



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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STATE OF WASHINGTON
FILED

DATE: May 10, 2018

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WSR 18-11-054

Agency: Department of Revenue

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The Department is amending WAC 458-19-050 and adding new WAC 458-19-05001, to explain SHB 1337, Ch. 135, Laws of 2015, on the industrial development district (IDD) levies under RCW 53.36.100 and 53.36.160.

Citation of rules affected by this order:

New: WAC 458-19-05001, Port District Levies for Industrial Development District Purposes
Repealed:
Amended: WAC 458-19-050, Port District Levies
Suspended:

Statutory authority for adoption: RCW 84.08.010, 84.08.070, 84.48.080, 84.55.060, 84.52.0502, chapters 84.52 and 84.55 RCW, and RCW 34.05.230

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-05-072 on February 16, 2018 (date).
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>1</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: May 10, 2018

Name: Erin T Lopez

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-050 Port district levies. (1) **Introduction.** This rule describes ~~((the various))~~ certain port district levies and ~~((the))~~ their respective limitations ~~((to which they are subject. Port district levies are not limited by the constitutional one percent limit nor by the statutory aggregate dollar rate limit))~~. Discussions on port district levies authorized under RCW 53.36.100 and 53.36.160 for industrial development district purposes are in WAC 458-19-05001.

Other rules that may apply. Readers may also want to refer to the following rules for additional information:

(a) WAC 458-19-005 Definitions.

(b) WAC 458-19-010 Levy limit and levy rate calculations.

(c) WAC 458-19-020 Levy limit—Method of calculation.

(d) WAC 458-19-05001 Port district levies for industrial development district purposes.

(2) **Definitions.** For purposes of this rule, the definitions in WAC 458-19-005 apply.

(3) **Limitations upon regular property tax levies; exceptions.**

(a) As set forth in RCW 84.04.140, all port district levies discussed in this rule are regular property tax levies regardless of whether they are ~~((voted))~~ voter-approved levies. As such, they are generally subject to the levy limit as described in subsection (7) of this rule, unless otherwise specified.

(b) Port district levies are not subject to either the statutory aggregate dollar rate limit set forth in RCW 84.52.043 or the constitutional one percent limit set forth in RCW 84.52.050.

~~((2))~~ (4) **Levy for general port purposes.** Port districts may annually levy taxes for general port purposes, including the establishment of a capital improvement fund for future capital improvements. This levy cannot exceed the levy rate of forty-five cents per thousand dollars of assessed value of the port district. RCW 53.36.020 authorizes this levy ~~((may be made without an authorizing vote of the voters of the district))~~ without voter approval.

~~((3))~~ (5) **Levy for bond repayment.** Port districts may levy taxes for the purpose of paying the principal and interest on any general bonded indebtedness of the port district. RCW 53.36.020 authorizes this levy, in excess of any port levy that is subject to the forty-five cent levy rate limitation in subsection (4) of this rule. Even though ~~((this))~~ the levy for bond repayment is not subject to any statutory aggregate dollar rate ~~((limitation))~~ limit, the limitations in RCW 53.36.030 on the amount of indebtedness that a port district may incur by contract or borrowing ~~((and the levy limit))~~ do apply.

~~((4))~~ (6) **Levy for dredging, canal construction, or land leveling or filling purposes.** Port districts may annually levy taxes for dredging, canal construction, or land leveling or filling purposes, and the proceeds of any such levy must be used exclusively for these purposes. This levy cannot exceed the levy rate of forty-five cents per thousand dollars of assessed value of the port district. RCW 53.36.070 requires that this levy must ~~((first))~~ be authorized each year by a majority of the voters of the district voting on whether to make such a levy, submitted at an election held under RCW ~~((29.13.020))~~ 29A.04.330.

