SENATE BILL REPORT
SB 5564

As Reported by Senate Committee On:
Financial Institutions, Economic Development & Trade, February 7, 2019

Title: An act relating to creating the building business ecosystems act.

Brief Description: Creating the building business ecosystems act.

Sponsors: Senators Brown, Wellman, Warnick, Takko, Hobbs, Walsh, Zeiger, Frockt, Wilson, L., Becker and Padden.

Brief History:
Committee Activity: Financial Institutions, Economic Development & Trade: 1/31/19, 2/07/19 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Authorizes local governments to create business ecosystem areas for targeting public improvements.
- Establishes public improvement costs may be paid for with local property and sales and use tax increases occurring in the business ecosystems area, a state contribution in the form of a sales and use tax credited against the state sales and use tax, and other local sources.
- Sets the annual state contribution limit for all projects at $4,965,000.
- Allows three projects to receive up to $1 million per year for 20 years; $800,000 for 25 years, or $665,000 for 30 years.
- Establishes $2.5 million is set aside for project applications from rural jurisdictions or for projects in designated opportunity zones.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE

Majority Report: That Substitute Senate Bill No. 5564 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Mullet, Chair; Wilson, L., Ranking Member; Braun, Das, Ericksen and Hobbs.

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.

Minority Report: Do not pass.
Signed by Senator Hasegawa, Vice Chair.

Staff: Clint McCarthy (786-7319)

Background: Tax Increment Financing. Traditional Tax Increment Financing (TIF) financing taps increased property taxes generated by private development, and applies those taxes to pay bonds issued to finance the public infrastructure supporting the development. A particular TIF district will be located within various overlapping taxing districts, and the TIF mechanism captures the increased property taxes of all overlapping taxing districts.

Traditional TIF financing is unconstitutional under Washington State law. In *Leonard v. Spokane*, the court held that a 1982 TIF statute violated the Washington State Constitution, which requires the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools. The 1982 TIF statute permitted forming TIF districts in which incremental property taxes, including the state property tax, could be applied to pay for public infrastructure. The court found the diversion of state property tax to be inconsistent.

The Legislature has since authorized TIF-lite districts capturing only increases in local property taxes. Additionally, TIF-lite districts must also work within the constitutional and statutory constraints of property taxes, including Washington's statutory 101 percent limitation on annual increases in property taxes. One exception to this limitation is for increased property taxes resulting from new construction or improvements. Accordingly, taxing districts generally can capture only the full increase in property taxes from new construction and improvements, and not the full increase in property taxes resulting from appreciation in property values within the TIF-lite district.

TIF-lite programs, such as the Local Infrastructure Financing Tool Program, the hospital benefit zone statute, and the Local Revitalization Financing Program also capture excise taxes in addition to the capped local property taxes. Increased state excise taxes are contributed in the form of a state sales tax credit. The state sales tax credit is applied through imposition of an increase in the local sales tax rate. The increased local sales tax is credited against the sales tax that would otherwise go to the state, resulting in no net increase in the tax rate paid by taxpayers.

Summary of Bill (First Substitute): The Building Business Ecosystems Program is created and made available to local governments for financing local public improvement projects intended to encourage economic development or redevelopment. As part of the program, a sponsoring local government—a city, town, county, or port—creates a business ecosystems area from which annual increases in revenues from local sales and use taxes and local property taxes are measured. Such increases in revenues and any additional funds from other local public sources are then used to pay for public improvements in the business ecosystems area and are also used to match a state contribution.

State funding for the program is provided through a credit against the state sales and use tax. The maximum state contribution a sponsoring local government can receive each year is limited to the lesser of:

- $1 million per year for 20 years;
- $800,000 per year for 25 years; or
- $665,000 per year for a 30 years.

The state sales tax may be used towards the payment of bonds issued to finance public improvements in the business ecosystems area or to pay public improvement costs on a pay-as-you-go basis, or both. State sales taxes cannot be retained by a sponsoring local government for the program for more than 30 years.

