

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5001

Chapter 218, Laws of 2023

68th Legislature
2023 Regular Session

PUBLIC FACILITIES DISTRICTS—CREATION OF ADDITIONAL DISTRICTS

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 13, 2023
Yeas 47 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 12, 2023
Yeas 91 Nays 6

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 1, 2023 3:17 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5001** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 2, 2023

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5001

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By Senate Transportation (originally sponsored by Senators Hawkins, Hunt, Nguyen, and J. Wilson)

READ FIRST TIME 02/06/23.

1 AN ACT Relating to public facilities districts created by at
2 least two city or county legislative authorities; and amending RCW
3 35.57.010, 35.57.020, 82.14.048, and 35.57.030.

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

5 **Sec. 1.** RCW 35.57.010 and 2010 c 192 s 1 are each amended to
6 read as follows:

7 (1)(a) The legislative authority of any town or city located in a
8 county with a population of less than one million may create a public
9 facilities district.

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

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

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

6 (e) At least three contiguous towns or cities with a combined
7 population of at least one hundred sixty thousand, each of which
8 previously created a public facilities district under (a) of this
9 subsection, may create an additional public facilities district. The
10 previously created districts may continue their full corporate
11 existence and activities notwithstanding the creation and existence
12 of the additional district within the same geographic area.

13 (f) The legislative authority of two or more contiguous towns or
14 cities or the legislative authority of two or more contiguous towns
15 or cities and the legislative authority of the county or counties in
16 which the towns or cities are located, each of which participated in
17 the creation of a public facilities district under (c) of this
18 subsection, may create an additional public facilities district. Any
19 previously created district may continue its full corporate existence
20 and activities notwithstanding the creation and existence of an
21 additional district within the same geographic area. A public
22 facilities district formed under this subsection (1)(f) must be
23 created prior to July 1, 2026. The creation of a public facilities
24 district under this subsection does not require all of the original
25 participating towns, cities, or counties that created a public
26 facilities district under (c) of this subsection to participate in
27 the formation of the additional public facilities district under this
28 subsection.

29 (2)(a) A public facilities district is coextensive with the
30 boundaries of the city or town or contiguous group of cities or towns
31 that created the district.

32 (b) A public facilities district created by an agreement between
33 a town or city, or a contiguous group of towns or cities, and a
34 contiguous county or the county in which they are located, is
35 coextensive with the boundaries of the towns or cities, and the
36 boundaries of the county or counties as to the unincorporated areas
37 of the county or counties. The boundaries do not include incorporated
38 towns or cities that are not parties to the agreement for the
39 creation and joint operation of the district.

1 (3)(a) A public facilities district created by a single city or
2 town shall be governed by a board of directors consisting of five
3 members selected as follows: (i) Two members appointed by the
4 legislative authority of the city or town; and (ii) three members
5 appointed by legislative authority based on recommendations from
6 local organizations. The members appointed under (a)(i) of this
7 subsection, shall not be members of the legislative authority of the
8 city or town. The members appointed under (a)(ii) of this subsection,
9 must be based on recommendations received from local organizations
10 that may include, but are not limited to, the local chamber of
11 commerce, local economic development council, and local labor
12 council. The members shall serve four-year terms. Of the initial
13 members, one must be appointed for a one-year term, one must be
14 appointed for a two-year term, one must be appointed for a three-year
15 term, and the remainder must be appointed for four-year terms.

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

36 (c) A public facilities district created by a town or city, or a
37 contiguous group of towns or cities, and a contiguous county or the
38 county or counties in which they are located, must be governed by a
39 board of directors consisting of seven members selected as follows:
40 (i) Three members appointed by the legislative authorities of the

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

18 (d)(i) A public facilities district created under subsection
19 (1)(e) of this section must provide, in the agreement providing for
20 its creation and operation, that the district must be governed by an
21 odd-numbered board of directors of not more than nine members who are
22 also members of the legislative authorities that created the public
23 facilities district or of the governing boards of the public
24 facilities districts previously created by those legislative
25 authorities, or both.

