

HOUSE BILL REPORT

HB 1277

As Reported by House Committee On:
Community & Economic Development & Trade
Finance

Title: An act relating to expanding competitive local infrastructure financing tools projects.

Brief Description: Expanding competitive local infrastructure financing tools projects.

Sponsors: Representatives Kelley, Simpson, Wood, P. Sullivan, Conway, Kenney, Ericks, Rolfes and Morrell; by request of Governor Gregoire.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/7/07, 2/12/07 [DPS];
Finance: 2/27/07, 3/5/07 [DP2S(w/o sub CEDT)].

Brief Summary of Second Substitute Bill

- Authorizes \$2.5 million in additional competitive Local Infrastructure Financing Tool (LIFT) Program projects.
- Allows more than one LIFT project per county in certain circumstances involving cities that have territory in more than one county.
- Adds criteria that must be considered by the Community Economic Revitalization Board when approving competitive LIFT awards.
- Makes technical corrections to the LIFT.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; Bailey, Ranking Minority Member; McDonald, Assistant Ranking Minority Member; Darneille, Haler, Rolfes and P. Sullivan.

Minority Report: Do not pass. Signed by 1 member: Representative Chase.

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.

Staff: Tracey Taylor (786-7196).

Background:

The Local Infrastructure Financing Tool (LIFT) Program was created to assist local government promote economic development. The LIFT is available for selected 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. An RDA must be comprised of contiguous tracts, lots, pieces or parcels of land and 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, an RDA may not 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 of an RDA may not be drawn in such a way as to purposely exclude parcels where economic development is unlikely to occur. A county may only have one RDA within its boundaries. Once created, the boundaries of the RDA may not be changed.

LIFT Projects

The LIFT Projects are approved by the Community Economic Revitalization Board (CERB), in consultation with the Department of Revenue (DOR) and the Department of Community, Trade, and Economic Development (DCTED). However, demonstration projects must be approved prior to any other application. The demonstration projects are the Bellingham redevelopment project (\$1 million per year), the Spokane River district project (\$1 million per year), and the Vancouver Riverwest project (\$500,000 per year). The CERB will apply the following criteria to the competitive projects: the project's potential to enhance the sponsoring local government's regional and/or international competitiveness; the project's ability to encourage mixed-use development and the redevelopment of a geographic area; achieving an overall distribution of projects statewide that reflect geographic diversity; the estimated wages and benefits for the project is greater than the average labor market area; the estimated state and local net employment change over the life of the project; the estimated state and local net property tax change over the life of the project; and the estimated state and local sales and use taxes increase over the life of the project.

Public Improvements

The LIFT must be used to finance public improvements, including: street, bridge and road construction, and maintenance; water and sewer system construction and improvements; sidewalks, traffic controls, and streetlights; parking, terminal, and dock facilities; park and ride facilities; park facilities and recreational areas; storm water and drainage management systems; and affordable housing. The LIFT may not be used to finance public stadiums currently funded by a public facilities district.

The 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 operating 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.

The sponsoring local government must have entered or expects to enter into 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 sponsoring local government must find that the RDA is in need of economic development or redevelopment. The local government must also find that the public improvements financed in whole or in part with the LIFT are reasonably likely to:

- (1) increase private investment within the RDA;
- (2) increase employment within the RDA;
- (3) generate, over the period of time that the local sales and use tax will be imposed, state and local property and sales and use tax revenues that are equal or greater than the respective state and local contributions made under this program; and
- (4) improve the viability of existing communities and increase private residential and commercial investment within the RDA.

Prior to adopting an ordinance creating an RDA, the sponsoring local government must obtain written agreement from any participating local governments and participating taxing districts to use dedicated amounts of revenues from their local public sources, local excise tax allocation revenues, and local property tax allocations for LIFT. The governing body of each participating local government and taxing district must authorize its participation. A public hearing must be held by the sponsoring local government at least 30 days before passage of the ordinance establishing the RDA. 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.

Local Property Tax Allocation Revenue Value

The property tax allocation revenue value is defined as 75 percent of any increase, over the tax allocation base value, in the assessed value of real property in an RDA that is placed on the assessment rolls after the RDA is created. In calculating the regular property tax allocation revenue value, regular property taxes levied by voters for a specific purpose is not to be included. Tax allocation base value is the assessed value of real property located within an 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 an RDA that is placed on the assessment rolls after the RDA is created, less the property tax allocation revenue 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 sponsoring local government that created the RDA must 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.
- (2) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value in the RDA. If there is no property tax allocation revenue value, the local government does not receive any additional regular property taxes.

