

Transportation Benefit District ([Chapter 36.73 RCW](#)) Checklist

This checklist is informational only and cannot replace a review of applicable statutes. It is intended to highlight many of the important considerations when creating a Transportation Benefit District (TBD). We encourage you to seek legal advice when creating a TBD.

Elements of Creating a TBD:

- Are you **Eligible** to create a TBD?
- Are the TBD **Boundaries** consistent with the revenue options to be imposed?
- Do you need an **Interlocal Agreement**?
- Is the TBD funding **Qualifying Transportation Improvements**?
- Have you conducted the proper **Notice & Public Hearings**?
- Have you identified the proper **Revenue Options**?
- Have you adopted the proper **Ordinance**?
- Is the **Administration** of the TBD in place?
- Have you notified the **Appropriate Revenue Collection Agencies**?

Eligibility

With the exception of King, Pierce, and Snohomish county and their respective cities, all other counties and cities may currently create a TBD if the revenue options are subject to a public vote.

King, Pierce and Snohomish counties and their respective cities within the counties are not eligible to create a TBD until December 1, 2007.

If you intend to create a TBD to impose the up to \$20 vehicle fee, there are several dates to consider:

All counties except King, Pierce and Snohomish		
July 22, 2007 to January 18, 2008	County only	Note: A county may waive this exclusive authority and allow a city to proceed by adopting a resolution to that effect.
January 19, 2008	All 36 counties and cities within the 36 counties.	

King, Pierce and Snohomish County Eligibility		
December 1, 2007 to May 22, 2008	County only	Note: King, Pierce, or Snohomish County may waive this exclusive authority and allow a city to proceed by adopting a resolution to that effect.
May 23, 2008	All counties and cities	

Boundaries

The ordinance establishing the TBD must include the boundaries of the district. All of the transportation improvements to be funded by the TBD must be located within the TBD boundaries. Additionally, what boundaries you choose affects the revenue options of the TBD.

- If the revenue options will be subject to a public vote, the boundaries can be less than the boundaries of the participating jurisdictions.
- If the revenue options will not be subject to a public vote, the boundaries must be:
 - Countywide; or
 - Citywide; or
 - Unincorporated Countywide (but only after a countywide TBD has failed; see ***Interlocal Agreement*** below)

Interlocal Agreement

An interlocal agreement is required in two instances:

- If the TBD will include two or more jurisdiction (county and city, two cities, a city and a port, transit, etc.), an interlocal agreement, adopted pursuant to Chapter 39.34 RCW, is required between the participating jurisdiction.
- If a county creates a TBD for the purpose of imposing the up to \$20 vehicle fee, the county must first attempt to adopt a countywide fee to be shared with the cities within the county according to an interlocal agreement. There are no requirements about what the interlocal agreement should contain, but it should be adopted pursuant to Chapter 39.34 RCW. Sixty percent of the cities representing seventy five percent of the incorporated population in which the fee will be collected must enter into the interlocal agreement for it to be effective.
- If an interlocal agreement cannot be reached, a county may create a TBD that includes only the unincorporated portion of the county.

Qualifying Transportation Improvements

A TBD exists solely for the purpose of acquiring, constructing, improving, providing, and funding “transportation improvements” within the district. The ordinance establishing the TBD must specify those transportation improvements. To be a qualifying transportation improvement:

- The improvement must be located within the boundaries of the TBD.
- The improvement is necessitated by existing or reasonably foreseeable congestion levels.
- The improvement is contained in a state or regional transportation plan.
- When selecting the improvement, the governing board must consider the following criteria, to the extent practical:
 - Reduced risk of transportation facility failure and improved safety;
 - Improved travel time;
 - Improved air quality;
 - Increases in daily and peak period trip capacity;
 - Improved modal connectivity;
 - Improved freight mobility;
 - Cost-effectiveness of the investment;
 - Optimal performance of the system through time; and
 - Other criteria, as adopted by the governing body.

Remember that statutory definition of a “transportation improvement” is quite broad and includes state, regional, and local transportation facilities such as:

- New or existing highway of statewide significance;
- Principal arterials of regional significance;
- High capacity transportation;
- Public transportation;

- Transportation demand management; or
- Other transportation projects and programs of regional or statewide significance (as defined or amended into the respective regional or state plans).

Notice & Public Hearings

The creation of a TBD and any actions taken by the TBD’s governing board thereafter must follow notice and public hearings. These items are specifically mentioned in the TBD statute:

Notice

- The jurisdiction creating the TBD must publish a notice of a hearing to establish a TBD at least once, ten days or more before the proposed hearing in a newspaper of general circulation within the proposed TBD. This notice is in addition to any other notice required by law.
- The notice must specify the transportation improvements to be provided or funded by the TBD.

