HB 2919
Bill Analysis

February 5, 1998

Brief Description: Adopting the community redevelopment financing act.

Bill Sponsors: Representatives McMorris, Gombosky, Mulliken, D. Sommers, Benson, Chandler, Sterk, Schoesler, Wood, Crouse, Sheahan and Sump.

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Background: "Tax increment financing" is a method of allocating a portion of property taxes to finance economic development of urban areas. Typically, under tax increment financing a local government issues bonds to finance public improvements. To repay its bondholders, the local government is permitted to draw upon regular property tax revenue collected from property owners inside a special district surrounding the site of the public improvements. Not all regular property tax revenue collected from apportionment district property owners, however, is available for bond repayment. Only tax revenue generated by the increase in district property values spurred by the public improvements is available for this purpose.

Construction of public improvements tends to increase the market values of nearby properties. Increases in value can result in increased property taxes for each taxing district that includes property near the public improvement. Under tax increment financing, the local government making the improvement gets all of the resulting tax revenue increase. For example, if a city makes an improvement that raising nearby property values, the city gets all of the resulting increase in property taxes, rather than sharing that increase with the state, county, and other local districts under the normal property tax allocation system.

Legislative History of Tax Increment Financing. In 1982, the Legislature authorized tax increment financing under certain conditions. At the same time, the Legislature adopted Senate Joint Resolution 143, a proposed constitutional amendment which expressly authorized the financing methods described in the act. The voters rejected SJR 143 in the November 1982 state general election. However, the legislation authorizing tax increment financing was not contingent on the proposed constitutional amendment, and remained on the books. In 1985, the Legislature passed House Joint Resolution 23, another proposed constitutional amendment authorizing tax increment financing, and placed it on the ballot. It was also defeated at the polls.

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Constitutionality of Tax Increment Financing. Legislative history for the 1982 act shows that the Legislature thought tax increment financing might violate the uniformity requirement for property taxes under Article VII, section 1 of the state Constitution.

In 1995, the Washington Supreme Court invalidated Spokane's use of the 1982 act. The City of Spokane had attempted to use the 1982 act to finance redevelopment of the area surrounding Bernard Street in downtown Spokane. A special district was created by ordinance in 1993. It comprised a seven-square-block area, enclosed by Spokane Falls Boulevard on the north, Washington Street on the west, Browne Street on the east, and both Sprague and 1st Streets on the south. The improvements envisioned by the ordinances included curbs, gutters, storm drainage, sidewalks, embossed concrete, signalization, street lighting, street trees, and an irrigation system. A lawsuit challenging the use of tax increment financing to fund these improvements was filed by a property owner in the special district.

The Washington Supreme Court ruled that the 1982 act violated article 9, section 2, of the state Constitution, in that it allows diversion of property tax revenues away from the common schools. That section of the constitution requires that the state tax for common schools be applied exclusively to the support of the common schools. By ruling under the school funding clause of the Constitution, the Supreme Court did not reach other property tax uniformity issues. Therefore, the constitutionality of tax increment financing under the uniformity clause is still an open question.

Structure of the 1982 Act. The "Community Redevelopment Financing Act of 1982" allows a portion of regular property taxes to be allocated, for limited periods of time, to assist in the financing of public facilities. Before the financing of public improvements is approved the following criteria must be satisfied:

1. The public improvement must be located within an urban area;

2. The public improvement will encourage private development;

3. The public improvement will increase the fair market value of property;

4. Private development will be consistent with existing comprehensive land use plans; and

5. Public improvement has been approved by the legislative authority of the city, town or county where the improvement will be located.

Apportionment of regular property tax revenues may not occur in a previously established apportionment district unless the financing agent of the public improvement concurs. Bonds which are payable in whole or in part from tax allocation revenues may not exceed 2 percent of the value of taxable property within the city or town where the public improvement will be constructed. Only regular property taxes may be apportioned.

In order to obtain an allocation of regular property taxes to finance a public improvement, information explaining the project, its cost, location and geographic tax base must be included in a proposed ordinance. Provision must also be made for three public hearings. Notice of the hearings and of any subsequently enacted ordinance is required.

Regular property taxes will be apportioned annually. The county assessor will determine the value of taxable property within the apportionment district. If an apportionment district is established in a year in which revaluation is not scheduled, the county assessor will value the property within the district at its true and fair value rather than performing a revaluation. The assessed valuation and property values will not increase until the regularly scheduled revaluation period. Only the increase above the revaluation will be allocated to the apportionment district. Apportionment will cease when the principal and interest on bonds issued to finance public improvements are paid off.

Tax allocation revenues may be applied to pay public improvement costs, principal and interest on bonds, bond funds or any combination thereof.

Tax allocation bonds may be issued at the discretion of the sponsor financing the public improvement. These bonds will not be the general obligation of or guaranteed by the full faith and credit of the sponsor or any other state or local government.

General obligation bonds, which are issued to finance public improvements and for which all or part of the principal and interest will be paid by tax increment financing, are subject to notice and hearing provisions and potential referendum by the voters on the ordinance authorizing the issuance of the bonds.

The increase in value of taxable property will not be included in the increase in assessed value for purposes of determining any limitation upon regular property taxes until the termination of the apportionment.

No legal action may be commenced after 30 days from the date of publication of notice of the enactment of a public improvement ordinance.

Summary of Bill: The Community Redevelopment Financing Act of 1982 is repealed in its entirety and replaced with the "Community Redevelopment Financing Act." The new act is almost identical to the 1982 act. However, the state property tax levy for schools is excluded from the taxes that may be apportioned for redevelopment financing.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which the bill is passed.