~~((5) Levy for industrial development district purposes. Port districts that have adopted a comprehensive scheme of harbor improvements and industrial development may annually levy taxes to be used exclusively for purposes of industrial development districts as described in chapter 53.25 RCW. Any excess revenue collected but not required to complete projects under chapter 53.25 RCW must be used solely to retire the general obligation bonded indebtedness of the district. This levy cannot exceed forty five cents per thousand dollars of assessed value of the port district. This levy need not be authorized by a vote of the people of the district, except as provided in (b) of this subsection.~~

~~(a) Levy for limited time period. This levy is limited to a period of six years, and a second six years if the procedures in (b) of this subsection are followed. A third six year period is authorized for a port district located in a county bordering the Pacific Ocean that has adopted a comprehensive scheme of harbor improvements and industrial developments when approved by a simple majority of the voters in the port district.~~

~~(b) Notice to be given if levy to last more than six years. If this levy is intended to extend beyond the first six years these levies were imposed, the port commission must publish notice of this intention, in one or more newspapers of general circulation in the district, after January 1 and not later than June 1 of the year in which the seventh annual levy is to be made. If, within ninety days of the date of publication of this notice, a petition by the required number of registered voters in the port district in accordance with RCW 53.36.100 is filed with the county auditor and certified in the manner prescribed in RCW 29.79.200, the proposition to make these levies in the seventh through twelfth year period must be submitted to the voters of the port district at a special election called for this purpose no later than the date on which a primary election would be held under RCW 29.13.070. Levies may be made during the seventh through twelfth years only if approved by a majority of the voters of the port district voting on the proposition.~~

~~(6)) (7) Calculation of the levy limit for port districts. ((a)) The levies described in subsections ((2), (3), and) (4), (5), and (6) of this rule are subject to the levy limit. For purposes of calculating the levy limit, the dollar amount of those levies are combined and the levy limit is calculated as provided in WAC 458-19-020.~~

~~((b) The levy for industrial development district purposes described in subsection (5) will be treated as though it were a separate regular property tax levy made by or for a separate taxing district. The first such levy by a port district is not subject to the levy limit.)~~

NEW SECTION

WAC 458-19-05001 Port district levies for industrial development district purposes. (1) Introduction. Port districts may annually levy for industrial development district (IDD) purposes when they have adopted a comprehensive scheme of harbor improvements and industrial development. Levies for IDD purposes are treated as though they are separate regular property tax levies made by or for a separate taxing

district. This rule describes these port district levies for IDD purposes, authorized in RCW 53.36.100 and 53.36.160.

(a) **Other rules that may apply.** Readers may also want to refer to the following rules for additional information:

(i) WAC 458-19-005 Definitions.

(ii) WAC 458-19-010 Levy limit and levy rate calculations.

(iii) WAC 458-19-020 Levy limit—Method of calculation.

(iv) WAC 458-19-050 Port district levies.

(b) **Examples.** This rule contains examples; each example identifies a number of assumed facts and then states a conclusion. The examples should only be used as a general guide. The results of other situations must be determined after a review of all the facts and circumstances.

(2) **Organization of rule.** This rule has two parts:

(a) Part I - IDD levy under RCW 53.36.100.

(b) Part II - Multiyear IDD levies under RCW 53.36.160.

(3) **Definitions.** For purposes of this rule, the definitions in WAC 458-19-005 apply. In addition, "base year" means the year prior to the first collection year in a first or second multiyear IDD levy period.

(4) **Limitations upon regular property tax levies; exception.**

(a) As set forth in RCW 84.04.140, all port district levies discussed in this rule are regular property tax levies regardless of whether they are voter-approved levies. As such, they are generally subject to the levy limit, unless otherwise specified.

(b) Port district levies are not subject to either the statutory aggregate dollar rate limit set forth in RCW 84.52.043 or the constitutional one percent limit set forth in RCW 84.52.050.

Part I - IDD levies under RCW 53.36.100

(101) **Levy periods.** A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may impose up to three periods of six IDD levies. The levy periods do not have to be continuous, but they may not overlap. The six IDD levies in a levy period do not have to be continuous, but may not overlap.

(a) **First IDD levy period.** The first IDD levy period does not require voter approval.

(b) **Second IDD levy period.** The port commission must publish their intention to make an additional period of six IDD levies in a newspaper by June 1st of the year in which the first levy of this period will be made. Voter approval to make this levy is only required if a petition with eight percent of the voters' signatures of the district is submitted to the county auditor within ninety days of the date of notice in the newspaper. If voter approval is required, a majority of the voters must approve this levy.

