SENATE BILL REPORT
SB 5364

As Reported By Senate Committee On:
Economic Development, February 21, 2003
Ways & Means, April 7, 2003

Title: An act relating to community revitalization financing.

Brief Description: Promoting economic development and community revitalization.

Sponsors: Senators Zarelli, T. Sheldon, Regala, B. Sheldon, Winsley, McAuliffe, Hale and Rasmussen; by request of Governor Locke.

Brief History:
Committee Activity: Economic Development: 2/7/03, 2/21/03 [DPS-WM].
Ways & Means: 3/4/03, 4/7/03 [DP2S].

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5364 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators T. Sheldon, Chair; Zarelli, Vice Chair; Hale, Schmidt and Shin.

Staff: Jack Brummel (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5364 be substituted therefor, and the second substitute bill do pass.
Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Doumit, Fraser, Hale, Johnson, Parlette, Poulsen, Regala, Sheahan, B. Sheldon and Winsley.

Staff: Catherine Suter (786-7442)

Background: Tax increment financing redistributes tax collections. It does this by diverting increases in property or excise tax revenues from the state or local government to locally created areas or districts to finance community revitalization programs within the areas or districts. Legislation providing for state property tax increment financing was ruled unconstitutional by the state Supreme Court in 1995. Three constitutional amendments that would have allowed state property tax increment financing in Washington did not receive voter approval.

As an alternative, the Legislature in 2001 authorized tax increment financing using local governments' regular property taxes. Bonds are issued to pay for community revitalization projects and programs and the diverted taxes are used to pay off the bonds. Community revitalization efforts funded this way include traditional infrastructure improvements and

environmental analysis, professional management, planning, promotion of retail trade activities, maintenance and security for common areas, and historic preservation.

Local governments must adopt an ordinance to create a tax increment area. An area may not be established unless the local government taxing districts (not including the state) imposing at least 75 percent of the regular property taxes within this area sign written agreements approving the tax increment financing. In addition, any fire protection district within the tax increment area must approve the creation of the increment area.

Regular property taxes imposed by all local governments within the tax increment area on 75 percent of any increase in assessed valuation occurring in that area after its creation are diverted to finance the projects. Regular property taxes imposed by any local government on all of the remaining value (the assessed valuation in the year before the tax increment area was created plus 25 percent of any increase in assessed valuation in the tax increment area) are distributed to the local governments as if the tax increment area had not been created. The state's property taxes are not affected.

One project in Spokane has attempted to use the State's community revitalization financing provisions.

Summary of Second Substitute Bill: The community revitalization financing program is expanded to allow local governments to finance public improvements not only using the increased local property tax revenues, but also increased sales and use tax revenues from the increment area and revenue generated through a new sales and use tax, up to $1 million per year, per project, credited against the state sales and use tax.

The threshold for the requirements that taxing districts imposing at least 75 percent of the regular property taxes within an increment area must approve of a project is lowered to 60 percent. Fire districts may opt in or out independently. Local governments intending to finance public improvements in an increment area need to reach agreement with private developers regarding private improvements within an increment area.

A jurisdiction may not use community revitalization financing for public facility district projects or to move Washington businesses into the increment area if the businesses are currently operating outside the increment area.

The procedural steps necessary to adopt an ordinance establishing an increment area are increased.

A local government that creates an increment area may use any increased excise (sales and use) taxes received by it from taxable activity within the increment area to finance the public improvement costs financed in whole or in part by community revitalization financing. When tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements, the local government may no longer retain the excess excise taxes.

Beginning in 2006, a jurisdiction that has created an increment area and financed public improvements under the community revitalization program may, upon approval from the Department of Revenue (DOR), impose a sales and use tax within the increment area, as a state match to the property and excise tax allocations, plus any private contributions, that the

increment area has realized the previous calendar year. A jurisdiction may collect from this tax each year no more than $1 million or the sum of the state property tax and sales and use tax increases from the increment area, whichever is lesser. This new tax expires when bonds issued are retired, but not more than 25 years after imposed.

