Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Economic Development, Agriculture & Trade Committee

HB 2673

Brief Description: Providing tools for local infrastructure financing.

Sponsors: Representatives Linville, Ericksen, P. Sullivan, Buck, Ericks, Kilmer, Kessler, Grant, Walsh, B. Sullivan, Lantz, Morris, O'Brien, Conway, Morrell and Wallace.

Brief Summary of Bill

- Creates the local infrastructure financing tool (LIFT) demonstration program to finance local public infrastructure projects designed to promote economic development.

Hearing Date: 1/18/06

Staff: Tracey Taylor (786-7196).

Background:

Sales and Use Tax
There is a 6.5 percent retail sales tax levied by the state on the selling price of tangible personal property and certain services purchased at retail. In general, the tax applies to goods, construction (including labor), repair of tangible personal property, lodging for less than 30 days, telephone service, and participatory recreational activities. There are some local taxes that are credited against the state sales tax, including the 2 percent hotel/motel tax upon accommodations by cities and counties. There are also some exemptions, credits and deferrals to the state retail tax.

There is a 6.5 percent use tax on items not subject to the state retail sales tax. This includes purchases made from out-of-state sellers, purchases from sellers who are not required to collect Washington sales tax, items produced for use by the producer, and gifts and prizes. The tax is measured by the value of the item at the time of the first use within the state, excluding any delivery charges.

Counties and cities may impose several local sales and use taxes at various rates and for various purposes. The tax base is the same as under the state retail sales and use taxes. The most widely utilized local sales and use taxes are the basic tax at a rate of 0.5 percent and an optional tax at a rate of up to 0.5 percent. The funds may be used for any general purpose.

Summary of Bill:

The local infrastructure financing tool (LIFT) program is created to assist local government promote economic development. LIFT will consist of six demonstration public improvement projects designed to increase private development in the area and that will utilize increased property tax revenues, excess excise tax revenues and revenues generated through a sales and use tax credited against the state sales and use tax in the revenue development area (RDA) to finance the improvements.

The six LIFT demonstration projects are: the Port of Walla Walla Rail Ex infrastructure project; the Bellingham waterfront redevelopment project; the Covington Elementary School redevelopment project; the Grays Harbor Biomass Plant project; the Gig Harbor St. Anthony's Hospital and retail area infrastructure project; and the Bothell Gateway project.

A RDA must include the demonstration project area. In addition, a RDA must be comprised of contiguous tracts, lots, pieces or parcels of land have less than $1 billion in assessed value for the taxable real property within the RDA. The average assessed value per square foot of the taxable land within the RDA may not exceed $70 per square foot. In addition, a RDA cannot comprise more than 25 percent of the total assessed value of the taxable real property within the boundaries of the local government creating the RDA. Boundaries cannot be drawn in such a way as to purposely exclude parcels where economic development is unlikely to occur and must be located in the demonstration project area.

Public Improvements

LIFT must be used to finance public improvements, including: street and road construction and maintenance; water and sewer system construction and improvements; sidewalks and streetlights; parking, terminal, and dock facilities; transit authority park and ride facilities; park facilities and recreational areas; storm water and drainage management system; and affordable housing.

LIFT may not be used to finance public stadiums currently funded by a public facilities district. It also may not displace other traditional sources of funding that historically funded public improvement costs. LIFT must be used for public improvements identified within the capital facilities, utilities, housing, or transportation elements of a comprehensive plan required by the Growth Management Act (GMA), except public improvements that are considered historical preservation activities. It must be expected to encourage private investment within the RDA and to increase the fair market value of real property within the RDA.

The public improvement costs may include the costs of: design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement and installation of public improvements; demolishing, relocating, maintaining and operation of property pending construction of the public improvements; the costs of financing the public improvements; assessment incurred in revaluing real property and apportioning the taxes in the RDA; and reasonably related administrative costs and feasibility studies.

Creating an Increment Area

The local government must have entered or expects to enter an agreement with a private developer or have received a letter of intent from a private developer relating to the developer's plans for private improvements within the RDA. Such private development must be consistent with the countywide planning policy adopted by the county and the local government's comprehensive plan.

The local government must make findings that LIFT will not be used for the purpose of relocating a business from Washington, located outside the RDA, into the RDA and it will improve the viability of existing business entities within the RDA. In addition, it must find that the RDA is in need of economic development or redevelopment and absent LIFT, the proposed development or redevelopment would not occur. The local government must also find that the public improvements financed in whole or in part with LIFT are reasonably likely to:

- increase private investment within the RDA;
- increase employment within the RDA; and
- generate, over a period of time that the local sales and use tax will imposed, state and local property, sales, and use tax revenues that are equal or greater than the respective state and local contributions made under this program.

