
Ways & Means Committee

HJR 4217

Brief Description: Providing for community redevelopment financing in apportionment districts.

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

Brief Summary of Bill

- Amends the Washington State Constitution to allow tax increment financing.

Hearing Date: 2/22/11

Staff: Jeffrey Mitchell (786-7139).

Background:

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.

Washington's original tax increment financing legislation was adopted by the Legislature in 1982. The 1982 Act followed the general contours of traditional tax increment financing, as

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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 in *Leonard v. Spokane* 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.

Property Taxes.

All real and personal property is subject to property tax, based on 100 percent of the fair market value, unless otherwise provided by law.

Property taxes are calculated by multiplying a tax rate by the assessed value of each piece of property. By statute, assessed value must be equal to 100 percent of the fair market value of the property.

The state Constitution does not explicitly require assessments to be equal to fair market value, but Article VII, section 1 of the constitution does require all property taxes to be applied "uniformly." However, the Legislature has the power to exempt property from taxation.

Article VII, section 2 of the state Constitution limits the total amount of taxes on any piece of property to 1 percent or less of the fair market value.

Geographic Uniformity of Taxes.

Article XI, section 9 of the state Constitution mandates that state taxes not be released or commuted. In a 1984 decision, *Bond v. Burrows*, the Washington State Supreme Court held that a mechanism to allow residents of border counties to pay a lower rate of state sales tax than residents of other counties violated this provision. The Court held that taxes must be applied uniformly throughout the geographic region comprising the taxing district (city, county, etc.).

State and Municipal Indebtedness.

Under Article VIII of the state Constitution, state or local debt is defined to mean borrowed money secured by the full faith and credit of the governmental entity or required to be repaid, directly or indirectly, from general state or local revenues.

Appropriations Clause.

Article VII, section 6 of the state Constitution requires all state tax revenues, including state property taxes, to be deposited into the State Treasury. Under Article VIII, section 4 of the state Constitution, moneys may not be paid out of the State Treasury unless appropriated by law.

Summary of Bill:

The Constitution is amended to allow tax increment financing. A county, city, town, or port district, if authorized by the Legislature, is allowed to allocate all or a portion of regular property taxes, including the state property tax, imposed within a designated area to fund public infrastructure improvements within the area. A county, city, town, or port district, if authorized by the Legislature, is also allowed to impose a special property tax exclusively within the designated area for the purpose of funding public improvements. The allocation of regular property taxes and imposition of a special property tax are exempted from the constitutional requirements relating to: uniformity, the 1 percent limit on property taxes, indebtedness, the funding of schools through the state property tax, and the appropriation of state taxes.

Appropriation: None.

Fiscal Note: Not requested.