

HOUSE BILL REPORT

HB 1651

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

Title: An act relating to community economic revitalization board programs.

Brief Description: Concerning community economic revitalization board programs.

Sponsors: Representatives Kelley, Ericks, Sullivan, Ormsby, Carlyle and Simpson.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 2/12/09, 2/18/09 [DPS].

Brief Summary of Substitute Bill

- Increases the state contribution for Local Infrastructure Financing Tool (LIFT) competitive projects by \$3.4 million per year for a state total of \$10.9 million per year.
- Authorizes the LIFT competitive application processes for calendar years 2009 and 2010.
- Requires approval of at least one award in 2009 or 2010 for a downtown re-development project in a city that meets certain population, planning, and funding criteria.
- Prohibits any award in 2009 or 2010 for a project in a city exceeding 300,000 population.
- Removes the general restriction on approval of the LIFT use in more than one revenue development area per county.
- Adds an urban planner and representative of organized labor to the Community Economic Revitalization Board.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Kenney, Chair; Maxwell, Vice Chair; Liias, Probst and Sullivan.

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.

Minority Report: Do not pass. Signed by 3 members: Representatives Smith, Ranking Minority Member; Chase and Parker.

Staff: Meg Van Schoorl (786-7105)

Background:

Traditional Tax Increment Financing.

Traditional "tax increment financing" is a method of allocating a portion of property taxes to finance economic development in 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. 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 raises 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.

1982 Tax Increment Financing Act.

Washington's original tax increment financing legislation was adopted by the Legislature in 1982. The 1982 Community Development Refinancing Act (Act) followed the general contours of traditional tax increment financing, as described above. At the same time the original tax increment financing legislation was adopted, the Legislature also adopted Senate Joint Resolution (SJR) 143, a proposed constitutional amendment that expressly authorized the financing methods described in the 1982 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.

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. The City of Spokane attempted to use the 1982 Act to finance re-development of the area surrounding Bernard Street in downtown Spokane. A lawsuit challenging the use of tax increment financing to fund these improvements was filed by a property owner in the apportionment district. In 1995 the Washington Supreme Court invalidated Spokane's use of the 1982 Act, ruling that the Act violated article 9, section 2, of the state Constitution, in that it allowed 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.

The Local Infrastructure Financing Tool.

Since 2001 the Legislature has authorized three additional types of tax increment financing: the Community Revitalization Financing Act, the Local Infrastructure Financing Tool (LIFT), and the Hospital Benefit Zone Program.

The 2006 (LIFT) Program. Instead of allocating a portion of the state property tax, under the LIFT program, state sales taxes collected within a sponsoring jurisdiction are diverted to the jurisdiction for the purpose of funding public improvements within the designated increment area, known as the "revenue development area." A sponsoring jurisdiction can be a city, town, county, or federally recognized Indian tribe. The maximum state contribution is capped at \$1 million per year per project. Since the LIFT program is essentially a state match program, jurisdictions must allocate an equivalent amount of local funds to receive the maximum state award. State sales taxes cannot be diverted for more than 25 years.

The maximum statewide contribution for all of the LIFT projects is capped at \$7.5 million per year (\$2.5 million for demonstration projects, \$5 million for competitive projects.) Nine projects have been awarded under the LIFT program. Three of them are demonstration projects designated by the Legislature: Bellingham, Vancouver, and Spokane County. Six of them were approved through two competitive application processes administered by the Community Economic Revitalization Board (CERB): in 2007 Bothell, Everett, and Federal Way; in 2008 Yakima, Mt. Vernon, and Puyallup.

The CERB may not approve use of the LIFT within more than one revenue development area per county, with two exceptions: cities located in more than one county, and counties that include demonstration projects.

The window for the application process is currently closed. Approval of additional projects requires future legislative action.

The expiration date for the LIFT program is June 30, 2039.

Summary of Substitute Bill:

The state contribution for the LIFT competitive projects is increased by \$3.4 million per year. This raises the maximum state contribution for all of the LIFT projects from \$7.5 million per year to \$10.9 million per year.

The LIFT competitive application processes are authorized for calendar years (CY) 2009 and 2010. For projects not receiving awards in CY 2008, sponsoring and co-sponsoring local governments may apply again in CY 2009. For the CY 2009 competitive "round," all applications must be received by the CERB by July 1, and projects approved by September 30. No more than \$1.7 million can be approved. For projects not receiving awards in CY

2009, sponsoring and co-sponsoring local governments may apply again in CY 2010. For the CY 2010 competitive "round," all applications must be received by the CERB by June 1, and projects approved by September 30.

At least one award in CY 2009 or CY 2010 must be for a downtown redevelopment project in a city with less than 100,000 population, fully planning under the Growth Management Act, and receiving funds from the streamlined sales and use tax mitigation account. None of the LIFT awards may be made in CY 2009 or CY 2010 for a project located in a city with more than 300,000 residents.

The general restriction on the CERB approving the use of the LIFT in more than one revenue development area per county is removed.

The expiration date for the LIFT program is extended by five years to June 30, 2044.

The CERB membership is expanded to include one member representing organized labor and one urban planner, each appointed by the Governor.

Substitute Bill Compared to Original Bill:

The state contribution limit for the LIFT competitive projects is increased by \$3.4 million per year, rather than \$5 million, for a state total of \$10.9 million per year, rather than \$12.5 million. The total awards made in CY 2009 are limited to \$1.7 million, rather than \$2.5 million. At least one award in CY 2009 or CY 2010 must be for a downtown redevelopment project in a city with less than 100,000 population, fully planning under the Growth Management Act, and receiving funds from the streamlined sales and use tax mitigation account. None of the LIFT awards in CY 2009 or CY 2010 may be made to a project located in a city with more than 300,000 residents.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 17, 2009.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, relating to the 2009 LIFT round and per county project limit, which takes effect immediately.

Staff Summary of Public Testimony:

(In support) Tax increment financing (TIF) is an important local government incentive currently available in 48 other states. Oregon has a very robust TIF program, and Clark County cities must compete against that every day. Washington does not have many economic and community development incentives and tools. The TIF-like mechanisms tend to be used more to meet public demand in medium to large cities rather than in the smaller towns. The Legislature can take one of three routes towards passing legislation this session: do nothing, extend the LIFT, or go to the next level by amending the existing community

revitalization financing (CRF) statutes. The LIFT has had three full funding rounds and has not been challenged in court. The City of Vancouver project approved by the Legislature three years ago is going vertical this year.

(With concerns) Southwest Washington development organizations support extending the LIFT, especially removing the one-per-county limitation, but prefer the first-come, first served approach of the CRF as a better state investment due to artificial delays in the LIFT competitive process.

Persons Testifying: (In support) Representative Kelley, prime sponsor; Deborah Knutson, Snohomish County Economic Development Council; Rick Wickman, Identity Clark County; Ashley Probart, Association of Washington Cities; and Jim Hedrick, Greater Spokane Incorporated.

(With concerns) Mark Brown, Columbia River Economic Development Council.

Persons Signed In To Testify But Not Testifying: None.