Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 2551

Brief Description: Concerning state-shared taxes for the purpose of designated disaster area financing.

Sponsors: Representatives Condotta and Hawkins.

Brief Summary of Bill

- Allows a local government that has been affected by a qualifying disaster to create a designated disaster area within its boundaries, and to use designated disaster area financing to finance public improvement projects that will spur or draw private development.
- Requires the Department of Commerce to implement the reporting and other administrative requirements for a designated disaster area financing program.
- Authorizes a state contribution in the form of a state-shared sales and use tax, up to $500,000 annually per project ($5 million statewide), which participating local governments must match through local public funding sources.

Hearing Date: 1/26/16

Staff: Sarah Emmans (786-7288).

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

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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 Tax Increment Financing Act.
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 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 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.

Local Government Financing Tools.
Since 2001, the Legislature has authorized several forms of tax increment financing, including Community Revitalization Financing (CRF), the Local Infrastructure Financing Tool (LIFT), the Local Revitalization Financing program (LRF), and the Hospital Benefit Zone (HBZ) program. Each of these programs entitle a sponsoring jurisdiction or jurisdictions to finance public improvements through the diversion of certain revenues.

- Under CRF, LIFT, and LRF, sponsoring jurisdictions may divert a portion of regular local property taxes generated in a designated area to the local government in order to pay for a community revitalization project. The programs vary in terms of the requirements of the sponsoring jurisdiction(s) to notify or gain agreement from other taxing jurisdictions.

- Under LIFT, LRF, and HBZ, local jurisdictions may use revenue generated through the imposition of a local sales and use tax, credited against the state sales and use tax (up to a maximum amount). Since these programs are essentially a state match program, jurisdictions must allocate an equivalent amount of local funds to receive the maximum state award.

Summary of Bill:

Local government are authorized to create a designated disaster area (DDA) and to use DDA financing, including a state-shared local sales and use tax, to pay for public improvements. There are certain conditions necessary to qualify for the use of DDA financing, including:

1. A qualifying disaster (defined as extreme to be declared a state of emergency by the governor) caused damage of at least $10 million within the boundaries of the local government;
2. The local government finds that the DDA financing will not be used to relocate a business from elsewhere in the state unless convincing evidence is provided that the business would have left the state;
3. The public improvements will draw or spur private development, as established by a contract with or letter of intent from a developer;
4. The development will conform with the countywide planning policy under the Growth Management Act; and
5. The DDA financing will not be used by a public facilities district for a regional center.

The sponsoring local government must provide at least 60 days' notice to all local governments with boundaries within the proposed DDA, prior to holding a public hearing. The local government must adopt an ordinance that specifies the public improvements to be made and their cost, the DDA boundaries, and the length of time the DDA financing will be in place, including the estimated date when the state-shared local sales and use tax authorized under the act will be imposed. Local governments wishing to participate in the DDA financing must enter into an interlocal agreement; local governments that do not wish to participate must pass an ordinance and provide it to the sponsoring jurisdiction.

The DDA may be located within the boundaries of more than one participating local government, but within each jurisdiction it may not be more than 50 percent greater than the area immediately affected by the disaster. The DDA may not comprise more than 25 percent of assessed value in any one jurisdiction. The boundaries may not be changed for the time period that the sales tax authorized under the act is in effect.

The sponsoring local government may use the increment in local sales and use tax as the local match required to finance the public improvements, subject to any start and end dates specified in an interlocal agreement.

The sponsoring local government must apply to the state for a contribution in the form of state-shared revenues from a local sales and use tax, after adopting a DDA. The total state contribution is capped at $5 million annually; individual project contributions are capped at $500,000 each. The amount of state contribution is limited to the lesser of: 1) a project award amount approved by the Department of Commerce (itself based on both the cost of the public improvements and the estimated sales and use taxes generated in the DDA), 2) local revenues dedicated in the previous calendar year, or 3) $500,000. The state-shared sales and use tax rate is based on the estimated rate necessary to receive the project award approved by the Department of Commerce.

Sponsoring local governments must report to the Department of Commerce, which must make publicly available, certain information about the state-shared sales and use tax revenues, the

increment in local sales and use tax, economic development in the area, and information about any debt undertaken to finance the public improvements.

The state-shared sales and use tax authorized under this act expires when any bonds issued for the public improvements are retired, up to a maximum of thirty years.

Appropriation: None.

Fiscal Note: Available.

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