ENGROSSED SECOND SUBSTITUTE SENATE BILL 6609

State of Washington 61st Legislature 2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Kastama, Delvin, Hobbs, Kilmer, Gordon, Kauffman, and Shin)

READ FIRST TIME 03/05/10.

AN ACT Relating to infrastructure financing for local governments; amending RCW 39.104.020, 39.104.040, 39.104.050, 39.104.060, 39.104.080, 39.104.100, 39.104.110, 82.14.505, 82.14.510, 82.32.765, and 82.14.475; reenacting and amending RCW 39.102.020; and providing an expiration date.

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

Sec. 1. RCW 39.104.020 and 2009 c 270 s 102 are each amended to read as follows:

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

(1) "Annual state contribution limit" means two million five hundred thousand dollars statewide per fiscal year ((~~and~~)), plus the additional amounts ((~~designated~~)) approved for demonstration projects in RCW 82.14.505.

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

(3) "Bond" means a bond, a note or other evidence of indebtedness, including but not limited to a lease-purchase agreement or an executory conditional sales contract.

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

((~~(4)~~)) (5) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

((~~(5)~~)) (6) "Local government" means any city, town, county, and port district.

((~~(6)~~)) (7) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local revitalization financing.

((~~(7)~~)) (8) "Local revitalization financing" means the use of revenues from local public sources, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, and revenues received from the local option sales and use tax authorized in RCW 82.14.510, dedicated to pay the principal and interest on bonds authorized under RCW 39.104.110.

((~~(8)~~)) (9) "Local sales and use tax increment" means the estimated annual increase in local sales and use taxes as determined by the local government in the calendar years following the approval of the revitalization area by the department from taxable activity within the revitalization area.

((~~(9)~~)) (10) "Local sales and use taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

((~~(10)~~)) (11) "Ordinance" means any appropriate method of taking legislative action by a local government.

((~~(11)~~)) (12) "Participating local government" means a local government having a revitalization area within its geographic boundaries that has taken action as provided in RCW 39.104.070(1) to allow the use of all or some of its local sales and use tax increment or other revenues from local public sources dedicated for local revitalization financing.

((~~(12)~~)) (13) "Participating taxing district" means a ((~~local government having~~)) taxing district that:

(a) Has a revitalization area wholly or partially within its geographic boundaries ((~~that~~));

(b) Levies or has levied for it regular property taxes as defined in this section; and

(c) Has not taken action as provided in RCW 39.104.060(2).

((~~(13)~~)) (14) "Property tax allocation revenue base value" means the assessed value of real property located within a revitalization area, less the property tax allocation revenue value.

((~~(14)~~)) (15)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revitalization area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revitalization area is approved by the department;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revitalization area is approved by the department;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revitalization area is approved by the department.

(ii) Increases in the assessed value of real property in a revitalization area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revitalization area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

((~~(15)~~)) (16) "Public improvement costs" means the costs of:

(a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local revitalization financing to fund the costs of the public improvements.

((~~(16)~~)) (17) "Public improvements" means:

(a) Infrastructure improvements within the revitalization area that include:

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

(ii) Water and sewer system construction and improvements;

(iii) Sidewalks, streetlights, landscaping, and streetscaping;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities, recreational areas, and environmental remediation;

(vii) Storm water and drainage management systems;

(viii) Electric, gas, fiber, and other utility infrastructures; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the revitalization area, including the management and promotion of retail trade activities in the revitalization area;

(ii) Providing maintenance and security for common or public areas in the revitalization area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

((~~(17)~~)) (18) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

((~~(18)~~)) (19)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: ((~~(a)~~)) (i) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; ((~~(b)~~)) (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and ((~~(c)~~)) (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose.

(b) "Regular property taxes" do not include:

(i) Excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043; and

(ii) Property taxes that are specifically excluded through an interlocal agreement between the sponsoring local government and a participating taxing district as set forth in RCW 39.104.060(3).