The limit for credit against the state sales and use tax for all increment areas is $5 million in the first year. In each of the three subsequent years, the total amount credited against the state sales and use tax increases by the percentage increase in the assessed value of all property within the state as determined by DOR. The total credit against the state sales and use tax per project is capped at $5,750,000 for the four years authorized by the bill. The department will tell a jurisdiction to stop imposing tax when the jurisdiction's state contribution limit is reached or the aggregate state contribution limit is reached.

Jurisdictions that establish an increment area must provide DOR with information on the taxes collected, the businesses attracted, the jobs created, and the wages paid.

A local government that issues bonds to finance public improvements may pledge for payment of such bonds all or part of any tax allocation revenues derived from the public improvements. It can also pledge the revenues of the credit of the state sales and excise tax. The bonds issued by the local government to finance the public improvements do not constitute an obligation of the state.

Second Substitute Bill Compared to Original Bill: Implementation is shifted one year later. The ability of all local property tax jurisdictions to opt in or out was removed, though preserved for fire protection districts. A requirement is established that taxing districts representing at least 60 percent of regular property taxes must approve of the project, at which point all taxing districts (except fire) must participate.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For (Economic Development): This is an important economic development funding mechanism. The state will help leverage local funds. $400 million in private investment will result from this bill. This gives local governments a mechanism to bring in new businesses. Unsuccessful projects will not draw on state funds. This gets rid of some of the impediments to the existing law. The opt-in provision is critical to counties. The anti-displacement of business language is good.

Testimony Against (Economic Development): Concerns: This raises a levy capacity issue. The formulas create a disproportionate distribution. The property tax portion of this should be eliminated. The reporting requirements need to be enhanced. There should be a central registry.

Testified (Economic Development): PRO: Sheila Martin, Governor's Office; Bart Phillips, Columbia River Economic Dev. Council; Diane Dollar, WEDA and Snohomish County EDC; Ron Musson, City of Richland; Gerald Baush, City of Vancouver; Jay Reich, Preston, Gates & Ellis; Todd Mielke, Spokane Regional Chamber of Commerce; Rick Slunaker, Associated General Contractors; Bryan Wahl, WA Assn. of Realtors. CONCERNS: Scott Noble, WA Assn. of County Assessors; Paul Parker, WA State Assn. of Counties; Jeff Johnson, WA State Labor Council.

Testimony For (Ways & Means): The Community Revitalization Program, as amended by this bill, is designed to encourage private sector investment for immediate public projects and long-term private sector job growth. It will result in at least 2,200 private sector jobs just with the public projects alone, and an initial $400 million in private sector investment.

Infrastructure is lagging and border areas need to compete with neighbor states that have programs even stronger than this proposal. Local accountability is key, so there is a review period after four years, and if there is no incremental increase in taxes, the state does not participate.

Concerns: County assessors feel that tax increment financing is a good theory and support it. However, the property tax portion of this program may not work as intended, due to the state's property tax structure. Because we have a budget-based tax system with a single classification, increases in value do not increase revenues, only new construction does. Therefore, if this program results in new construction, that will produce new revenues to be shared, but as soon as that construction is completed and assessed, the redistribution of property tax revenues will continue but might disadvantage the pre-existing jurisdictions. Also, levy lid lifts are a problem. Assessors recommend that this bill be reworked to be more feasible. We must avoid unintended consequences.

Neutral: The Washington Association of Counties does not oppose SSB 5364, due to changes allowing a county to opt out of a tax increment financing project. It supports the sales/use tax portion of the bill.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): PRO: Sheila Martin, OFM; Nathan Torgelson, City of Kent; Art Schuenemann, King County-Seattle EDC; Todd Mielke, Spokane Regional Chamber of Commerce; Bart Phillips, Columbia River EDC; Scott Noble, Washington Association of County Assessors, King County Assessor (with concerns); NEUTRAL: Paul Parker, Washington Association of Counties.