Public Hearing

- The jurisdiction proposing to create a TBD must hold a public hearing. The legislative authority of the jurisdiction must hear objections from any person affected by the creation of the TBD.

Revenue Options

- TBD’s have several revenue options, all of which can be subject to voter approval and two are not required to be subject to voter approval.

TBD’s revenue options subject to voter approval:

1. Property taxes – a 1-year excess levy or an excess levy for capital purposes;
2. Up to 0.2% sales and use tax;
3. Up to \$100 annual vehicle fee per vehicle registered in the district; and
4. Vehicle tolls.

Please Note: There are exemptions or unique requirements when using the vehicle fee or vehicle tolls.

TBD’s have two revenue options *not subject to voter approval, but subject to other conditions*:

1. Annual vehicle fee up to \$20. This fee is at the time of vehicle renewal and cannot be used to fund passenger only ferry-service improvements.
2. Transportation impact fees on commercial and industrial buildings. Residential buildings are excluded. In addition, a county or city must provide a credit for a commercial or industrial transportation impact if the respective county or city has already imposed a transportation impact fee.

Please Note: This is an option only. A county or city still has the option of placing either the annual fee of up to \$20 or the impact fees to the vote of the people as an advisory vote or an actual requirement of imposition.

Ordinance

The creation of a TBD must be through an ordinance. The ordinance must include:

- A finding that the creation of a TBD must be in the public’s interest;

- The boundaries of the TBD;
- A specific description of the transportation improvement or improvements proposed by the district; and
- The proposed taxes, fees, charges, and the range of tolls imposed by the TBD to raise revenue to fund the improvement or improvements. Depending on the revenue option chosen, the ordinance may need to include additional information such as statutory exemptions and credits for the vehicle fee, the date in which the sales and use tax will be effective, the date in which the property tax excess levy will be put to the voters, etc.

If the revenue options will be put to a public vote, the ordinance should also include when the vote will occur. A vote can be at any general or special election.

Administration

Administration of the TBD is relatively simple. The legislative authority proposing to establish the TBD is the TBD's governing body. If additional jurisdictions are part of the TBD through an interlocal agreement, the TBD governing body must have at least five members, including at least one elected official from each of the participating jurisdictions. Members are acting ex officio and independently on the TBD governing board. The treasurer of the legislative authority proposing to establish the TBD must act as the ex officio treasurer of the TBD. However, there are some specific on-going requirements of the TBD.

- The TBD must develop a material change policy to address major plan changes that affect the delivery or the ability to finance the plan. The policy must include a public hearing to solicit comments on how the cost changes should be resolved should transportation improvement costs exceed its original cost by more than 20%.
- The TBD must issue an annual report indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules to the public and to newspapers of record in the district.
- If the TBD proposes functions or transportation improvements that are expanded beyond those specified in the original notice of hearing establishing the TBD, the TBD must go through the notice, public hearing, and ordinance process again.

Appropriate Revenue Collecting Agencies

Each of the TBD revenue options are collected and administered by different agencies. Each agency has its own requirements to comply with before collection can begin.

- Property taxes are administered by the county assessor and treasurer. Contact the appropriate county officials to determine the timeline/process for collecting this tax.
- The sales and use tax is administered by the Department of Revenue (DOR). The sales and use tax cannot be imposed for a period exceeding 10 years (unless reauthorized by the voters for another period not to exceed 10 years). A new sales tax cannot be collected until DOR receives 75 days notice and the new tax will begin on the first day of January, April, July or October. Thereafter, DOR will remit the proceeds to the TBD monthly.
- The vehicle fee is administered by the Department of Licensing (DOL). The fee cannot be collected until 6 months after the fee is authorized by voters or the TBD governing board. There are a several vehicles types (snowmobiles, farm equipment, etc.) that are exempt from the fee. The fee is collected by DOL on vehicle renewals, remitted to the State Treasurer who will then remit the proceeds to the TBD monthly.

- Vehicle tolls are administered by the Department of Transportation when imposed on state routes or federal highways. The TBD must administer collection of tolls on city streets or county roads. However, in both instances, the Washington State Transportation Commission must approve, set, and impose the tolls and the amount of tolls is limited to the amount sufficient to implement the TBD's transportation improvement finance plan.
- Transportation impact fees on commercial and industrial buildings/developments are administered by the TBD. If this fee is imposed, it is important to contact the counties and cities within the TBD because if a county or city has already imposed a transportation impact fee, the TBD may not impose the fee on that building/development.