((~~(19)~~)) (20)(a) "Revenues from local public sources" means:

(i) The local sales and use tax amounts received as a result of interlocal agreement, local sales and use tax amounts from sponsoring local governments based on its local sales and use tax increment, and local property tax allocation revenues, which are dedicated by a sponsoring local government, participating local governments, and

participating taxing districts, for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources and amounts received by taxing districts as set forth by an interlocal agreement as described in RCW 39.104.060(4), which are dedicated for the payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

((~~(20)~~)) (21) "Revitalization area" means the geographic area adopted by a sponsoring local government and approved by the department, from which local sales and use tax increments are estimated and property tax allocation revenues are derived for local revitalization financing.

((~~(21)~~)) (22) "Sponsoring local government" means a city, town, county, or any combination thereof, that adopts a revitalization area.

((~~(22)~~)) (23) "State contribution" means the lesser of:

(a) Five hundred thousand dollars;

(b) The project award amount approved by the department as provided in RCW 39.104.100 or 82.14.505; or

(c) The total amount of revenues from local public sources dedicated in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis. Revenues from local public sources dedicated in the preceding calendar year that are in excess of the project award may be carried forward and used in later years for the purpose of this subsection ((~~(22)~~)) (23)(c).

((~~(23)~~)) (24) "State property tax increment" means the estimated amount of annual tax revenues estimated to be received by the state from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as determined by the sponsoring local

government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

((~~(24)~~)) (25) "State sales and use tax increment" means the estimated amount of annual increase in state sales and use taxes to be received by the state from taxable activity within the revitalization area in the years following the approval of the revitalization area by the department as determined by the sponsoring local government in an application under RCW 39.104.100 and updated periodically as required in RCW 82.32.765.

((~~(25)~~)) (26) "State sales and use taxes" means state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.510 for the applicable revitalization area, imposed on the same taxable events that are credited against the state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020.

((~~(26)~~)) (27) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revitalization area.

Sec. 2. RCW 39.104.040 and 2009 c 270 s 104 are each amended to read as follows:

(1) Before adopting an ordinance creating the revitalization area, a sponsoring local government must:

(a) Provide notice to all taxing districts that levy or have levied for it regular property taxes and local governments with geographic boundaries within the proposed revitalization area of the sponsoring local government's intent to create a revitalization area. Notice must be provided in writing to the governing body of the taxing districts and local governments at least ((~~thirty~~)) sixty days in advance of the public hearing as required by (b) of this subsection. The notice must include at least the following information:

(i) The name of the proposed revitalization area;

(ii) The date for the public hearing as required by (b) of this subsection;

(iii) The earliest anticipated date when the sponsoring local government will take action to adopt the proposed revitalization area; and

(iv) The name of a contact person with phone number of the sponsoring local government and mailing address where a copy of an ordinance adopted under RCW 39.104.050 and 39.104.060 may be sent; and

(b) Hold a public hearing on the proposed financing of the public improvements in whole or in part with local revitalization financing. Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed revitalization area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed revitalization area. Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by local revitalization financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed revitalization area, and estimate the period during which local revitalization financing is contemplated to be used. The public hearing may be held by either the governing body of the sponsoring local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) To create a revitalization area, a sponsoring local government must adopt an ordinance establishing the revitalization area that:

(a) Describes the public improvements proposed to be made in the revitalization area;

(b) Describes the boundaries of the revitalization area, subject to the limitations in RCW 39.104.050;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local revitalization financing;

(d) Estimates the time during which local property tax allocation revenues, and other revenues from local public sources, such as amounts of local sales and use taxes from participating local governments, are to be used for local revitalization financing;

(e) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts ((~~that have not adopted an ordinance as described in RCW 39.104.060 to be removed as a participating taxing district~~)) and the regular property taxes that must be used to calculate property tax allocation revenues;

(f) Finds that all of the requirements in RCW 39.104.030 are met;

(g) Provides the anticipated rate of sales and use tax under RCW 82.14.510 that the local government will impose if awarded a state contribution under RCW 39.104.100;

(h) Provides the anticipated date when the criteria for the sales and use tax in RCW 82.14.510 will be met and the anticipated date when the sales and use tax in RCW 82.14.510 will be imposed.

(3) The sponsoring local government must deliver a certified copy of the adopted ordinance to the county treasurer, county assessor, the governing body of each participating taxing authority and participating taxing district within which the revitalization area is located, and the department.