(c) **Third IDD levy period.** Port districts in a county bordering the Pacific Ocean may request voter approval to make a third period of six IDD levies. This levy period requires a simple majority voter approval.

(102) **Forty-five cent levy rate limitation.** This levy cannot exceed the levy rate of forty-five cents per thousand dollars of assessed value of the port district specified in RCW 53.36.100(1).

(103) **Levy limit calculation.** Except for the first levy in each period, the IDD levies are subject to the levy limit in chapter 84.55 RCW. Refer to WAC 458-19-020 for more information about the levy limit calculation. County assessors must calculate the levy limit every cal-

endar year until there has been six levies in each period. County assessors must use the levy rate from the last year in which there is an IDD levy when calculating increases to the authorized levy amount due to new construction, wind turbine/solar/biomass/geothermal facility construction, improvements to property, and any increase in the value of state-assessed property (collectively "new construction increases").

(104) Effective period.

(a) RCW 53.36.100 applies to a port district that has initiated one or more IDD levy periods before tax year 2016.

(b) RCW 53.36.100 is repealed effective January 1, 2026, and port districts are prohibited from levying taxes under this repealed provision for collection in 2026 and after.

(c) A port district authorized under RCW 53.36.100 may continue to levy under this provision, so long as no collection occurs in 2026 and after.

Part II - Multiyear IDD levies under RCW 53.36.160

(201) Multiyear levy periods. A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may impose up to three periods of multiyear IDD levies. The multiyear levy periods do not have to be continuous, but they may not overlap. Except as otherwise provided, a multiyear levy period may not exceed twenty years from the date the first levy is made in the period.

(a) **First multiyear IDD levy period.** A port district must adopt a resolution during the base year approving the use of the first multiyear IDD levy period.

(b) Second multiyear IDD levy period.

(i) A port district must adopt a resolution during the base year approving the use of the second multiyear IDD levy period.

(ii) A port district must publish notice of the intention to impose a second multiyear IDD levy period. The port commission must publish their intention to make this levy in one or more newspapers of general circulation within the district, by April 1st of the base year of this second multiyear levy period.

(iii) A petition containing the signatures of eight percent of the number of voters registered and voting in the port district for the office of the governor at the last preceding gubernatorial election, may be filed with the county auditor within ninety days of the date of the port commission's publication. The county auditor then has two weeks to certify to the port commission the sufficiency of the signatures in accordance with RCW 29A.72.230. Once certified, the proposition to impose the levies in this second multiyear levy period is subject to voter's approval in a special election, no later than the date on which a primary election would be held under RCW 29A.04.311. The levies may proceed only if a majority of voters of the port district voting on this proposition approves it.

(c) **Third multiyear IDD levy period.** A county bordering on the Pacific Ocean having adopted a comprehensive scheme of harbor improvements and industrial developments may seek a simple majority voter approval to impose up to six levies in a six-year period for the third multiyear levy period.

(202) Forty-five cent levy rate limitation. RCW 53.36.160 (1) and (3) provide that no levy in any period may exceed forty-five cents per thousand dollars of assessed value of the port district.

(203) Levy limit calculation.

(a) RCW 84.55.130 provides that the levy limit under RCW 84.55.010 does not apply to a district's first or second multiyear levy period. The levy limit under RCW 84.55.010 only applies to the third multiyear levy period's years two through six.

(b) Instead, the first and second multiyear levy periods have a limit on the aggregate revenue amount that the period may collect. The aggregate revenue amount for each multiyear levy period may not exceed the maximum allowable amount that could have been collected under RCW 84.55.010 for the first six collection years of the period. This means that:

(i) County assessors must calculate the levy limit for each of the first six calendar years of the period as if the port district were levying;

(ii) County assessors must use the levy rate from the last year in which there is an IDD levy when calculating increases to the authorized levy amount due to new construction increases; there would be no new construction increases in the first year. See subsection (203)(d) of this rule below for examples of aggregate revenue limit calculations.

(c) For purposes of this section (203), the levy limit in RCW 84.55.010 is calculated in accordance with RCW 84.55.092, and any other applicable provisions in chapter 84.55 RCW, and subject to the forty-five cent levy rate limitation. See WAC 458-19-020.

