

HOUSE BILL REPORT

SB 5512

As Passed House - Amended:

April 4, 2007

Title: An act relating to financing for hospital benefit zones.

Brief Description: Modifying financing provisions for hospital benefit zones.

Sponsors: By Senators Kilmer, Regala, Hobbs, Eide, Pridemore and Rasmussen.

Brief History:

Committee Activity:

Finance: 3/21/07, 3/30/07 [DPA].

Floor Activity:

Passed House - Amended: 4/4/07, 96-0.

Brief Summary of Bill (As Amended by House)

- Expands the use of revenues and matching funds authorized under the Hospital Benefit Zone program to pay for other means of financing of public improvements, in addition to paying for principal and interest on revenue bonds.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

Staff: Mark Matteson (786-7145).

Background:

Sales and Use Taxes. The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. The use tax is imposed on items and services that are otherwise taxable under the sales tax, but for which the sales tax has not been paid. The state sales tax rate is 6.5 percent of the selling price. The rate of the state use tax is also 6.5 percent. Cities, counties, and other taxing districts may impose sales and use taxes at various

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

rates. The combined state and local rate for both sales and use taxes varies from 7 percent to 8.9 percent, depending on the location.

Tax Increment Financing - Hospital Benefit Zones. In general, tax increment financing is a method of funding public infrastructure needed for future economic development with the proceeds of bonds underwritten by the expected increase in tax revenues attributable to that economic development. In 2006, the Legislature enacted two new tax increment financing programs, the Local Infrastructure Financing Tool (LIFT) program and the Hospital Benefit Zone (HBZ) program.

In the HBZ program, local governments may use excise tax increment financing to finance public infrastructure improvements within a defined area called a benefit zone. The benefit zone must include a hospital that has received a certificate of need. Improvements are funded by the proceeds of revenue bonds that are supported by incremental sales and use tax revenues. Local incremental sales and use tax revenues in excess of an amount collected in a base year, called excess excise taxes, are set aside for the purpose of matching state revenues made available for the program. The state revenues are obtained through a new local sales and use tax that is credited against the state sales and use tax; this is called the state contribution. Up to \$2 million of state contribution per HBZ per year may be obtained.

In order to form a HBZ, a local government must perform certain actions. The local government must adopt an ordinance designating a HBZ within its boundaries and specify the public improvements to be financed with the HBZ financing. The government must find that the public improvements are likely to increase private investment and employment within the HBZ, and, over the period of time that the state contribution is utilized, that state and local sales and use tax revenues are expected to exceed the state and local contributions. The government must also publish notice of the HBZ and proposed public improvements in the local newspaper and forward a copy of the ordinance to affected stakeholder governments.

An area proposed to be a HBZ must meet certain criteria. The private development anticipated to occur must be consistent with local comprehensive plans. Also, public improvements must be expected to support private development and development of a hospital that has received a certificate of need.

If the local government has created the HBZ and has set aside excess excise taxes for the purposes of HBZ infrastructure financing, it may apply to the Department of Revenue (DOR) to impose a new sales and use tax credited against the state sales and use tax. The new local tax rate can be as high as the state sales/use tax rate, 6.5 percent. The mechanism shifts receipts from the state tax derived from the investment and the increased retail activity within the zone to the local jurisdiction for use in financing public improvements.

The DOR must approve the maximum amount of the sales and use tax that an applicant may impose, but no more than \$2 million per applicant. The aggregate statewide limit for credit against the state sales and use tax is \$2 million per year. The tax must be suspended each fiscal year when the amount collected during the fiscal year equals either the amount of local excess excise taxes, the amount of state sales and use taxes collected in the measurement year

over and above the amount in the base year, or \$2 million. State money is contributed for no more than 30 years from the date the local tax is first imposed or until the bonds are paid off, whichever is sooner.

Money from the new local tax must be used for the sole purpose of principal and interest payments on revenue bonds issued for an eligible public improvement within the HBZ. Amounts from the new tax must be matched with an amount from local public sources dedicated in the previous calendar year for the purposes of HBZ financing. Local public sources include, but are not limited to, private monetary contributions and excess excise taxes. Local public sources are considered dedicated for the purposes of HBZ financing if they are actually expended to pay public improvement costs or are required by law or agreement to be used to pay public improvement costs.