Sec. 3. RCW 39.104.050 and 2009 c 270 s 105 are each amended to read as follows:

The designation of a revitalization area is subject to the following limitations:

(1)(a) Except as provided in (b) of this subsection, no revitalization area may have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW, any part of a revenue development area created under chapter 39.102 RCW, any part of an increment area under chapter 39.89 RCW, or any part of another revitalization area under this chapter;

(b) A revitalization area's boundaries may include all or a portion of an existing increment area if:

(i) The state of Washington has loaned money for environmental cleanup on such area in order to stimulate redevelopment of brownfields;

(ii) The environmental cleanup, for which the state's loans were intended, has been completed; and

(iii) The sponsoring local government determines the creation of the revitalization area is necessary for redevelopment and protecting the state's investment by increasing property tax revenue;

(2) A revitalization area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revitalization area;

(3) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(4) The public improvements financed through bonds issued under RCW 39.104.110 must be located in the revitalization area;

(5) A revitalization area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government at the time the revitalization area is created;

(6) The boundaries of the revitalization area may not be changed for the time period that local property tax allocation revenues, local sales and use taxes of participating local governments, and the local sales and use tax under RCW 82.14.510 are used to pay bonds issued under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis, as provided under this chapter; and

(7) A revitalization area must be geographically restricted to the location of the public improvement and adjacent locations that the sponsoring local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block.

Sec. 4. RCW 39.104.060 and 2009 c 270 s 106 are each amended to read as follows:

(1) Participating taxing districts must allow the use of all of their local property tax allocation revenues for local revitalization financing.

(2)(a) If a taxing district does not want to allow the use of its property tax revenues for the local revitalization financing of public improvements in a revitalization area, its governing body must adopt an ordinance to remove itself as a participating taxing district and must notify the sponsoring local government.

(b) The taxing district must provide a copy of the adopted ordinance and notice to the sponsoring local government creating the revitalization area before the anticipated date that the sponsoring local government proposes to adopt the ordinance creating the revitalization area as provided in the notice required by RCW 39.104.040(1)(a).

<u>(3) If a taxing district wants to become a participating taxing district by allowing one or more but not all of its regular property tax levies to be used for the calculation of local property tax</u>

allocation revenues, it may do so through an interlocal agreement specifying the regular property taxes that will be used for calculating its local property tax allocation revenues. This subsection does not authorize a taxing district to allow the use of only part of one or more of its regular property tax levies by the sponsoring local government.

(4) If a taxing district wants to participate on a partial basis by providing a specified amount of money to a sponsoring local government to be used for local revitalization financing for a specified amount of time, it may do so through an interlocal agreement. However, the taxing district must adopt an ordinance as described in subsection (2) of this section to remove itself as a participating taxing district for purposes of calculating property tax allocation revenues and instead partially participate through an interlocal agreement outlining the specifics of its participation.

Sec. 5. RCW 39.104.080 and 2009 c 270 s 201 are each amended to read as follows:

(1) Commencing in the second calendar year following the creation of a revitalization area by a sponsoring local government, the county treasurer ((~~shall~~)) must distribute receipts from regular taxes imposed on real property located in the revitalization area as follows:

(a) Each participating taxing district and the sponsoring local government must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local revitalization financing project in the taxing district; and

(b) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revitalization area. However, if there is no property tax allocation revenue value, the sponsoring local government may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating

taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revitalization area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local revitalization financing.

(2) The county assessor ((~~shall~~)) must determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The distribution of local property tax allocation revenue to the sponsoring local government must cease when local property tax allocation revenues are no longer obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revitalization area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revitalization area of that portion of the sponsoring local government's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that revitalization area is declared to be a public purpose of and benefit to the sponsoring local government and each participating taxing district.

(5) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring local government and participating taxing district or the consistency of any such levies

with the uniformity requirement of Article VII, section 1 of the state Constitution.

(6) This section does not apply to a revitalization area that has boundaries that include all or a portion of the boundaries of an increment area created under chapter 39.89 RCW.

Sec. 6. RCW 39.104.100 and 2009 c 270 s 401 are each amended to read as follows:

(1) Prior to applying to the department to receive a state contribution, a sponsoring local government shall adopt a revitalization area within the limitations in RCW 39.104.050 and in accordance with RCW 39.104.040.

