

SENATE BILL REPORT

SB 5705

As of February 24, 2011

Title: An act relating to community redevelopment financing in apportionment districts.

Brief Description: Concerning community redevelopment financing in apportionment districts.

Sponsors: Senators Kilmer, Delvin, Kastama, Litzow and Shin.

Brief History:

Committee Activity: Economic Development, Trade & Innovation: 2/14/11, 2/16/11, 2/17/11 [DPS, DNP, w/oRec].
Ways & Means: 2/23/11.

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TRADE & INNOVATION

Majority Report: That Substitute Senate Bill No. 5705 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kastama, Chair; Chase, Vice Chair; Hatfield, Kilmer and Shin.

Minority Report: Do not pass.
Signed by Senator Zarelli.

Minority Report: That it be referred without recommendation.
Signed by Senator Baumgartner, Ranking Minority Member.

Staff: Jack Brummel (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

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

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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 Community Redevelopment Financing. Washington's original tax increment financing legislation was adopted by the Legislature in 1982. The Community Redevelopment Financing Act of 1982 (CRF) allowed a portion of regular property taxes to be allocated, for limited periods of time, to assist in the financing of public facilities. The Legislature also adopted Senate Joint Resolution (SJR) 43, 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, which was not approved by voters.

Subsequently, the City of Spokane used CRF 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*, 127 Wn2d 195, 897 P2d. 358, invalidated Spokane's use of CRF by holding that CRF violated Article IX, section 2, of the state Constitution because it allowed diversion of property tax revenues away from the common schools; the court did not reach the issue of constitutional property tax uniformity.

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. CRFA is similar to CRF, except no state contribution is provided.

Property Taxes. Property taxes are imposed by state and local governments and county assessors determine the assessed value of property and calculate the tax rates necessary to raise the correct amount of property taxes for each taxing district. The state Constitution provides a tax rate limit for regular property taxes to 1 percent of true and fair value, or \$10 per \$1,000 of market value. Property taxes that are subject to this \$10/\$1,000 of assessed value rate limitation are referred to as regular property tax levies. The Constitution provides a procedure for voter approval for tax rates that exceed the 1 percent limit; these taxes are called excess levies. Further, by statute, the annual increase in regular property tax revenues is restricted by the levy 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.

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 \$1,000; county road levies are limited to \$2.25 per \$1,000; and city levies are limited to \$3.375 per \$1,000. 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 (Recommended Substitute): CRFA is amended. Special property taxes, rather than an allocation of regular property taxes, are used to finance public improvements. An apportionment district is the geographic area where special property taxes are levied and collected and where community redevelopment financing of public improvements is allowed. The apportionment district must be defined by ordinance and must be within a city, within an urban growth area, or with an unincorporated area with the boundaries of a port district.

The existing financing mechanism of CRFA, which allocates 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 sponsoring jurisdiction must hold a least one public hearing on the ordinance containing the public improvement plan. If, within 30 days of passage of the ordinance establishing the apportionment district and authorizing the proposed public improvement, property owners

representing more than 50 percent of the value of property in the apportionment district file a protest, the sponsoring jurisdiction may not levy the special property taxes.

Bonds issued to pay for public improvements in an apportionment district may be paid with the proceeds from special property taxes, and, if expressly authorized, may be a general obligation of, and be guaranteed by the full faith and credit of, a sponsoring jurisdiction.

Statutory sections of the CRFA relating to disagreements between taxing districts and to the issuance of general obligation bonds are repealed.

EFFECT OF CHANGES MADE BY ECONOMIC DEVELOPMENT, TRADE & INNOVATION COMMITTEE (Recommended Substitute): Provides greater specificity to the definition of public improvements. The ordinance must include findings that:

- public improvements are expected to encourage private development;
- private development will be consistent with planning policies;
- the financing will not duplicate other financing and will promote economic development; and
- the apportionment district will not be used to relocate a business from elsewhere in the state.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Economic Development, Trade & Innovation): PRO: The state economy will not improve unless construction picks up. This will help development move forward. Local governments need development tools. This allows growth to pay for itself. Most sponsoring jurisdictions would use general obligation bonds given today's bond market; these would be subject to current limits. This will not impact state taxes. This can be spectacular for small areas.

OTHER: It would be better if there were an allowance for voluntary participation. There is some concern about protecting funds for public schools. Definition of public improvements could include community facilities and affordable housing. Tax increment financing, when used improperly, can cause harm – it should only promote mixed-use projects. A portion of the funds should go back to the community for public uses.

Persons Testifying (Economic Development, Trade & Innovation): PRO: Senator Kilmer, prime sponsor; Douglas Howe, Touchstone Corporation; Lindsay Sovde, Seattle Northwest Securities; Ashley Probart, Assn. of WA Cities; Bob Sternoff, City of Kirkland; Joe Tortorelli, Economic Development NW, WEDA; Robin Toth, Greater Spokane, Inc.; Randy Neatherlin, Port of Allyn; Ken Katahira, Interim Community Development Assn.

OTHER: Marie Sullivan, WA State School Directors Assn.; Randy Neatherlin, Port of Allyn; Ken Katahira, Interim Community Development Assn.; Tony To, Homesight; Nick Federici, WA Low-Income Housing Alliance; April Putney, Futurewise.

Staff Summary of Public Testimony (Ways & Means): PRO: This bill and proposed constitutional amendment would allow the traditional TIF in Washington. There are two basic tenants to the proposal: a robust measure that can impact communities and also does not impact school districts and junior taxing districts. We are flexible. We just want a good economic tool. TIF can be a catalyst for improving blighted areas. This provides a way for communities to come together to fund infrastructure. It provides capacity for an area to improve itself. State programs for infrastructure are restrictive. This proposal empowers local jurisdictions to begin discussions with developers. This proposal has already lead to conversations about development and infrastructure. Helps get us there. Those who benefit pay the tax.

OTHER: The legislation should discourage improper development like single use, large scale commercial, environmental pollution. A portion of the incremental benefit should be used for further positives, like affordable housing and open space preservations. If this proposal works for 29 counties, it would be a better bill for all 39 counties. We want it to be state-wide. There are types of rural based economic development that this bill could apply to. Currently, the bill just applies in urban growth areas. We have appreciated the advocates working with school districts; we have no concern about the general concept. However, we are concerned about capturing money in ways that could affect school districts.

Persons Testifying (Ways & Means): PRO: Senator Kilmer, prime sponsor; Greg Hanon, NAIOP; Jeff Thompson, Freehold; Ashley Probart, AWC.

OTHER: Marie Sullivan, Washington State School Directors; April Putney, Futurewise; Nick Federici, Washington Low-Income Housing Alliance; Scott Merriman, WSAC.