26 (ii) A board of directors formed under this subsection must have
27 an equal number of members representing each city or town
28 participating in the public facilities district. If there are
29 unfilled board member positions after each city or town has appointed
30 an equal number of board members, the members so appointed must
31 appoint a number of additional board members necessary to fill any
32 remaining positions. For a board formed under this subsection to
33 submit a proposition to the voters under RCW 82.14.048, a majority of
34 the members representing or appointed by each legislative authority
35 participating in the public facilities district must agree to submit
36 the proposition to the voters (~~(; however, the board may not submit a~~
37 ~~proposition to the voters prior to January 1, 2011)~~).

38 (4) A public facilities district is a municipal corporation, an
39 independent taxing "authority" within the meaning of Article VII,

1 section 1 of the state Constitution, and a "taxing district" within
2 the meaning of Article VII, section 2 of the state Constitution.

3 (5) A public facilities district constitutes a body corporate and
4 possesses all the usual powers of a corporation for public purposes
5 as well as all other powers that may now or hereafter be specifically
6 conferred by statute((7)) including, but not limited to, the
7 authority to hire employees, staff, and services, to enter into
8 contracts, and to sue and be sued.

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

15 **Sec. 2.** RCW 35.57.020 and 2019 c 341 s 1 are each amended to
16 read as follows:

17 (1)(a) A public facilities district is authorized to acquire,
18 construct, own, remodel, maintain, equip, reequip, repair, finance,
19 and operate one or more regional centers. For purposes of this
20 chapter, "regional center" means a convention, conference, or special
21 events center, or any combination of facilities, and related parking
22 facilities, serving a regional population constructed, improved, or
23 rehabilitated after July 25, 1999, at a cost of at least ten million
24 dollars, including debt service. "Regional center" also includes an
25 existing convention, conference, or special events center, and
26 related parking facilities, serving a regional population, that is
27 improved or rehabilitated after July 25, 1999, where the costs of
28 improvement or rehabilitation are at least ten million dollars,
29 including debt service. A "special events center" is a facility,
30 available to the public, used for community events, sporting events,
31 trade shows, and artistic, musical, theatrical, or other cultural
32 exhibitions, presentations, or performances. A regional center is
33 conclusively presumed to serve a regional population if state and
34 local government investment in the construction, improvement, or
35 rehabilitation of the regional center is equal to or greater than ten
36 million dollars.

37 (b) A public facilities district created under RCW
38 35.57.010(1)(e):

1 (i) Is authorized, in addition to the authority granted under (a)
2 of this subsection, to acquire, construct, own, remodel, maintain,
3 equip, reequip, repair, finance, and operate one or more recreational
4 facilities other than a ski area;

5 (ii) If exercising its authority under (a) or (b)(i) of this
6 subsection, must obtain voter approval to fund each recreational
7 facility or regional center pursuant to RCW 82.14.048(4)(a); and

8 (iii) Possesses all of the powers with respect to recreational
9 facilities other than a ski area that all public facilities districts
10 possess with respect to regional centers under subsections (3), (4),
11 and (7) of this section.

12 (c) A public facilities district created under
13 RCW 35.57.010(1)(a) by a city or town that participated in the
14 creation of an additional public facilities district under
15 RCW 35.57.010(1)(e):

16 (i) Is authorized, in addition to the authority granted under (a)
17 of this subsection, to acquire, construct, own, remodel, maintain,
18 equip, reequip, repair, finance, and operate one or more recreational
19 facilities other than a ski area;

20 (ii) If exercising its authority under (c)(i) of this subsection,
21 must obtain voter approval to fund each recreational facility
22 pursuant to RCW 82.14.048(4)(a); and

23 (iii) Possesses all of the powers with respect to recreational
24 facilities other than a ski area that all public facilities districts
25 possess with respect to regional centers.

26 (d) A public facilities district created under RCW
27 35.57.010(1)(f) is authorized, in lieu of the authority granted under
28 (a) of this subsection, to acquire, construct, own, remodel,
29 maintain, equip, reequip, repair, finance, and operate regional
30 aquatics and sports facilities, including the purchase, acquisition,
31 construction, repairing, remodeling, and operation of community pools
32 within the district. Additionally, a public facilities district
33 created under RCW 35.57.010(1)(f) may provide funding for
34 transportation improvements directly associated with facilitating
35 motor vehicle and pedestrian access to regional aquatics and sports
36 facilities, which includes funding for new construction,
37 reconstruction, expansion, and maintenance of pedestrian trails, city
38 streets, county roads, and state highways. However, the
39 transportation improvements must be aligned with applicable state,
40 regional, or local transportation plans.