(2)(a) As a condition to imposing a sales and use tax under RCW 82.14.510, a sponsoring local government must apply to the department and be approved for a project award amount. The application must be in a form and manner prescribed by the department and include, but not be limited to:

((~~(a)~~)) (i) Information establishing that over the period of time that the local sales and use tax will be imposed under RCW 82.14.510, increases in state and local property, sales, and use tax revenues as a result of public improvements in the revitalization area will be equal to or greater than the respective state and local contributions made under this chapter;

((~~(b)~~)) (ii) Information demonstrating that the sponsoring local government will meet the requirements necessary to receive the full amount of state contribution it is requesting on an annual basis;

((~~(c)~~)) (iii) The amount of state contribution it is requesting;

((~~(d)~~)) (iv) The anticipated effective date for imposing the tax under RCW 82.14.510;

((~~(e)~~)) (v) The estimated number of years that the tax will be imposed;

((~~(f)~~)) (vi) The anticipated rate of tax to be imposed under RCW 82.14.510, subject to the rate-setting conditions in RCW 82.14.510(3), should the sponsoring local government be approved for a project award; and

((~~(g)~~)) (vii) The anticipated date when bonds under RCW 39.104.110 will be issued.

(b) The department ((~~shall~~)) must make available electronic forms to be used for this purpose. As part of the application, each applicant must provide to the department a copy of the adopted ordinance creating the revitalization area as required in RCW 39.104.040, copies of any adopted interlocal agreements from participating local governments, and any notices from taxing districts that elect not to be a participating taxing district.

(3)(a) Project awards must be determined on:

(i) A first-come basis for applications completed in their entirety and submitted electronically;

(ii) The availability of a state contribution;

(iii) Whether the sponsoring local government would be able to generate enough tax revenue under RCW 82.14.510 to generate the amount of project award requested.

(b) The total of all project awards may not exceed the annual state contribution limit.

(c) If the level of available state contribution is less than the amount requested by the next available applicant, the applicant must be given the first opportunity to accept the lesser amount of state contribution but only if the applicant produces a new application within sixty days of being notified by the department and the application describes the impact on the proposed project as a result of the lesser award in addition to new application information outlined in subsection (2) of this section.

(d) Applications that are not approved for a project award due to lack of available state contribution must be retained on file by the department in order of the date of their receipt.

(e) Once total project awards reach the amount of annual state contribution limit, no more applications will be accepted.

(f) If the annual contribution limit is increased by making additional funds available for applicants that apply on a first-come basis, applications will be accepted again beginning sixty days after the effective date of the increase. However, in the time period before any new applications are accepted, all sponsoring local governments with a complete application already on file with the department must be provided an opportunity to either withdraw their application or update the information in the application. The updated application must be for a project that is substantially the same as the project in the

original application. The department must consider these applications, in the order originally submitted, for project awards prior to considering any new applications.

(4) The department ((~~shall~~)) must notify the sponsoring local government of approval or denial of a project award within sixty days of the department's receipt of the sponsoring local government's application. Determination of a project award by the department is final. Notification must include the earliest date when the tax authorized under RCW 82.14.510 may be imposed, subject to conditions in chapter 82.14 RCW. The project award notification must specify the rate requested in the application and any adjustments to the rate that would need to be made based on the project award and rate restrictions in RCW 82.14.510.

(5) The department must begin accepting applications on September 1, 2009.

Sec. 7. RCW 39.104.110 and 2009 c 270 s 701 are each amended to read as follows:

(1) A sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may incur general indebtedness, ((~~and — issue~~)) including issuing general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local revitalization financing it receives, subject to the following requirements:

(a)(i) The ordinance adopted by the sponsoring local government creating the revitalization area and authorizing the use of local revitalization financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

((~~(b)~~)) (ii) The sponsoring local government includes this statement of ((~~the~~)) intent in all notices required by RCW 39.104.040; or

(b) The sponsoring local government adopts a resolution, after opportunity for public comment, that indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues,

fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government creating a revitalization area and authorizing the use of local revitalization financing may require any nonpublic participants to provide adequate security to protect the public investment in the public improvement within the revitalization area.