The county assessor must 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. The apportionment must cease when the property tax allocation revenue value is no longer obligated or necessary to pay the last of the public improvements.

Local Excess Excise Taxes

The sponsoring local government that creates an RDA or any participating local government, 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 CERB 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 during the measurement year 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.

Sales and Use Tax

A sponsoring local government 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 DOR must collect the tax on behalf of the sponsoring local government at no cost and remit it to the sponsoring government. The sales and use tax may not be imposed until after July 1, 2008, and approved by the CERB. The

local sponsoring jurisdiction must first have received tax allocation revenues derived from both real property taxes or excess excise taxes 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 25 years after being imposed.

The CERB, in consultation with the DOR, will approve the amount of the sales and use tax that an applicant may impose. The amount may not exceed the lesser of \$1 million or the average amount of tax revenue the applicant estimates it will receive in all fiscal years through the imposition of the sales and use tax. The state contribution limit is \$5 million per year. Each year, the amount of taxes approved by the CERB for distribution to a sponsoring local government in the next fiscal year shall be the lesser of the amount of the project award in the approval notice or an amount equal to the state contribution. In determining the amount of the state contribution, the CERB will consider the information from the sponsoring local government's annual reports.

Local governments must notify the DOR by March 1 the amount of local infrastructure financing 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 may 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 and the tax is available so long as the local jurisdiction has outstanding indebtedness.

The LIFT program expires June 30, 2039.

Summary of Substitute Bill:

The limit of the annual state contribution to LIFT projects in the state is increased from \$5 million per year to \$10 million per year. This will allow an additional round of applications for \$2.5 million in the competitive LIFT project awards in calendar years 2008 and 2009.

The definition of "revenues from local public sources" is updated to preclude using other state moneys as the required local match.

The definition of "property tax allocation revenue value" is updated to reflect what is considered new to assessment rolls for the purposes of calculating property tax allocation revenues. This includes some rehabilitation of historic properties and certain new housing construction, conversion and rehabilitation improvements that occur after the RDA is approved by the CERB.

A definition for "initial year" is added to clarify how to calculate the property tax allocation revenue in different situations where the property has been improved. In addition, a definition of "real property," consistent with other property tax statutes, is added to the statutes. The CERB may consider whether a project promotes transit-oriented development or redevelopment.

Deadlines for applications and approvals are established. Demonstration project applications must be received by the CERB by July 1, 2008. Competitive project applications submitted to the CERB by July 1, 2007, must be acted on by the CERB by September 15, 2007.

Competitive project applications submitted to the CERB by July 1, 2008, must be acted on by CERB by September 15, 2008. If prior to the CERB final competitive project awards in 2008, a demonstration project has not received approval to proceed by the CERB or only receives a partial award, the award amount previously allocated to the demonstration project or the remaining balance will be available for the competitive award process.

The one RDA per county restriction and the average square foot value of \$70 restriction are both removed. An RDA cannot overlap another part of an RDA or a Hospital Benefit Zone.

The requirement that the public hearing on the ordinance be held 30 days prior to the adoption of the ordinance is eliminated.

The requirement that the local funds be distributed in at least a 80 percent/20 percent mix between local excise tax allocation revenues and local property tax allocation revenues is eliminated.

If the sponsoring local government fails to issue bonds by June 30 of the fifth fiscal year in which the excise tax is imposed, the sponsoring local government must return the state distributions.

The statutory language is updated to reflect the role and timing of the CERB in approving the LIFT projects.

The DOR and the DCTED are given rulemaking authority.

