purpose of principal and interest  
20 payments on bonds issued under the authority of RCW 39.89.080 and must  
21 be matched with an amount from local public sources dedicated through  
22 December 31st of the previous calendar year to finance public  
23 improvements authorized under chapter 39.89 RCW. Such local public  
24 sources include but are not limited to private monetary contributions  
25 and tax allocation revenues. Local public sources are dedicated to  
26 finance public improvements if they are actually expended to pay public  
27 improvement costs or are required by law or an agreement to be used  
28 exclusively to pay public improvement costs.

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

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

33 (b) Tax allocation revenues derived in the preceding calendar year  
34 from the imposition of regular property taxes on the increment value  
35 and distributed to finance public improvements. Upon request of a  
36 local government, the county assessor shall assist the local government



1 in determining the amount of tax allocation revenues derived in the  
2 preceding calendar year and distributed to finance public improvements.

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

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

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

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

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

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

24 (e) That the local government is in compliance with RCW  
25 39.89.030(6)(c).

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

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

34 (a) "Public improvement costs" has the same meaning as in RCW  
35 39.89.020.

36 (b) "Tax allocation revenues" has the same meaning as in RCW  
37 39.89.020.

1        NEW SECTION.    **Sec. 303.**    A new section is added to chapter 82.32

2    RCW to read as follows:

3        (1) As a condition to imposing a sales and use tax under section  
4    301 of this act, a city, town, or county must apply to the department  
5    for approval at least seventy-five days before the effective date of  
6    any such tax. The application shall be in a form and manner prescribed  
7    by the department and shall include but is not limited to information  
8    establishing that the applicant is eligible to impose such a tax, the  
9    anticipated effective date for imposing the tax, the estimated number  
10   of years that the tax will be imposed, and the estimated amount of tax  
11   revenue to be received in each fiscal year that the tax will be  
12   imposed. For purposes of this section, "fiscal year" means the year  
13   beginning July 1st and ending the following June 30th. The department  
14   shall make available forms to be used for this purpose. As part of the  
15   application, a city, town, or county must provide to the department a  
16   copy of the ordinance creating the increment area as required in RCW  
17   39.89.050. The department shall approve or disapprove completed  
18   applications within sixty days of receipt. The department may begin  
19   accepting and approving applications August 1, 2009. No new  
20   applications shall be considered by the department after the thirtieth  
21   day of September of the third year following the year in which the  
22   first application was received by the department.

23        (2) The authority to impose the local option sales and use taxes  
24   under section 301 of this act is on a first-come basis. Priority for  
25   collecting the taxes authorized under section 301 of this act among  
26   approved applicants shall be based on the date that the approved  
27   application was received by the department. As a part of the approval  
28   of applications under this section, the department shall approve the  
29   amount of tax under section 301 of this act that an applicant may  
30   impose. The amount of tax approved by the department shall not exceed  
31   the lesser of one million dollars or the average amount of tax revenue  
32   that the applicant estimates that it will receive in all fiscal years  
33   through the imposition of a sales and use tax under section 301 of this  
34   act. A city, town, or county shall not receive, in any fiscal year,  
35   more revenues from taxes imposed under section 301 of this act than the  
36   amount approved by the department. The department shall not approve  
37   the receipt of more credit against the state sales and use tax than is  
38   authorized under subsection (3) of this section.