(4) Bonds issued under this section must be authorized by ordinance of the sponsoring local government and may be issued in one or more series and must bear a date or dates, be payable upon demand or mature at a time or times, bear interest at a rate or rates, be in a denomination or denominations, be in a form either coupon or registered as provided in RCW 39.46.030, carry conversion or registration privileges, have a rank or priority, be executed in a manner, be payable in a medium of payment, at a place or places, and be subject to terms of redemption with or without premium, be secured in a manner, and have other characteristics, as may be provided by an ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may:

(a) Annually pay into a special fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local property tax allocation revenues derived from property within the revitalization area containing the public improvements funded by the bonds, the payment to continue until all bonds payable from the fund are paid in full((~~. The local government may also~~));

(b) Annually pay into the special fund established ((~~in~~)) pursuant to this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under RCW 82.14.510, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under RCW 82.14.510 are subject to the use restriction in RCW 82.14.515; and

(c) Issue revenue bonds payable from any or all revenues deposited in the special fund established pursuant to this section.

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

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

Sec. 8. RCW 82.14.505 and 2009 c 270 s 402 are each amended to read as follows:

(1) Demonstration projects are designated to determine the feasibility of local revitalization financing. For the purpose of this section, "annual state contribution limit" means ((~~two million two hundred fifty~~)) four million two hundred thousand dollars statewide per fiscal year.

(a) Notwithstanding RCW 39.104.100, the department ((~~shall~~)) must approve each demonstration project for 2009 as follows:

((~~(a)~~)) (i) The Whitman county Pullman/Moscow corridor improvement project award ((~~shall~~)) may not exceed two hundred thousand dollars;

((~~(b)~~)) (ii) The University Place improvement project award ((~~shall~~)) may not exceed five hundred thousand dollars;

((~~(c)~~)) (iii) The Tacoma international financial services area/Tacoma dome project award ((~~shall~~)) may not exceed five hundred thousand dollars;

((~~(d)~~)) (iv) The Bremerton downtown improvement project award ((~~shall~~)) may not exceed three hundred thirty thousand dollars;

((~~(e)~~)) (v) The Auburn downtown redevelopment project award ((~~shall~~)) may not exceed two hundred fifty thousand dollars;

((~~(f)~~)) (vi) The Vancouver Columbia waterfront/downtown project award ((~~shall~~)) may not exceed two hundred twenty thousand dollars; and

((~~(g)~~)) (vii) The Spokane University District project award ((~~shall~~)) may not exceed two hundred fifty thousand dollars.

(b) Notwithstanding RCW 39.104.100, the department must approve

each demonstration project for 2010 meeting the requirements in subsection (2)(c) of this section as follows:

(i) The Richland revitalization area for industry, science and education project award may not exceed three hundred thirty thousand dollars;

(ii) The Lacey gateway town center project award may not exceed five hundred thousand dollars;

(iii) The Mill Creek east gateway planned urban village revitalization area project award may not exceed three hundred thirty thousand dollars;

(iv) The Puyallup river road revitalization area project award may not exceed two hundred fifty thousand dollars;

(v) The Renton south Lake Washington project award may not exceed five hundred thousand dollars; and

(vi) The New Castle downtown project may not exceed forty thousand dollars.

(2)(a) Local government sponsors of demonstration projects under subsection (1)(a) of this section must submit to the department no later than September 1, 2009, documentation that substantiates that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009.

(b) Sponsoring local government of demonstration projects under subsection (1)(b) of this section must update and resubmit to the department no later than September 1, 2010, the application already on file with the department to substantiate that the project has met the conditions, limitations, and requirements provided in chapter 270, Laws of 2009 and this act and the project is substantially the same as the project in the original application submitted to the department in 2009.

(c) The department must not approve any resubmitted application unless an economic analysis by a qualified researcher at the department of economics at the University of Washington confirms that there is an eighty-five percent probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the project and determines that net state tax revenue will increase as a result of the project by an amount that equals or exceeds the award authorized in subsection (1)(b) of this section. Prior to submitting the economic analysis to the department, the qualified

researcher must consult with the economic development commission established in chapter 43.162 RCW regarding his or her preliminary findings. The final economic analysis must include comments and recommendations of the economic development commission.