1 (2) A public facilities district may enter into contracts with
2 any city or town for the purpose of exercising any powers of a
3 community renewal agency under chapter 35.81 RCW.

4 (3) A public facilities district may impose charges and fees for
5 the use of its facilities, and may accept and expend or use gifts,
6 grants, and donations for the purpose of a regional center.

7 (4) A public facilities district may impose charges, fees, and
8 taxes authorized in RCW 35.57.040, and use revenues derived therefrom
9 for the purpose of paying principal and interest payments on bonds
10 issued by the public facilities district to construct a regional
11 center.

12 (5) Notwithstanding the establishment of a career, civil, or
13 merit service system, a public facilities district may contract with
14 a public or private entity for the operation or management of its
15 public facilities.

16 (6) A public facilities district is authorized to use the
17 supplemental alternative public works contracting procedures set
18 forth in chapter 39.10 RCW in connection with the design,
19 construction, reconstruction, remodel, or alteration of any regional
20 center.

21 (7) A city or town in conjunction with any special agency,
22 authority, or other district established by a county or any other
23 governmental agency is authorized to use the supplemental alternative
24 public works contracting procedures set forth in chapter 39.10 RCW in
25 connection with the design, construction, reconstruction, remodel, or
26 alteration of any regional center funded in whole or in part by a
27 public facilities district.

28 (8) Any provision required to be submitted for voter approval
29 under this section(~~(7)~~) may not be submitted for voter approval prior
30 to January 1, 2011.

31 **Sec. 3.** RCW 82.14.048 and 2012 c 4 s 6 are each amended to read
32 as follows:

33 (1) The following definitions apply throughout this section
34 unless the context clearly requires otherwise.

35 (a) "Distressed public facilities district" means a public
36 facilities district that has defaulted on bond anticipation notes or
37 bonds in excess of forty million dollars on or before April 1, 2012;
38 and

1 (b) "Anchor jurisdiction" means a city that has entered into an
2 agreement to form a public facilities district under RCW
3 35.57.010(1)(c) that constitutes a distressed public facilities
4 district under this chapter and in which the largest asset of such
5 public facilities district is located.

6 (2)(a) The governing board of a public facilities district under
7 chapter 36.100 or 35.57 RCW may submit an authorizing proposition to
8 the voters of the district, and if the proposition is approved by a
9 majority of persons voting, impose a sales and use tax in accordance
10 with the terms of this chapter.

11 (b) In addition to the tax authorized pursuant to (a) of this
12 subsection and in addition to any other authority conferred by law,
13 the legislative authority of an anchor jurisdiction may impose a
14 sales and use tax within the geographical boundaries of the anchor
15 jurisdiction in accordance with the terms of this chapter without
16 submitting an authorizing proposition to the voters of the anchor
17 jurisdiction or the distressed public facilities district.

18 (3) The tax authorized in this section is in addition to any
19 other taxes authorized by law and must be collected from those
20 persons who are taxable by the state under chapters 82.08 and 82.12
21 RCW upon the occurrence of any taxable event within the public
22 facilities district. The rate of tax may not exceed two-tenths of one
23 percent of the selling price in the case of a sales tax, or value of
24 the article used, in the case of a use tax. A public facilities
25 district formed under RCW 35.57.010(1)(e) may not impose the tax
26 authorized under this section at a rate that exceeds two-tenths of
27 one percent minus the rate of the highest tax authorized by this
28 section that is imposed by any other public facilities district
29 within its boundaries. A public facilities district formed under RCW
30 35.57.010(1)(f) may impose the tax authorized under this section at a
31 rate of not more than two-tenths of one percent regardless of the tax
32 imposed under this section by any other public facilities district
33 within its boundaries. An anchor jurisdiction may impose the tax
34 authorized by subsection (2)(b) of this section at a rate not to
35 exceed two-tenths of one percent, regardless of whether any other
36 public facilities district (including a distressed public facilities
37 district) within its boundaries imposes the tax authorized by this
38 section or the rate of such tax imposed by the public facilities
39 district. If a public facilities district formed under RCW
40 35.57.010(1)(e) has imposed a tax under this section and issued or