Prior to adopting an ordinance creating a RDA, the local government must obtain written agreement for the use of LIFT to finance all or a portion of the costs of improvements from any taxing district that levies real property or imposes a sales or use tax within the RDA if the taxing district chooses to participate in the public improvement to the extent of providing limited funding under LIFT. The governing body of each participating taxing district must authorize its participation. The local government planning to create a RDA must also estimate the impact of the RDA on small business and low-income housing and develop a mitigation plan for the impacted businesses and housing.

The ordinance must describe the public improvements, the boundaries of the RDA, estimate the cost of the public improvements and the portion of these costs to be financed by LIFT, estimate the time during which regular property taxes and excess excise taxes are to be used to finance the public improvement costs, provide the date when the apportionment of the taxes will begin and making a finding that all conditions necessary to create a RDA are met.

A public hearing must be held at least 60 days before passage of the ordinance establishing the RDA. The public hearing may be held either by the governing body of the local government or by a committee of that body comprising at least a majority of the whole governing body.

Notice of the public hearing on the proposed ordinance creating the RDA must be sent by U.S. mail to all property owners and business enterprises located within the proposed RDA at least 30 days prior to the hearing. The local government must consult with business organizations and ethnic associations to develop methods of notice that ensure that appropriate notice is provided to the business enterprises and property owners for whom English is a second language.

<u>Property Tax Accrued Value</u>
The accrued value is 75 percent of any increase, over the tax allocation base value, in the assessed value of real property in a revenue development area that is placed on the assessment roles after the RDA is created. In calculating the regular property tax accrued value, regular property taxes levied by voters for a specific purpose shall not be included.

Tax allocation base value is the accrued value of real property located within RDA for taxes levied in the year in which the RDA is created for collection in the following year, plus 100 percent of any increase in the assessed value of real property located within a RDA that is placed on the assessment rolls after the RDA is created, less the accrued value.

In the second calendar year following the effective date of the ordinance creating the RDA, the county treasurer distributes the receipts from regular taxes on real property in the RDA as follows:

> (1) each participating taxing district and the local government that created the RDA shall receive the portion of its regular property taxes by the rate of tax levied by or for the taxing district on its tax allocation base value or upon the total assessed value of real property in the taxing district, whichever is smaller; and
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> (2) the local government shall receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the accrued value in the RDA. If there is no accrued value, the local government does not receive any additional regular property taxes.

The county assessor shall allocate any increase in the assessed real property value occurring in the RDA to the tax allocation base value and the accrued value as appropriate.

<u>Excess Excise Taxes</u>
A local government that creates a RDA may use annually any excess excise taxes received by it from taxable activity within the RDA to finance the public improvement costs financed in whole or in part by local infrastructure 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. Any participating taxing authority may allocate excess excise taxes to the local government so long as the Department of Revenue (DOR) has approved the local government's imposition of the additional local sales and use tax.

The excess excise tax is the amount of excise taxes received by a local government within the RDA over and above the amount of excise taxes received there during the base year from taxable income within the RDA. The base year is the first calendar year following the creation of the RDA and the measurement year is a calendar year, beginning with the calendar year following the base year, that is used annually to measure the amount of excess excise taxes required to be used to finance the public improvement costs. However, if no excise taxes were received in the RDA in the 12 months prior to the creation of the area, then the excess excise taxes are the total amount of excise taxes received in each calendar year after the area is created.

If a local government is solely a port district, the port district may use excess excise taxes only to the extent that any other taxing authority that receives excise tax from taxable activity in the RDA allocates excess excise taxes to the local government.

If a port district and a city, town or county is the RDA, excess excise taxes may only be used if the city, town or county realize excess excise taxes from taxable activity within the RDA or any other taxing authority that receives excise taxes from taxable activity in the RDA allocates excess excise taxes to the local government.

Boundary information of the RDA is due to the DOR at least 75 days before effective date of ordinance creating the RDA.

<u>Sales and Use Tax</u>
A city, town or county that creates a RDA and finances the public improvements under the local infrastructure financing tool program may impose a sales and use tax. The tax is in addition to

other taxes authorized and will be collected from those who are taxable by the state retail sales tax and use tax for any taxable event within the jurisdiction. The rate cannot exceed 6.5 percent less the aggregate rates of any other taxes imposed on the same event that are already credited against the state sales and use taxes. The tax shall be deducted from the amount of taxes otherwise required to be collected or paid to the DOR for the state sales and use tax.

The sales and use tax cannot be imposed until after January 1, 2007, and the local increment jurisdiction must first have received tax allocation revenues derived from either real property taxes or excess excise taxes or both during the preceding calendar year. The proceeds may only be used for the payments of principal and interest on the bonds issued for the public improvements financed through the local infrastructure financing. This tax expires when bonds issued are retired, but not more than 30 years after being imposed.

