
**Community Development, Housing &
Tribal Affairs Committee**

HB 1383

Brief Description: Concerning community redevelopment financing in apportionment districts.

Sponsors: Representatives Springer, Haler, Young, Fitzgibbon, McBride, Stanford, Clibborn, Fey and Zeiger.

Brief Summary of Bill

- Authorizes local governments to assess a special property tax on the incremental increase of property values within a designated apportionment district.
- Requires a portion of the revenues collected from the special property tax to pay for community benefit activities.

Hearing Date: 1/27/15

Staff: Sean Flynn (786-7124).

Background:

Community Redevelopment Financing Act.

The Community Redevelopment Financing Act (Act) was passed in 1982 to provide a mechanism, known as tax increment financing, for local governments to allocate a portion of regular property taxes to finance specific public improvement projects that promote private development within urban areas. The Act authorizes a city or county to issue bonds to pay for public projects. The bonds may be financed by a portion of the regular property taxes levied within a specified apportionment district surrounding the public improvement. The tax is assessed on increased value of property within the apportionment district that is created by the public improvement.

Public Improvement.

A public improvement undertaken by a city or county may only be located within an urban area

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within a city or unincorporated part of a county. To be eligible for the financing mechanism provided in the Act, the authorizing city or county must find that the public improvement will:

- encourage private investment within the designated district;
- increase the value of property within the district; and
- attract private development in the district that is consistent with land use policy.

Authorizing Ordinance.

The legislative authority of the county or city must propose an ordinance to authorize the public improvement and establish the district from which property taxes will be apportioned. The ordinance must include a description of the public improvement and its estimated costs, the boundaries of the apportionment district, the period of tax apportionment, and the ways the apportioned revenues will finance the public improvement. The county or city may pass the ordinance only after holding at least three public hearings with notice provided in advance to the public and relevant parties.

Any taxing district that levies taxes within the apportionment district may petition to the state board of tax appeals (board) to review the ordinance within 30 days of receiving notice of its adoption. The board may approve or deny the ordinance, or grant approval conditioned upon modification.

Apportionment.

Only regular property taxes may be apportioned to finance a public improvement. The apportionment mechanism requires the county assessor to assess the value of the taxable property within the apportionment district once the district is established. That assessment becomes the base value of taxable property for purposes of apportionment. Each year, the portion of the tax on property within the apportionment district that exceeds the base value assessment is allocated to finance the public improvement. The apportionment ends when the bonds issued to finance the public improvement have been paid. Any excess funds must be distributed to the other taxing districts.

The total amount of outstanding bonds financed from an apportionment district may not exceed 2 percent of the value of the taxable property within the city or unincorporated part of the county where the district lies. An apportionment district may not overlap with a previously established district that still has outstanding bonds paid from tax revenues.

Use of Tax Revenues.

A county or city may use the apportioned tax revenue to pay public improvement costs directly or issue tax allocation bonds to finance the public improvement. Tax allocation bonds are not guaranteed by the full faith and credit of the issuing county or city. The county or city also may use revenues, fees, or rent proceeds to pay for tax revenue bonds.

A county or city may also issue general bonds to finance a public facility that is part of the public improvement. General revenue bonds must be specified in the authorizing ordinance and may be subject to a voter referendum.

Constitutional Limits on Tax Authority.

At the time the Community Redevelopment Financing Act was enacted, the Legislature also adopted Senate Joint Resolution 143, proposing a constitutional amendment that would expressly

authorize the tax mechanism created in the Act. The voters rejected that amendment, and did so again when the Legislature proposed a similar amendment (House Joint Resolution 23) three years later.

In 1993, the City of Spokane enacted an ordinance under authority of the Act. The ordinance was challenged and struck down by the state supreme court in *Leonard v. City of Spokane* (1995). In that case, the court held that the tax structure under the Act violated Article IX, section 2 of the state Constitution, which provides that state taxes levied for common schools must be exclusively applied for funding public education. The tax apportionment mechanism under the Act essentially allowed the city to divert a portion of regular property taxes away from school funding, in violation of Article IX, section 2.

Though not addressed in the *Leonard* case, the state constitution also requires taxes to be applied uniformly throughout each taxing district. All real and personal property in the state is subject to the state property tax, unless specifically exempted under law. Property taxes are based on the assessed value of the property. The state Constitution also limits regular property tax levies to a maximum of 1 percent of a property's assessed value. This applies to the total taxes levied by the state, counties, and other districts.

Summary of Bill:

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

Special Property Taxes.

A county or city may levy a special property tax within an appointment district. The special property tax may be assessed on up to one percent of the portion of property value in excess of the assessed property values within the district at the time the district was established. The special property tax may be levied within an existing apportionment district where special property taxes are still being levied. The special property tax may be levied for up to 30 years.

A special property taxes are not regular property taxes and may be levied in excess of all other statutory limitations. It is stated that these special property taxes are not subject to the constitutional limitations on levy authority.

Public Improvement.

A public improvement is defined to mean public infrastructure, such as roads and related projects, sewer and drainage systems, parking and dock facilities, recreational areas, and utility projects. A public improvement may also include certain public services within an apportionment area, including maintenance, security, historic preservation, or administration of the district itself.

A public improvement must be located within an urban area, including a city or an eligible area within the unincorporated area of a county. An eligible unincorporated area includes an area within an urban growth area that is designated for growth, within accessible distance to public transportation, or zoned for development.

Authorizing Ordinance.

A county or city must hold at least one public hearing with notice on a proposed ordinance to

create an apportionment district and levy a special property tax. The proposed ordinance must include a plan for the public improvements and certain findings on the expected results. It must also include the estimated cost of the improvements and financing, as well as the funding allocated for community benefit activities.

The ordinance can be repealed within 30 days after it is adopted by either the owners of 50 percent of the taxable property value within the apportionment district, or the owners of 65 percent of the property parcels within the district.

Community Benefit Activities.

The authorization of a special property tax is conditioned upon the city or county adopting an ordinance to provide funding for community development activities. Community benefit activities must include:

- affordable housing within or near the apportionment district;
- conservation measures for property that has a connection to the district; and
- activities that support the public goals of the city or county.

The city or county must authorize an amount equal to 20 percent of the principal on bonds issued to finance public improvements to be used for community benefit activities. Only 20 percent of this amount may be used for activities that support public goals, and the remaining 80 percent must be divided among the housing and conservation purposes. Within the first year the special property taxes are collected, an amount at least equal to 5 percent of the total principal amount of tax allocation must be dedicated to developing affordable housing.

The ordinance providing for community benefit activities may only be adopted after the county or city provides an opportunity for public comment. The ordinance must set a schedule for funding goals and reporting periods. The community benefit funding cannot last longer than 30 years.

Any person who pays the special property tax may bring an action in superior court to challenge a determination that the city or county has met its funding goals. If the county or city does not meet its goals within a reporting period, it must make a payment in the amount it fell short, separately to a state or local housing program, and a rural conservation fund or land trust.

Use of Tax Revenues.

A county or city may use the special property tax revenues to pay for public improvements and costs, to repay the principal and interest on tax revenue bonds, and to fund community benefit activities. Tax revenue bonds are backed by the full faith and credit of the county or city, and may be paid from the regular taxes revenues levied within the entire county or city. Tax revenue bonds may not be paid from revenues of a community benefit activity involving a housing project that duplicates the authority of the Housing Finance Commission.

Appropriation: None.

Fiscal Note: Requested on 1/21/2015.

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