Substitute Bill Compared to Original Bill:

Several technical corrections are made to the underlying bill, including fixing typos and incorrect RCW references. The definition of state excise tax is further clarified. A duplicative bond authorization statute is repealed. A severability clause is added. Finally, language is added to ensure that the changes to the LIFT program apply to projects already authorized. An additional round of \$2.5 million in competitive LIFT projects is added for calendar year 2009. Finally, when considering applications, the CERB not only should look at projects that have mixed use developments or redevelopment, but also projects involving transit-oriented development or redevelopment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The LIFT is a long-term solution for local governments planning for the future. Most other states have a more robust tax increment financing tool, and this pilot program is designed to see how a similar avenue for a public-private partnership will work in Washington. As it remains a pilot program, this bill is aimed at the goal of piloting the program you want to implement. With work over the interim with various stakeholders and program implementers, this bill is designed to help make the LIFT Program work effectively for the local governments. This includes eliminating the one-per-county limitation, the 80/20 percent ratio for local property tax allocation and local excise tax allocations, and the square footage restriction. In particular, the latter two restrictions were causing some angst with bond underwriters and counsel. The additional flexibility will allow the local governments to implement the program as intended. In addition, to ensure an excellent evaluation of the effectiveness of the program, an additional round of competitive project awards is added. This will allow representative snapshots of the program's implementation from around the state.

(Opposed) None.

Persons Testifying: Representative Kelley, prime sponsor; Marc Baldwin, Office of the Governor; Ashley Probart, Association of Washington Cities; Ellie Chambers, City of Puyallup; Therese Holm, City of Bellingham; Gerald Baugh, City of Vancouver; Jim Hedrick, Spokane Chamber of Commerce; Tom Parker, City of Spokane; and James Monahan, Washington Economic Development Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community & Economic Development & Trade. Signed by 7 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Conway, Ericks, McIntire and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives Condotta, Assistant Ranking Minority Member and Roach.

Staff: Mark Matteson (786-7145).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Community & Economic Development & Trade:

Increases the competitive grant authority by \$2.5 million instead of by \$5 million. Reinstates the condition that limits the revenue development area to areas where the average assessed

value per square foot of taxable land is \$70 or less. Limits authorization to use local infrastructure financing (LIFT) to one project per county, except in sponsoring jurisdictions located in multiple counties, in which case the LIFT may be approved if at least one of the counties in which the jurisdiction is located has not received authorization to use LIFT. Adds a new criterion for the evaluation of competitive grant proposals that requires demonstration, over the life of the project, that neither local excess sales taxes or local property taxes constitute more than 80 percent of local matching funds. Adds economic need and impact to the criteria the Community Economic Revitalization Board (CERB) must use to evaluate the competitive projects. Reverts to the existing requirement that to be eligible to impose the new sales tax credited against the state sales tax, neither excess local property or excise taxes may constitute more than 80 percent of local matching funds, but delays the effect of the requirement to five years after local matching excise tax revenues are first collected.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This is an important means for local governments to develop infrastructure. The proposals in the bill are good and fix technical problems and provide some additional competitive grant funds.

The Bellingham waterfront project is a 150 acre redevelopment on a former Georgia-Pacific industrial site, providing mixed-use housing, business space, open space, and involving a lot of environmental cleanup. The project was approved by the CERB last fall. The city has received requests for proposals for the first phase of the project, most of which is cleanup. We project \$158 million in revenue to the state over 25 years. The city will invest \$75 million, with the rest divided between the port and private sector. We need some flexibility concerning the 80/20 requirement for local allocation revenues. Because of up-front construction and cleanup, it will be about five years before property tax revenues catch up enough to make this pencil out. Also, the change that allows us to count the value of historical property as new construction for the purposes of this tool is important.

The City of Vancouver's project will have significant economic benefits. We retained a consultant to do a return-on-investment analysis for us, concerning economic development. We believe that for the LIFT project the revenue generated will be about \$164 million over the next 20 years, and the state will receive about 70 percent of that. Our project is proceeding very well. The site has been acquired and architects retained. We believe that we will meet the July 1 deadline to designate a revenue development area. Our project is a multipurpose endeavor that will contain a 90,000 square foot library, 200 residential units, a small 80 room hotel, 100,000 square feet of office space, 17,000 square feet of retail and restaurant space, and a 900-spot parking facility.

Bothell is unique, since we reside in two counties. The current restriction of one RDA per county puts us at an unfair advantage. We'd like to see this removed.

The Association of Realtors endorses the bill as amended and supports any expansion of this tool to fund infrastructure.

(Opposed) None.

Persons Testifying: Representative Kelley, prime sponsor; Ashley Probart, Association of Washington Cities; Dick Little, City of Bellingham; Floyd Tyler, City of Vancouver; Richard Weight, City of Bothell; and Mark Williams, Washington Association of Realtors.

Persons Signed In To Testify But Not Testifying: None.