In order to enact a sales and use tax, the local jurisdiction must first enact an ordinance imposing tax that provides that:

(1) the tax shall first be imposed on the first day of a fiscal year;
(2) the amount of the tax received by the local government in any fiscal year shall not exceed the state contribution;
(3) the tax shall cease to be imposed for the remainder of any fiscal year in which either:
(a) the amount of tax receipts totals the amount of the state contribution;
(b) the amount of the tax receipts totals the amount of local public sources dedicated in the previous fiscal year to finance the authorized public improvements; or
(c) the amount of the revenue from taxes imposed under this section by all cities, towns, and counties totals the annual state credit limit.
(4) the tax will be reimposed at the beginning of the next fiscal if it ceased to be imposed; and
(5) any revenue generated by the tax in excess of the amount of the state contribution limit will go to the State.

Then, the jurisdiction must apply to the DOR at least 75 days before the effective date of any such tax. The DOR will accept and approve applications beginning August 1, 2006, through September 30, 2008. Application information shall include: information establishing the jurisdiction is eligible to impose such a tax; the anticipated effective date of the tax; the estimated number of years that the tax will be imposed; and a copy of the ordinance creating the RDA.

The DOR will rule on an application within 60 days of receipt. The DOR will approve the amount of the sales and use tax that an applicant may impose. The amount shall not exceed the lesser of $1 million or the highest amount of tax revenue the applicant estimates it will receive in any one fiscal year through the imposition of the sales and use tax.

If both a city and a county impose the sales and use tax under this program, the amount is credited based on which jurisdiction created the RDA first.

State contribution means the lesser of $1 million or an amount equal to the state property tax allocation revenues received by the state during the preceding calendar year and the excess state excise taxes received by the state during the preceding year.

The aggregate limit for credit against the state sales and use tax is $5 million. The DOR will inform the jurisdiction to stop imposing the tax once the jurisdiction's annual state contribution limit is reached or the aggregate state contribution limit is reached.

Local government must notify the DOR by March 1 the amount of local public sources dedicated in the previous calendar year to finance the authorized public improvement and the tax allocation revenues derived in the previous calendar year from the regular property taxes on the accrued value and distributed to finance the public improvements.

Money must be used only for the purpose of principal and interest payments on bonds issued for a project and must be matched with an amount from local public sources dedicated through December 31 of the previous calendar year to finance the authorized public improvements. Local public sources can include private monetary contributions and tax allocation revenues. The money generated from the sales and use tax must actually be expended to pay public improvement costs or are required by law or an agreement to be used exclusively to pay public improvement costs.

The new tax is available to a local jurisdiction as long as the jurisdiction has outstanding indebtedness.

Accountability

The local government utilizing the sales and use tax must provide an annual report to the DOR by March 1 of each year. The report must include:

(1) The amount of tax allocation revenues, sales and use tax and local public sources received by the local government during the preceding calendar year, and how these revenues were expended;
(2) The names, and previous business locations, of any business located within the RDA as a result of the public improvements undertaken by the local government and financed in whole or in part by this program;
(3) The total number of permanent jobs created as a result of the public improvements undertaken by the local government and financed in whole or in part by this program.
(4) The average wages and benefits received by the employees of all businesses locating within the RDA as a result of the public improvements; and
(5) The local government is complying with the requirement that the local infrastructure financing proceeds are being used exclusively within the area within the jurisdiction deemed in need of economic development and/or redevelopment.

The DOR shall make the report available to the public and the Legislature by June 1 of each year. The report shall include a list of the public improvements undertaken by the local governments and financed in whole or in part by community revitalization financing. The report should also include a summary of the information provided by the local governments. The full report by a local government to the DOR shall be made available to the public upon request.

Bond Authorization

A local government designating an increment area and authorizing the use of community revitalization financing may incur general indebtedness, and issue general obligation bonds or revenue bonds, to finance the public improvements and retire the indebtedness in whole or in part from tax allocations it receives.

Local government can annually pay into a fund to be established for the benefit of bonds issued for this program a fixed proportion or fixed amount of any tax allocation revenues derived from

property or business activity within the increment area containing the public improvements funded by the bonds. The payments continue until all bonds payable from the fund are paid in full.

A local government can annually pay into a second fund a fixed proportion or fixed amount of any revenues derived from the credit of the state sales and excise tax, such payment continuing until all bonds from the fund are paid in full.

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.

JLARC Study
Beginning September 1, 2013, and continuing every five years thereafter, the Joint Legislative Audit and Review Committee (JLARC) must submit a report to the Legislature evaluating the effectiveness of the LIFT program, including a project by project review. The year 2028 report must also include any recommendations regarding whether or not the LIFT program should be expanded statewide and what impact the expansion would have on Washington's economic development.

Miscellaneous
Nothing in the Act gives port districts the right to impose a local sales or use tax.

The DOR may adopt rules required to administer the community revitalization financing program.

The LIFT program expires June 30, 2039.

Appropriation: None.

Fiscal Note: Requested on January 10, 2006.

Effective Date: The bill takes effect on July 1, 2006.