(3) Within ((~~sixty~~)) ninety days of such submittal, the economic analysis in subsection (2)(c) of this section must be completed and the department ((~~shall~~)) must either approve demonstration projects that have met these conditions, limitations, and requirements or deny resubmitted applications that have not met these conditions, limitations, and requirements.

(4) Local government sponsors of demonstration projects may elect to decline the project awards as designated in this section, and may elect instead to submit applications according to the process described in RCW 39.104.100.

(5) If a demonstration project listed in subsection (1)(b) of this section does not update and resubmit its application to the department by the deadline specified in subsection (2)(b) of this section or if the demonstration project withdraws its application, the associated dollar amounts may not be approved for another project and may not be considered part of the annual state contribution limit under RCW 39.104.020(1).

Sec. 9. RCW 82.14.510 and 2009 c 270 s 601 are each amended to read as follows:

(1) Any city or county that has been approved for a project award under RCW 39.104.100 may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department or the community economic revitalization board under chapter 39.104, 39.100, or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under RCW 39.104.100 over ten months.

(4) The department, upon request, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under RCW 39.104.100, it may not be increased.

(5)(a) Except as provided in (c) of this subsection, no tax may be imposed under the authority of this section before:

(i) July 1, 2011;

(ii) July 1st of the second calendar year following the year in which the department approved the application made under RCW 39.104.100;

(iii) The state sales and use tax increment and state property tax increment for the preceding calendar year equal or exceed the amount of the project award approved by the department under RCW 39.104.100; and

(iv) Bonds have been issued according to RCW 39.104.110.

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of RCW 39.104.110 are retired or twenty-five years after the tax is first imposed.

(c) For a demonstration project described in RCW 82.14.505(1)(a), no tax may be imposed under the authority of this section before:

(i) July 1, 2010; and

(ii) Bonds have been issued according to RCW 39.104.110.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue distributed to all sponsoring and cosponsoring local governments from taxes imposed under this section ((~~by all cities and counties~~)) equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one revitalization area within its jurisdiction, the city or county may impose a sales and use tax under this section for each revitalization area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with RCW 82.32.765, no tax may be distributed in the subsequent fiscal year until such time as the

city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

(10)(a) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

(i) The state contribution;

(ii) The amount of project award granted by the department as provided in RCW 39.104.100; or

(iii) The total amount of revenues from local public sources dedicated <u>or, in the case of carry forward revenues, deemed dedicated</u> in the preceding calendar year, as reported in the required annual report under RCW 82.32.765.

(b) A city or county may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in RCW 39.104.020 apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

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

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020.

Sec. 10. RCW 82.32.765 and 2009 c 270 s 501 are each amended to read as follows:

(1) A sponsoring local government receiving a project award under

RCW 39.104.100 must provide a report to the department by March 1st of each year beginning March 1st after the project award has been approved. The report must contain the following information:

(a) The amounts of local property tax allocation revenues received in the preceding calendar year broken down by sponsoring local government and participating taxing district;

(b) The amount of state property tax allocation revenues estimated to have been received by the state in the preceding calendar year;

(c) The amount of local sales and use tax and other revenue from local public sources dedicated by any participating local government used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(d) The amount of local sales and use tax dedicated by the sponsoring local government, as it relates to the sponsoring local government's local sales and use tax increment, used for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis;

(e) The amounts, other than those listed in (a) through (d) of this subsection, from local public sources, broken down by type or source, used for payment of bonds under RCW 39.104.110 or public improvement costs within the revitalization area on a pay-as-you-go basis in the preceding calendar year;

(f) The anticipated date when bonds under RCW 39.104.110 are expected to be retired;

(g) The names of any businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(h) An estimate of the cumulative number of permanent jobs created in the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(i) An estimate of the average wages and benefits received by all employees of businesses locating within the revitalization area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local revitalization financing;

(j) A list of public improvements financed by bonds issued under RCW 39.104.110 and the date on which the bonds are anticipated to be retired;

(k) That the sponsoring local government is in compliance with RCW 39.104.030;

(l) At least once every three years, updated estimates of the amounts of state and local sales and use tax increments estimated to have been received since the approval by the department of the project award under RCW 39.104.100; ((~~and~~))

(m) The amount of revenues from local public sources that (i) were expended in prior years for the payment of bonds under RCW 39.104.110 and public improvement costs within the revitalization area on a pay-as-you-go basis in prior calendar years that were in excess of the project award amount for that year and are carried forward for dedication in future years, (ii) are deemed dedicated to payment of bonds or public improvement costs in the calendar year for which the report is prepared, and (iii) remain available for dedication in future years; and

(n) Any other information required by the department to enable the department to fulfill its duties under this chapter and RCW 82.14.510.