(d) **Examples.** Some numbers in the examples are rounded for ease of illustration.

(i) Example 1. Assume a qualifying port district has a base year of \$1,000,000,000 assessed value, with approximately four percent increase annually. There are new construction increases in years four and five. The maximum allowable amount that could have been levied under RCW 84.55.010 for the first six collection years of the levy period is computed as follows:

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
(A)	Assessed value (AV)	\$1,040,000,000	\$1,082,000,000	\$1,125,000,000	\$1,170,000,000	\$1,217,000,000	\$1,266,000,000
(B)	Highest prior lawful levy	n/a	\$468,000	\$472,680	\$477,407	\$486,381	\$494,245
(C)	(B) + 1% growth	n/a	\$472,680	\$477,407	\$482,181	\$491,245	\$499,187
(D)	Statutory max, @ 45¢/ \$1,000 AV	\$468,000	\$486,900	\$506,250	\$526,500	\$547,650	\$569,700
(E)	New construction increases	n/a	\$0	\$0	\$10,000,000	\$7,500,000	\$0
(F)	Multiply (E) by prior year levy rate	n/a*	\$0	\$0	\$4,200	\$3,000	\$0
(G)	Levy limit: Lesser of (C) and (D), plus (F); and not exceeding (D)	\$468,000	\$472,680	\$477,407	\$486,381	\$494,245	\$499,187
(H)	Regular property tax levy rate: (G) divided by (A)	44¢	44¢	42¢	42¢	41¢	39¢

* There has been no IDD levy yet, so there would not be any new construction increases for the first IDD levy year.

The aggregate revenue amount for the period is the sum of the levy limits (row G), which is \$2,897,900. A port district may collect this aggregate revenue amount for the levy period in at most twenty levies within twenty years from, and including, the first year.

(ii) Example 2. Assume a qualifying port district has a base year of \$2,200,000,000 assessed value, with fluctuating increases/decreases over the course of the six years. There are new construction increases in years three and six. The maximum allowable amount that could have

been levied under RCW 84.55.010 for the first six collection years of the levy period is computed as follows:

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
(A)	Assessed value (AV)	\$2,500,000,000	\$2,000,000,000	\$1,400,000,000	\$1,800,000,000	\$2,300,000,000	\$2,800,000,000
(B)	Highest prior lawful levy	n/a	\$1,125,000	\$1,125,000	\$1,125,000	\$1,125,000	\$1,125,000
(C)	(B) + 1% growth	n/a	\$1,136,250	\$1,136,250	\$1,136,250	\$1,136,250	\$1,136,250
(D)	Statutory max, @ 45¢/ \$1,000 AV	\$1,125,000	\$900,000	\$630,000	\$810,000	\$1,035,000	\$1,260,000
(E)	New construction increases	n/a*	\$0	\$100,000,000	\$0	\$0	\$800,000,000
(F)	Multiply (E) by prior year levy rate	n/a	\$0	\$45,000	\$0	\$0	\$360,000
(G)	Levy limit: Lesser of (C) and (D), plus (F); and not exceeding (D)	\$1,125,000	\$900,000	\$630,000	\$810,000	\$1,035,000	\$1,260,000
(H)	Regular property tax levy rate: (G) divided by (A)	45¢	45¢	45¢	45¢	45¢	45¢

* There has been no IDD levy yet, so there would not be any new construction increases for the first IDD levy year.

The aggregate revenue amount for the period is the sum of the levy limits (row G), which is \$5,760,000. A port district may collect this aggregate revenue amount in up to twenty levies for the period.

(204) Effective period.

(a) RCW 53.36.160, authorizing multiyear IDD levies, is effective for IDD levy period that begins in 2016 and after.

(b) A port district that has levied the tax authorized under RCW 53.36.100 (see Part I of this rule) may not levy a tax authorized under RCW 53.36.160 (see Part II of this rule) except as follows:

If a Port District Levied Under RCW 53.36.100:	Then the Port District May Levy Under RCW 53.36.160:
IDD Levy Period	IDD Levy Period
At least one levy in the first period is collected in 2015 or prior	Second and third levy periods
At least one levy in the second period is collected in 2015 or prior	Third levy period