
Ways & Means Committee

HB 1881

Brief Description: Concerning community redevelopment financing in apportionment districts.

Sponsors: Representatives Springer, Haler, Kenney, Probst, Fitzgibbon, Lias, Armstrong, Jacks and Stanford.

Brief Summary of Bill

- Allows a county, city, or port district to create an apportionment district for the purposes of financing public improvements within the district.
- Authorizes a county, city, or port district to impose a property tax within the apportionment district on the incremental property value increase within the district to finance public improvements within the district.

Hearing Date: 2/22/11

Staff: Jeffrey Mitchell (786-7139).

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.

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.

Structure of the 1982 Community Redevelopment Financing Act.

Washington's original tax increment financing legislation was adopted by the Legislature in 1982. The "Community Redevelopment Financing Act of 1982" (1982 Act) allows a portion of regular property taxes to be allocated, for limited periods of time, to assist in the financing of public facilities. Before the financing of public improvements is approved the following criteria must be satisfied:

1. The public improvement must be located within an urban area.
2. The public improvement will encourage private development.
3. The public improvement will increase the fair market value of property.
4. Private development will be consistent with existing comprehensive land use plans.
5. The public improvement has been approved by the legislative authority of the city, town, or county where the improvement will be located.

Apportionment of regular property tax revenues may not occur in a previously established apportionment district unless the financing agent of the public improvement concurs. Bonds which are payable in whole or in part from tax allocation revenues may not exceed 2 percent of the value of taxable property within the city or town where the public improvement will be constructed. Only regular property taxes may be apportioned.

In order to obtain an allocation of regular property taxes to finance a public improvement, information explaining the project, its cost, location and geographic tax base must be included in a proposed ordinance. Provision must also be made for three public hearings. Notice of the hearings and of any subsequently enacted ordinance is required.

Regular property taxes will be apportioned annually. The county assessor determines the value of taxable property within the apportionment district at the time the district is established. This value is referred to as the tax allocation base value. Each year, all regular property taxes on the value of property within the district above the tax allocation base value are allocated to the sponsor for public improvements within the district. These allocations are referred to as tax allocation revenues. Apportionment of tax allocation revenues stops when the principal and interest on bonds issued to finance public improvements are paid off.

Tax allocation revenues may be applied to pay public improvement costs, principal and interest on bonds, bond funds or any combination thereof.

Tax allocation bonds may be issued at the discretion of the sponsor financing the public improvement. These bonds will not be the general obligation of or guaranteed by the full faith and credit of the sponsor or any other state or local government.

General obligation bonds, which are issued to finance public improvements and for which all or part of the principal and interest will be paid by tax increment financing, are subject to notice and hearing provisions and potential referendum by the voters on the ordinance authorizing the issuance of the bonds.

The increase in value of taxable property will not be included in the increase in assessed value for purposes of determining any limitation upon regular property taxes until the termination of the apportionment.

No legal action may be commenced after 30 days from the date of publication of notice of the enactment of a public improvement ordinance.

Constitutionality of the Community Redevelopment Financing Act of 1982.

The 1982 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 redevelopment 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.

Recently Enacted Tax Increment Financing Programs.

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

The LIFT, HBZ, and LRF programs are similar in that all three are essentially state match programs. As a general matter, under all three programs, a jurisdiction designates an area targeted for infrastructure improvements, issues bonds to pay for the improvements, and then is eligible to receive a limited state sales tax contribution as long as a number of requirements are met. The CRFA is similar to the 1982 Act, except no state contribution is provided.

Property Taxes.

Property taxes are imposed by state and local governments. The county assessor determines assessed value for each property. The county assessor also calculates the tax rate necessary to raise the correct amount of property taxes for each taxing district. The assessor calculates the rate so the individual district rate limit, the district revenue limit, and the aggregate rate limits are all satisfied. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located. The assessor delivers the county tax roll to the county treasurer. The county treasurer collects property taxes based on the tax roll starting February 15 each year.

The annual increase in district property tax revenues is restricted by the property tax revenue

limit. This limit requires the district's tax rate to be reduced as necessary to limit the total amount of property taxes to the highest property tax amount in the three most recent years, plus 1 percent, plus an amount equal to last year's tax rate multiplied by the value of new construction in the district. This limit acts to reduce district rates below the maximum rate allowed for the district.

The sum of property tax rates is also limited by the state Constitution to a maximum of 1 percent of true and fair value, or \$10 per \$1,000 of market value. The Constitution provides a procedure for voter approval for tax rates that exceed the 1 percent limit. These taxes are called "excess" levies. Property taxes that are subject to this 1 percent limitation are referred to as regular property tax levies.

The Legislature has established individual taxing district tax rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. For example, the state levy rate is limited to \$3.60 per \$1,000 of assessed value, county general levies are limited to \$1.80 per thousand, county road levies are limited to \$2.25 per thousand, and city levies are limited to \$3.375 per thousand. These districts are known as "senior" districts. Junior districts such as fire, library, and hospital districts each have specific rate limits as well. The tax rates for most of these senior and junior districts must fit within an overall rate limit of \$5.90 per \$1,000 of value. There is a complex system of prorating the various levies so that the total rate does not exceed \$5.90. Under this pro-rationing system senior districts are given preference over junior districts.

A few regular property tax levies are not placed into the \$5.90 aggregate rate limit: emergency medical service levies, affordable housing levies, conservation futures levies, a portion of metropolitan park district and fire district levies, ferry district levies, and a transit-related county levy. However, these districts are subject to reduction if the rates for these districts, the state property tax, and the districts subject to the \$5.90 limit together exceed \$10 per \$1,000 of market value.

Summary of Bill:

The 1982 Community Redevelopment Financing Act is amended in several substantive ways.

Port districts, in addition to cities and counties, are authorized to create an apportionment district for the purpose of financing public improvements within or serving the apportionment district. Generally, an apportionment district must be located within an urban growth area, which includes a city and any area outside of a city only if such territory is already characterized by urban growth. However, a port district may create an apportionment district anywhere within its boundaries.

The existing financing mechanism of allocating all regular property taxes on incremental property value growth, i.e. tax allocation revenues, to the apportionment district is eliminated. Instead, a county, city, or port district creating an apportionment district is authorized to levy a special property tax within the apportionment district. This special property tax is applied to the incremental property value growth in the district after the district has been established. Special property taxes cannot be levied in an amount in excess of what is necessary to pay for the public improvements within the apportionment district. The maximum special property tax is 1 percent

of the incremental property value growth. Special property taxes are not subject to the 1 percent property tax revenue limit, the 1 percent constitutional limit, and the \$5.90 limit. (A separate constitutional amendment would authorize the special levy in excess of the 1 percent constitutional limit.) Special property taxes are subject to reduction or deferral under the retired person property tax exemption program and several property tax deferral programs. A special property tax may not be imposed for more than 30 years.

The requirement to hold three public hearings before imposing a special property tax within an apportionment district is reduced to one. Owners of all lots, tracts, and parcels of land within the proposed apportionment district must receive notice of the hearing. Notice of the hearing must include the estimated cost to be paid for public improvements within the district from special property taxes or tax allocation bonds. A county, city, town, or port district may not proceed with imposing a special property tax if the tax is protested by property owners within the district representing more than 50 percent of the value of taxable property in the district.

A county, city, town, or port district may pledge its full faith and credit in the payment of tax allocation bonds thereby making such bonds a general debt obligation of the jurisdiction.

Appropriation: None.

Fiscal Note: Requested on February 21, 2011.

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