(2) The department ((~~shall~~)) must make a report available to the public and the legislature by June 1st of each year. The report ((~~shall~~)) must include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

Sec. 11. RCW 39.102.020 and 2009 c 267 s 1 are each reenacted and amended to read as follows:

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

(1) "Annual state contribution limit" means seven million five hundred thousand dollars statewide per fiscal year.

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

(3) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(4) "Demonstration project" means one of the following projects:

(a) Bellingham waterfront redevelopment project;

(b) Spokane river district project at Liberty Lake; and

(c) Vancouver riverwest project.

(5) "Department" means the department of revenue.

(6) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(7) "Local excise tax allocation revenue" means an amount of local excise taxes equal to some or all of the sponsoring local government's local excise tax increment, amounts of local excise taxes equal to some or all of any participating local government's excise tax increment as agreed upon in the written agreement under RCW 39.102.080(1), or both, and dedicated to local infrastructure financing.

(8) "Local excise tax increment" means an amount equal to the estimated annual increase in local excise taxes in each calendar year following the approval of the revenue development area by the board from taxable activity within the revenue development area, as set forth in the application provided to the board under RCW 39.102.040, and updated in accordance with RCW 39.102.140(1)(f).

(9) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, other revenues from local public sources, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, dedicated to pay either the principal and interest on bonds authorized under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty

percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

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

(15) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(16) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(17) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area less the property tax allocation revenue value.

(18)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the revenue development area is approved by the board;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revenue development area is approved by the board;

(C) The cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revenue development area is approved by the board.

(ii) Increases in the assessed value of real property in a revenue development area resulting from (a)(i)(A) through (C) of this

subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(19) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any

necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; (f) administrative expenses and feasibility studies reasonably necessary and related to these costs; and (g) any of the above-described costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(20) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

(21) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(22) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(23) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(24) "Revenue development area" means the geographic area adopted by a sponsoring local government and approved by the board, from which local excise and property tax allocation revenues are derived for local infrastructure financing.

(25)(a) "Revenues from local public sources" means:

(i) Amounts of local excise tax allocation revenues and local property tax allocation revenues, dedicated by sponsoring local governments, participating local governments, and participating taxing districts, for local infrastructure financing; and

(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources.

(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.

(26) "Small business" has the same meaning as provided in RCW 19.85.020.

(27) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that adopts a revenue development area and applies to the board to use local infrastructure financing.

(28) "State contribution" means the lesser of:

(a) One million dollars;

(b) The total amount of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources, that are dedicated by a sponsoring local government, any participating local governments, and participating taxing districts, in

the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to RCW 39.102.195, or both; ((~~or~~))

(c) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under RCW 39.102.040; or

(d) The highest amount of state excise tax allocation revenues and state property tax allocation revenues for any one calendar year as determined by the sponsoring local government and reported to the board and the department as required by RCW 39.102.140.

(29) "State excise tax allocation revenue" means an amount equal to the annual increase in state excise taxes estimated to be received by the state in each calendar year following the approval of the revenue development area by the board, from taxable activity within the revenue development area as set forth in the application provided to the board under RCW 39.102.040 and periodically updated and reported as required in RCW 39.102.140(1)(f).

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1), less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.475 for the applicable revenue development area, imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State property tax allocation revenue" means an amount equal to the estimated tax revenues derived from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value, as set forth in the application submitted to the board under RCW 39.102.040 and updated annually in the report required under RCW 39.102.140(1)(f).

(32) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

Sec. 12. RCW 82.14.475 and 2009 c 267 s 8 are each amended to read as follows:

(1) A sponsoring local government, and any cosponsoring local

government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and ((~~shall be~~)) is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government.

(2) The tax authorized under subsection (1) of this section ((~~shall be~~)) is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department ((~~shall~~)) must perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and ((~~shall~~)) must remit the taxes as provided in RCW 82.14.060.

