

SENATE BILL REPORT

SB 5705

As Reported by Senate Committee On:
Economic Development, Trade & Innovation, February 17, 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].

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)

Background: In 1982 the Legislature enacted the Community Redevelopment Financing Act (the act) to allocate a portion of regular property taxes for limited periods of time to:

- finance public improvements needed to encourage private investment and arrest decay in urban areas; and
- encourage local taxing districts to cooperate in the allocation of future tax revenues.

The act authorizes a jurisdiction to finance public improvements drawing upon regular property tax revenue collected from property owners inside a zone, known as an apportionment district, surrounding the site of the public improvements. Not all regular property tax revenue collected from apportionment district property owners, however, is available to finance public improvements. Only tax revenue generated by the increase in apportionment district property values spurred by the public improvements is available.

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.

These tax allocation revenues may be used to pay public improvement costs directly, to pay principal and interest on tax allocation bonds or general obligation bonds, or any combination of these.

Under the act, a jurisdiction must pass an authorizing ordinance in order to obtain an allocation of regular property taxes to finance a public improvement. Information on the plan for public improvement, explaining the project, its costs, location, and geographic tax base must be included in the ordinance. Provision must also be made for three public hearings prior to adoption of the ordinance.

At the same time the act was enacted, the Legislature adopted Senate Joint Resolution (SJR) 143, a proposed constitutional amendment which expressly authorized the financing described in the act. The constitutional amendment was defeated in the November 1982 state general election. Three years later the Legislature adopted House Joint Resolution 23, a proposed constitutional amendment with the same function as SJR 143. It was also defeated at the polls.

In 1993 Spokane approved a plan to redevelop an area of its downtown employing the mechanisms in the act. A property owner in the newly created apportionment district sued to have the act declared unconstitutional. The case went to the State Supreme Court and the court held in *Leonard v. Spokane*, 127 Wn2d 195, 897 P2d. 358 (1995), that the funding mechanism of the act diverts taxes to public improvements and away from the common schools in violation of Article IX, section 2 of the Constitution. The Court further held that the funding mechanism provision of the act is not severable from the remainder of the act and that the act is unconstitutional.

Summary of Bill (Recommended Substitute): The Community Redevelopment Financing Act 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 sponsoring jurisdiction must hold a least one public hearing on the ordinance containing the public improvement plan. Following the passage of the public improvement ordinance, the jurisdiction may levy special property taxes, not to exceed 1 percent of the increased value of the property in an apportionment district over the value for the year in which the district was established. The special property taxes are not subject statutory limits on taxation, nor to the state Constitution's provisions relating to a 1 percent limit on property tax and voter authorization requirements to exceed the limit.

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 Community Redevelopment Financing Act 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: 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: 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.