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## Finance Committee

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### HB 2349

**Brief Description:** Concerning community redevelopment financing in apportionment districts.

**Sponsors:** Representatives Springer, Fitzgibbon, Habib, Rodne, Blake, Pollet, Roberts, Sells, Morrell and Goodman.

#### Brief Summary of Bill

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

**Hearing Date:** 1/23/14

**Staff:** Richelle Geiger (786-7175).

#### **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.

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*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 two 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 143 (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.

### 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 one 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 one 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 one 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.

An apportionment district must be located within an urban area, which includes a city and any area outside of a city if such area is a growth center, a transportation center, or a local center.

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 or city 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 levying of special property taxes may take place within a previously established apportionment district where special property taxes are still levied without the concurrence of the sponsor which established the previously established district.

The maximum special property tax is one percent of the tax allocation increment value within the apportionment district. Special property taxes are not subject to the one percent property tax revenue limit, the one percent constitutional limit, and the \$5.90 limit. Special property taxes are subject to reduction or deferral under the retired person property tax exemption program and several property tax deferral programs.

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 a map showing the public improvements, the anticipated level of funding for community benefit activities, estimated cost to be paid for public improvements within the district, and the maximum period during which the special property tax is to be levied. A sponsor 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 or 65 percent of the parcels.

Prior to imposing the special property tax, a sponsor must adopt an ordinance dedicating an amount equal to 20 percent of the maximum stated principal amount of tax allocation bonds to community benefit activities. Community benefit activities include low and moderate-income housing within walking or transit-connected distance of the apportionment district; conservation of open space lands; or other activities that further the sponsor's affordable housing, environmental, or social equity and other public goals. The majority of the community benefit funding must be dedicated to support development of low and moderate-income housing and conservation of open space. No more than 20% of community benefit funding may be dedicated to other community benefit activities. The sponsor's legislative authority must adopt an ordinance, after public comment, which sets periodic goals for the timing of funding community benefit activities.

In order to collect special property taxes, a sponsor must propose an ordinance describing the boundaries of the district, the maximum period (not to exceed 30 years) during which the special property tax may be levied, the anticipated level of community benefit activities, and the ways the sponsor plans to use the special property tax revenues to finance the public improvements. The public improvement ordinance must also include findings that are expected to encourage private development, increase the value of property within the apportionment district, or increase employment or affordable housing.

The collection of special property taxes within an apportionment district must cease when the tax allocation revenues are no longer necessary to pay public improvement costs, satisfy community benefit funding goals, or to pay tax allocation bonds.

Provisions allowing a taxing district that objects to the apportionment district to petition the State Board of Tax Appeals are repealed. Provisions issuing bonds, notifications, and referendum approval by voters for the issuance of general obligation bonds is repealed.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/17/14.

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