No more than $15 million of credit against the state sales and use tax may be received by all cities, towns, and counties imposing an increases in revenue.

Project awards must be determined through a competitive process. In evaluating applications for a project award, the Department of Commerce must develop the relative weight to be assigned to the following criteria:

- the project's potential to enhance the sponsoring local government's regional or international competitiveness;
- the project's ability to encourage mixed use or transit-oriented development and the redevelopment of a geographic area;
- achieving an overall distribution of projects statewide that reflect geographic diversity;
- the estimated wages and benefits for the project are greater than the average labor market area;
- the estimated state and local net employment change over the life of the project;
- the current economic health and vitality of the proposed business ecosystems area and the contiguous community and the estimated impact of the proposed project on the proposed business ecosystems area and contiguous community;
- the estimated state and local net property tax change over the life of the project;
- the estimated state and local sales and use tax increase over the life of the project; and
- if a project is located within an urban growth area, evidence the project uses existing urban infrastructure and the transportation needs of the project will be adequately met through the use of dedicated building business ecosystems financing or other sources.

The maximum statewide contribution for all of the projects is initially capped at $5 million per year. During the fiscal years beginning July 1, 2022, through June 30, 2025, and for each subsequent fiscal year, the statewide limit may be increased:

- in the fiscal year beginning July 1, 2022, the statewide limit must be increased by the same percentage as the percentage increase in the assessed value of all taxable property within the state from calendar year 2018 through calendar year 2019;
- in the fiscal year beginning July 1, 2023, the statewide limit must be increased by the same percentage as the percentage increase in the assessed value of all taxable property within this state from calendar year 2018 through calendar year 2020; and
- in the fiscal year beginning July 1, 2024, and for each subsequent fiscal year, the statewide limit must be increased by the same percentage increase in the assessed value of all taxable property within the state from calendar year 2018 through calendar year 2021.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE COMMITTEE (First Substitute): Provides for three project awards with funding provided over a different period of years depending on the size of the award:

- $1 million per year for 20 years;
- $800,000 per year for 25 years; and
- $665,000 per year for 30 years.

The bill directs $2.5 million to be used annually for projects in rural jurisdictions or designated opportunity zones, and the state's annual credit against the state sales and use tax is limited to $4,965,000 per year.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: You need to create areas where entrepreneurs want to go. Not everyone wakes up and sees cranes in their backyards like in Seattle. Some areas lack access to broadband services. This type of program has been implemented repeatedly to great success. Tourism and family wage jobs are just a few of the benefits associated with these type of financing programs. Richland and Kennewick have used tax increment financing programs in the past to great results. This tool has been available in the past, and it would be great to get this back in the toolbox going forward. Kennewick had an airport, Vista Field, that was not used, and it was closed a few years ago. It is centrally located within the Tri-Cities. It is ripe for redevelopment and could create over 3200 jobs. Cities around the state are always looking to grow their economies. There needs to be a new program that is open to new applicants. Development does not happen equally across the state, and the rural set aside in the bill is a way of addressing this issue.

Persons Testifying: PRO: Senator Sharon Brown, Prime Sponsor; Stephanie Swanberg, Tri-City Regional Chamber of Commerce; David Reeploeg, Vice President, Tri-City Development Council; Don Britain, Mayor, City of Kennewick, and President, Association of Washington Cities; LTC Skip Novakovich, USA, Retired, Commissioner, Port of Kennewick; Hector Cruz, Vice-President, Visit Tri-Cities; Gary Ballew, Washington Economic Development; Candice Bock, Association of Washington Cities; Hyun Kim, City Manager, City of Fife; Rob Karlinsey, City of Kenmore; Diahann Howard, Port of Benton and Tri-Cities Research District IPZ.

Persons Signed In To Testify But Not Testifying: No one.