

## How May the Revenues from the Sales Tax Authorized for Rural Counties in RCW 82.14.370 Be Used?

May 22, 2013 by Pat Mason, MRSC

RCW 82.14.370 provides "rural" counties the authority to impose an up to 0.09 percent sales and use tax for the purpose of financing "public facilities serving economic development purposes in rural counties and finance personnel in economic development offices." (A "rural county" under this statute is one having a population density of less than 100 persons per square mile or one smaller than 225 square miles. Thirty-five counties currently qualify. See this Office of Financial Management webpage.) This tax - credited against the state's 6.5 percent sales tax and therefore not an increased tax to the consumer - was part of 1997 legislation intended to assist such counties in their efforts to promote economic development and employment opportunities. A recent informal opinion issued by the Office of the Attorney General provides some specific guidance as to how taxes collected under this statute may be spent.

This May 14, 2013 opinion considers whether those taxes collected under RCW 82.14.370 may be used to finance long range water system planning. The water system plan under consideration was to be integrated into the county's comprehensive plan at some future time, but it was not related to any particular public facility. The conclusion in this opinion is that planning costs may be financed by this local sales tax only if those costs are necessary for the construction of a particular qualifying public facility. Because the long range water system plan in this situation was unrelated to any particular facility, the opinion concluded it failed to qualify under this statutory requirement, and so funds raised under RCW 82.14.370 could not be used to pay for these planning expenses. An earlier, formal attorney general opinion, AGO 2001 No. 5, also provides guidance on how the tax authorized in RCW 82.14.370 may be used. In that opinion, the question was raised about the use of revenues collected under RCW 82.14.370 to finance costs that are closely related to public facilities but are not public facilities per se. The conclusion in that opinion was that the local tax may be used to finance costs associated with a public facility as defined by that statute if that facility served an "economic development purpose." Among these associated costs are land use and permitting costs, site planning costs, as well as feasibility, marketing, and revenue impact analysis.

As to determining which facilities serve an "economic development purpose," AGO 2001 NO. 5 concluded that, among rural counties planning under the Growth Management Act (GMA), a facility qualifies if it is listed in the economic development plan or the economic development section of the county's comprehensive plan. For those counties that do not plan under the GMA, the statute requires only that the facility be listed in the capital facilities plan of the county or of a city within the county.