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

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

7 (b) During the fiscal years beginning July 1, 2012, through June  
8 30, 2015, and for each subsequent fiscal year, the total amount of  
9 credit against the state sales and use tax that may be received by all  
10 cities, towns, and counties imposing a tax under section 301 of this  
11 act shall be increased as follows:

12 (i) In the fiscal year beginning July 1, 2012, the limit in (a) of  
13 this subsection shall be increased by the same percentage as the  
14 percentage increase in the assessed value of all taxable property  
15 within this state from calendar year 2009 through calendar year 2010,  
16 as determined by the department;

17 (ii) In the fiscal year beginning July 1, 2013, the limit in (a) of  
18 this subsection shall be increased by the same percentage as the  
19 percentage increase in the assessed value of all taxable property  
20 within this state from calendar year 2009 through calendar year 2011,  
21 as determined by the department;

22 (iii) In the fiscal year beginning July 1, 2014, and for each  
23 subsequent fiscal year, the limit in (a) of this subsection shall be  
24 increased by the same percentage as the percentage increase in the  
25 assessed value of all taxable property within this state from calendar  
26 year 2009 through calendar year 2012, as determined by the department.

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

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

34 **PART IV**  
35 **BOND AUTHORIZATION**

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

3       (1) A local government designating an increment area and  
4 authorizing the use of community revitalization financing may incur  
5 general indebtedness, and issue general obligation bonds, to finance  
6 the public improvements and retire the indebtedness in whole or in part  
7 from tax allocation revenues it receives, subject to the following  
8 requirements:

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

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

15       (2) The general indebtedness incurred under subsection (1) of this  
16 section may be payable from other tax revenues, the full faith and  
17 credit of the local government, and nontax income, revenues, fees, and  
18 rents from the public improvements, as well as contributions, grants,  
19 and nontax money available to the local government for payment of costs  
20 of the public improvements or associated debt service on the general  
21 indebtedness.

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

27       (4) Bonds issued under this section shall be authorized by  
28 ordinance of the local governing body and may be issued in one or more  
29 series and shall bear such date or dates, be payable upon demand or  
30 mature at such time or times, bear interest at such rate or rates, be  
31 in such denomination or denominations, be in such form either coupon or  
32 registered as provided in RCW 39.46.030, carry such conversion or  
33 registration privileges, have such rank or priority, be executed in  
34 such manner, be payable in such medium of payment, at such place or  
35 places, and be subject to such terms of redemption with or without  
36 premium, be secured in such manner, and have such other  
37 characteristics, as may be provided by such ordinance or trust  
38 indenture or mortgage issued pursuant thereto.

1       (5) The local government may annually pay into a fund to be  
2 established for the benefit of bonds issued under this section a fixed  
3 proportion or a fixed amount of any tax allocation revenues derived  
4 from property or business activity within the increment area containing  
5 the public improvements funded by the bonds, such payment to continue  
6 until all bonds payable from the fund are paid in full. The local  
7 government may also annually pay into the fund established in this  
8 section a fixed proportion or a fixed amount of any revenues derived  
9 from taxes imposed under section 301 of this act, such payment to  
10 continue until all bonds payable from the fund are paid in full.  
11 Revenues derived from taxes imposed under section 301 of this act are  
12 subject to the use restriction in section 302 of this act.

13       (6) In case any of the public officials of the local government  
14 whose signatures appear on any bonds or any coupons issued under this  
15 chapter shall cease to be such officials before the delivery of such  
16 bonds, such signatures shall, nevertheless, be valid and sufficient for  
17 all purposes, the same as if such officials had remained in office  
18 until such delivery. Any provision of any law to the contrary  
19 notwithstanding, any bonds issued under this chapter are fully  
20 negotiable.

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

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

26       A local government that issues bonds under RCW 39.89.080 to finance  
27 public improvements may pledge for the payment of such bonds all or  
28 part of any tax allocation revenues derived from the public  
29 improvements. The local government may also pledge all or part of any  
30 revenues derived from taxes imposed under section 301 of this act and  
31 held in connection with the public improvements. All of such tax  
32 revenues are subject to the use restriction in section 302 of this act.

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

35       The bonds issued by a local government under RCW 39.89.080 to

1 finance public improvements shall not constitute an obligation of the  
2 state of Washington, either general or special.

3 **PART V**  
4 **MISCELLANEOUS**

5 NEW SECTION. **Sec. 501.** If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 502.** Part headings used in this act do not  
10 constitute any part of the law.

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

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