1 incurred obligations pledging that tax, so long as those obligations
2 are outstanding no other public facilities district within its
3 boundaries may thereafter impose a tax under this section at a rate
4 that would reduce the rate of the tax that was pledged to the
5 repayment of those obligations. A public facilities district that
6 imposes a tax under this section is responsible for the payment of
7 any costs incurred for the purpose of administering the provisions of
8 this section, RCW 35.57.010(1)(e), and 35.57.020(1)(b), including any
9 administrative costs associated with the imposition of the tax under
10 this section incurred by either the department of revenue or local
11 government, or both.

12 (4)(a) Moneys received by a public facilities district from any
13 tax imposed by the public facilities district under the authority of
14 this section must be used for the purpose of providing funds for the
15 costs associated with the financing, refinancing, design,
16 acquisition, construction, equipping, operating, maintaining,
17 remodeling, repairing, and reequipping of its public facilities, and
18 for transportation improvements directly associated with facilitating
19 motor vehicle and pedestrian access to its public facilities to the
20 extent allowed in RCW 35.57.020(1)(d).

21 (b) Moneys received by an anchor jurisdiction from any tax
22 imposed by the anchor jurisdiction under the authority of this
23 section must be used for the purpose of providing funds for the costs
24 associated with the financing, refinancing, design, acquisition,
25 construction, equipping, operating, maintaining, remodeling,
26 repairing, and reequipping of the public facilities of the distressed
27 public facilities district, and for all litigation, investigation,
28 and related costs and expenses incurred by the anchor jurisdiction
29 toward resolving matters related to the defaults of the distressed
30 public facilities district. To the extent the distressed public
31 facilities district owes money to an anchor jurisdiction, the anchor
32 jurisdiction may apply money from the sales tax imposed under this
33 section to any such obligations. Any sales tax imposed by an anchor
34 jurisdiction under this section must terminate no later than thirty
35 years after it is first imposed.

36 **Sec. 4.** RCW 35.57.030 and 1999 c 165 s 3 are each amended to
37 read as follows:

38 (1) To carry out the purpose of this chapter, a public facilities
39 district may issue general obligation bonds, not to exceed an amount,

1 together with any outstanding nonvoter-approved general obligation
2 indebtedness, equal to one-half of one percent of the value of the
3 taxable property within the district, as the term "value of the
4 taxable property" is defined in RCW 39.36.015. A facilities district
5 additionally may issue general obligation bonds for capital purposes
6 only, together with any outstanding general obligation indebtedness,
7 not to exceed an amount equal to one and one-fourth percent of the
8 value of the taxable property within the district, as the term "value
9 of the taxable property" is defined in RCW 39.36.015, when authorized
10 by the voters of the public facilities district pursuant to Article
11 VIII, section 6 of the state Constitution, and to provide for the
12 retirement thereof by taxes authorized in chapter 165, Laws of 1999.

13 (2) General obligation bonds may be issued with a maturity of up
14 to thirty years, and shall be issued and sold in accordance with the
15 provisions of chapter 39.46 RCW.

16 (3) The general obligation bonds may be payable from the
17 operating revenues of the public facilities district in addition to
18 the tax receipts of the district.

19 (4) A public facilities district formed under RCW 35.57.010(1)(f)
20 may not issue bonds under this section after July 1, 2023, if doing
21 so would cause the scheduled annual principal and interest payments
22 on the aggregate debt issued by the district under this section in
23 any fiscal year to equal or exceed 80 percent of the annual tax
24 revenue that the district projects, on or prior to the date of
25 issuance of the bonds, to collect in such fiscal year under the sales
26 and use tax authorized in RCW 82.14.048. Nothing in this section
27 limits the amount of revenue that a public facilities district may
28 use to make principal and interest payments on the aggregate debt
29 issued by the district under this section.

Passed by the Senate April 13, 2023.

Passed by the House April 12, 2023.

Approved by the Governor May 1, 2023.

Filed in Office of Secretary of State May 2, 2023.

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