(3) The aggregate rate of tax imposed by the sponsoring local government, and any cosponsoring local government, must not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1) less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and this section that are authorized to be imposed on the same taxable events but have not yet been imposed by a sponsoring local government or cosponsoring local government that has been approved by the department or the community economic revitalization board to receive a state contribution under chapter((~~s [chapter]~~)) 39.100 or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the sponsoring local government, and any cosponsoring local government, in consultation with the department, reasonably necessary to receive the state contribution over ten months.

(4) Sponsoring local governments that have been approved before October 1, 2008, by the community economic revitalization board for a state contribution must select the rate of tax under this section no later than September 1, 2009.

(5) The department, upon request, must assist a sponsoring local government and cosponsoring local government in establishing their tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected, it may not be increased.

(6)(a) No tax may be imposed under the authority of this section:

(i) ((~~Before July 1, 2008;~~

~~(ii)~~)) Before July 1st of the second calendar year following the year approval by the board under RCW 39.102.040 was made; and

((~~(iii) Before the state excise tax allocation revenues and state property tax allocation revenues for the preceding calendar year equal or exceed the amount of project award approved by the board under RCW 39.102.040~~))

(ii) Until a sponsoring local government reports to the board and the department as required by RCW 39.102.140 that the state has benefited through the receipt of state excise tax allocation revenues or state property tax allocation revenues, or both.

(b) The tax imposed under this section ((~~shall~~)) expires when all indebtedness issued under the authority of RCW 39.102.150 is retired and all other contractual obligations relating to the financing of public improvements under chapter 39.102 RCW are satisfied, but not more than twenty-five years after the tax is first imposed.

(7) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section ((~~shall~~)) must provide that:

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

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year ((~~shall~~)) may not exceed the amount of the state contribution;

(c) The tax ((~~shall~~)) will cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in RCW 39.102.040;

(d) Neither the local excise tax allocation revenues nor the local property tax allocation revenues may constitute more than eighty percent of the total local funds as described in RCW 39.102.020(28)(b). This requirement applies beginning January 1st of the fifth calendar year after the calendar year in which the sponsoring local government begins allocating local excise tax allocation revenues under RCW 39.102.110;

(e) The tax ((~~shall~~)) must be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(f) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection ((~~shall~~)) belongs to the state of Washington.

(8) If a county and city cosponsor a revenue development area, the combined amount of distributions received by both the city and county may not exceed the state contribution.

(9) The department ((~~shall~~)) must determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (11) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and ((~~shall~~)) may not be used to challenge the validity of any tax imposed under this section. The department ((~~shall~~)) must remit any tax receipts in excess of the amounts specified in subsection (7)(c) of this section to the state treasurer who ((~~shall~~)) must deposit the money in the general fund.

(10) If a sponsoring or cosponsoring local government fails to comply with RCW 39.102.140, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(11) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year ((~~shall~~)) must be equal to the state contribution and ((~~shall~~)) may be no more than the total local funds as described in RCW 39.102.020(28)(b). The department ((~~shall~~)) must consider information from reports described in RCW 39.102.140 when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government ((~~shall~~)) may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department ((~~shall~~)) may not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (7) of this section.

(12) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than seven million five hundred thousand dollars.

(13) The definitions in RCW 39.102.020 apply to this section unless the context clearly requires otherwise.

(14) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section ((~~shall~~)) must be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

(15) Subject to RCW 39.102.195, the tax imposed under the authority of this section may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the sponsoring local government or to pay public improvement costs on a pay-as-you-go basis, or both.

(16) The tax imposed under the authority of this section ((~~shall~~)) must cease to be imposed if the sponsoring local government or cosponsoring local government fails to issue indebtedness under the authority of RCW 39.102.150, and fails to commence construction on public improvements, by June 30th of the fifth fiscal year in which the local tax authorized under this section is imposed.

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

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local

governments under the authority of this chapter, chapter 67.28 or 67.40 RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the tax imposed in RCW 82.08.020(1) and the tax imposed in RCW 82.12.020 at the rate provided in RCW 82.08.020(1).

NEW SECTION. **Sec. 13.** Sections 11 and 12 of this act expire June 30, 2039.

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