HOUSE OF REPRESENTATIVES
STATE OF WASHINGTON
LEGISLATIVE BUILDING
OLYMPIA, WASHINGTON 98504

RE: Rep. Michelle Caldier

Attorney General Nick Brown
1125 Washington Street SE
Olympia WA 98504

STATE REPRESENTATIVE
MICHELLE CALDIER
26th LEGISLATIVE DISTRICT

State of
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SEP 15 2025

AGO
General Services HLB

September 12, 2025

The Honorable Nick Brown
Attorney General
PO Box 40100
Olympia, Washington 98504-0100

RE: Request for Attorney General Opinion (AGO Opinion)

Dear General Brown,

On behalf of my constituent, Kitsap Public Facilities District (Kitsap PFD), I am requesting an AGO Opinion seeking clarity on interpretation of HB 1109, adopted in the 2025 legislative session.

Specifically, my question is:

> Do the modifications to RCW 82.14.390 and 82.14.485 enacted by HB 1109 authorize a qualified Public Facility District (PFD) to utilize the local sales and use tax specified in those statutes to finance construction or improvement of regional centers commencing after 2010.

Kitsap PFD currently faces this question relating to four public improvement projects in Kitsap County.

Background on the law and ambiguity posed by HB 1109.

<u>The law prior to HB 1109</u>

RCW 82.14.390 and 82.14.485 authorized PFDs established by certain dates and commencing construction or improvement of regional centers by certain dates to utilize a local sales and use tax to fund those construction or improvement activities of regional centers specified in RCW 35.57.20

The local sales and use taxes are not additional taxes for consumers and are credited against the state sales and use tax of 6.5 percent, thereby shifting the burden to the State General Fund.

The local sales and use taxes expire when the bonds that financed the construction or improvement of the facility are retired, but in no case could the tax be levied for longer than 40 years.

Modifications imposed by HB 1109

HB 1109 made the following changes to identical text in both statutes:

> The tax imposed in this section expires when bonds issued to finance or refinance the construction, improvement, rehabilitation, or expansion of a regional center and related parking facilities are retired, but not more than ~~forty~~ 65 years after the tax is first collected.

While the bill clearly extends the period in which the taxes may be collected (unless the bonds are sooner retired) from a maximum of 40 to 65 years, the meaning of the modification, "**the** regional center" to "**a** regional center," is less clear (emphasis added). Yet, under principles of statutory construction, the deliberate change of the qualifier "the" to "a" is significant and must be given effect.

"The" appears to refer to a specific regional center, while "a" appears to mean "any" regional center[1]. A definition of "regional center" does not appear in either RCW 82.14.390 or 82.14.485. And, while section 1 in both specifies various construction commencement date requirements for regional centers, these relate to *whether a PFD is one that qualifies* to utilize the local tax and trigger the credit. For authorized construction activities, both refer to RCW 35.57.020. "Regional center" is defined in that statute, and it includes no improvement or construction commencement date parameters.

As related statutes containing cross-references, RCW 82.14.390 and 82.14.485 must be construed and harmonized together with RCW 35.57.020. In doing so, it appears the modification under HB 1109 from "the" regional center to "a" regional center now authorizes PFDs qualified under RCW 82.14.390(1) or 82.14.485(1) to utilize the local tax to finance the construction and improvement activities authorized in RCW 35.57.020 of "a" (or any) regional center meeting the definition in that statute. This includes not just those for which a PFD gained qualification status by commencing construction or improvement within certain dates, but also projects commenced after 2010 and into the future.

Kitsap PFD currently faces the question of how to interpret HB 1109's changes to RCW 82.14.390 and 82.14.485.

Kitsap PFD was created in 2001 by Kitsap County, which subsequently issued two bonds for two separate projects (Kitsap PFD's Original Regional Centers):

1. The Kitsap Conference Center, and
2. The Kitsap County Fairgrounds and Events Center improvements.

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[1] Our research finds that prior to HB 1109, PFDs interpreted the qualifier "**the**" before "regional center" to refer to regional centers with commencement dates between 2001 and 2010 (tracking PFD "qualifying" requirements in RCW 82.14.390(1) and (82.14.485(1)).

Since their issuance, Kitsap PFD has been paying the debt service on both bonds. The Fairgrounds bond will be paid off in 2026, and the Conference Center bond in 2041.

In 2019, state legislation extended the original sales and use tax rebate authorization from 2026 to 2041. In 2021, the repayment timeline for the Conference Center bond was also extended to 2041.

In 2021, the Kitsap PFD issued a request for proposal for potential future funding opportunities to Kitsap County, local cities, ports, and park districts. Four projects were selected for funding based on projected tax rebate revenues through 2041:

- Port Gamble Forest Heritage Park Trails (County)
- Poulsbo Events & Recreation Center (City of Poulsbo)
- Port Orchard Community Events Center (City of Port Orchard)
- Circuit of the Northwest (Port of Bremerton)

After enactment of HB 1109, the question Kitsap PFD now faces is whether the local taxes authorized under RCW 82.14.390 and 82.14.485 apply only to PFD's Original Regional Centers, or whether they may be utilized to finance its new and any future projects.

An AGO Opinion will assist Kitsap PFD and all other PFDs in the state understand how to apply the law, as amended by HB 1109 and aid it and all counties and local municipalities with qualifying PFDs to plan for future community improvements.

Thank you in advance for your consideration of my request. Please do not hesitate to contact me if you require additional information.

Sincerely,

Michelle Caldier

State Representative Michelle Caldier
26th Legislative District

cc: Russ Shiplet, Executive Director
Kitsap Public Facilities District