The local government utilizing the new sales and use tax must file an annual report with the DOR by March 1 of each year. The report must include an accounting of revenues allocated for the purposes of the program, as well as business, employment, and wage information pertaining to the benefit zone. The DOR must make a report available to the public and the Legislature by June 1 of each year, based on information received from participating local governments.

Recent Activity in the Hospital Benefit Zone (HBZ) Program. On July 24, 2006, the City of Gig Harbor city council adopted an ordinance creating an HBZ. The zone is in the Gig Harbor North area and is the site of a planned Franciscan Health System hospital that has received a certificate of need. The public improvements that will be funded with HBZ financing include several transportation improvements to improve the State Route 16/Burnham Drive interchange or to divert forecasted traffic demand away from the interchange.

In October 2006, the city modified its ordinance to expand the boundaries of the HBZ to include portions of unincorporated Pierce County.

In a December 2006 memo to the City of Gig Harbor, bond counsel expressed a concern as to whether revenue bonds financed solely from the revenue sources authorized under HBZ would be marketable. The memo recommended that the use of the revenues authorized under HBZ be expanded to allow "pay-as-you-go" financing or to pay for other bonds, such as general obligation bonds, issued for public improvements within the zone.

Summary of Amended Bill:

Changes are made to allow additional flexibility for the use of revenues, to add boundary requirements, and to provide technical corrections.

A local government with an approved HBZ may use tax increment financing revenues for payment of other bonds issued under separate local authority to pay for public improvements within the HBZ and for payment of the cost of public improvements directly (pay-as-you-go),

rather than limiting the use of revenues solely to payment of the principal and interest on the revenue bonds.

Any challenge to the formation of a HBZ must be brought within 60 days of its formation or July 1, 2007, whichever is later. A local government cannot create a new HBZ within a geographic area of an existing HBZ or a revenue development area under the LIFT program. A local government must find that the expected excess state sales and use tax revenues attributable to the economic development will exceed the state contribution that will be made. Further, the boundaries of a HBZ must not change for the life of the program.

Local excess excise taxes are limited to incremental revenues attributable to the tax rate in effect at the time that the HBZ was approved by the DOR. Local public sources do not include funds derived from state loans, state grants, other local taxes credited against state taxes, and any other state funds.

The rate of local tax imposed must be no higher than what is reasonably necessary for the local government to receive its entire annual state contribution over a 10-month period. The expiration of the new tax authority is modified to provide that the tax expires the earlier of the date when: tax allocation revenues are no longer needed for public improvements in the HBZ; the bonds issued under the authority of the HBZ program (if issued at all) are retired; or 30 years after the tax is first imposed. The bill clarifies that the \$2 million annual state contribution limit is measured on a fiscal year basis.

A local government does not need to provide detailed employment information as part of the requisite annual HBZ report and is required to provide the names of only those businesses known to the government to have located within the zone as a result of the public improvements. The local government must provide a copy of its report to the State Auditor.

The bill is retroactive to July 1, 2006.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on July 1, 2007.

Staff Summary of Public Testimony:

(In support) A new hospital has been planned for the Gig Harbor area. This bill will enable the project to proceed more quickly. The bill provides some more flexibility with the way funds may be used. It allows for pay-as-you-go payments on the public improvements. It will also provide the bond market with some certainty regarding the streams of revenue. There are several other changes requested by the DOR that have been included. One ensures that other state funds may not be used as the local match. Another provides that the benefit zone may not overlap any revenue development area under the LIFT program.

From the City of Gig Harbor's standpoint, these changes make last year's law usable. The bond market views the stream of sales and use tax revenues authorized by the law as narrow and potentially volatile. Our bond attorneys have said that because of this, any bond issue will require some history of the new tax stream before bonds can be issued, and that any issue would likely require a premium because of the narrow nature of the source. The pay-as-you-go provision would be a huge benefit, as would the provision that would allow us to use the funds to support other types of bonds issued for public improvements in the zone.

Persons Testifying: Senator Kilmer, prime sponsor; and David Rodenbach, City of Gig Harbor.

Persons Signed In To Testify But Not Testifying: None.