SENATE BILL REPORT
SB 5823

As Passed Senate, February 15, 2022

Title: An act relating to local infrastructure project areas.

Brief Description: Addressing local infrastructure project areas.

Sponsors: Senators Das, Robinson, Keiser, Kuderer, Nguyen and Nobles.

Brief History:

Committee Activity: Housing & Local Government: 1/20/22, 2/02/22 [DP, DNP, w/oRec].

Floor Activity: Passed Senate: 2/15/22, 28-21.

Brief Summary of Bill

- Specifies that, for purposes of the property tax, any increase in assessed value within a local infrastructure project area (LIPA) is an add-on to the levy growth limit, if not already included elsewhere as an add-on.
- Requires that, for any LIPA formed after the effective date of the bill, a sponsoring city must adopt Department of Commerce transfer of development rights interlocal terms and conditions.
- Provides that affordable housing is a specified public improvement for purposes of a LIPA.
- Specifies that regular property taxes do not include regular property tax levies made for any specific statutory purpose other than use in a county's current expense fund, for purposes of a LIPA.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett, Salomon

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

and Trudeau.

Minority Report: Do not pass.
Signed by Senator Fortunato, Ranking Member.

Minority Report: That it be referred without recommendation.
Signed by Senators Gildon, Assistant Ranking Member; Sefzik, Warnick and Wilson, J.

Staff: Maggie Douglas (786-7279)

Background: Property Tax—Regular Levies. All real and personal property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. The annual growth of all regular property tax levy revenue other than the state levies is limited by the levy growth limit as follows:

- for jurisdictions with a population of less than 10,000, revenue growth is limited to 1 percent; and
- for jurisdictions with a population of 10,000 or more, revenue growth is limited to the lesser of inflation or 1 percent.

In addition to the levy growth limit, levy capacity may increase by additional amounts equal to the increase in assessed value in a taxing district resulting from:

- new construction;
- construction of wind turbine, solar, biomass, and geothermal facilities;
- improvement to property; and
- increased value of state-assessed property.

These additional amounts are referred to as add-ons to the levy growth limit.

Public Infrastructure Funding. Tax increment financing (TIF) is a method of allocating a portion of property taxes to finance public improvements in designated areas. Typically, under a TIF program, 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 from increases in assessed value inside a special district surrounding the site of the public improvements.

Local Infrastructure Project Areas. Certain cities are authorized to establish local infrastructure project areas (LIPAs). A LIPA allows certain increases in local property tax revenues generated from within the LIPA to be used for payment of bonds issued for financing local public improvements within the LIPA. The LIPA program provides for the transfer of development rights (TDR) from rural farm and forest lands to cities being used within the LIPA.

Cities are eligible for the LIPA program if they are located within an eligible county. An eligible county means any county that borders Puget Sound; has a population of 600,000 or more people; has an established TDR program; and has designated all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas under its TDR program.

Each eligible county was required to report to the Puget Sound Regional Council (PSRC) the total number of transfers of development rights from agricultural and forest land of long-term commercial significance and designated rural lands that may be available for allocation to receiving cities. For purposes of LIPA provisions, a receiving city is a city within an eligible county that has a population plus employment of 22,500 or more people. Following the receipt of development rights information from eligible counties, the PSRC must allocate these development rights among receiving cities.

A city that accepts all or a portion of its allocated share of rights is eligible to become a sponsoring city. A sponsoring city is a city that meets specified allocation requirements, adopts a plan for the development of infrastructure within one or more LIPAs, and creates one or more LIPAs.

<u>Financing Local Infrastructure Project Areas.</u> Local Infrastructure Project Areas are financed through property taxes. Beginning in the second calendar year following the creation of a LIPA, the county treasurer must distribute receipts from regular taxes imposed on real property within the LIPA to the sponsoring city and participating taxing districts.

Under the distribution provisions, each participating taxing district and the sponsoring city must receive a portion of their regular property taxes for the LIPA as determined by specified requirements. In addition, the sponsoring city must receive an additional portion of the regular property taxes levied by it and by participating taxing districts upon property within the LIPA. The sponsoring city may agree to receive less than the full amount of the additional portion if certain conditions are met.

The incremental local property taxes for LIPA financing are calculated based on the sponsoring city ratio multiplied by 75 percent of the increases in assessed value as a result of new construction and improvements to property within the LIPA. The city ratio takes into account several factors related to a city's transfers of development rights.

<u>Transfer of Development Rights.</u> A TDR occurs when a qualifying landowner, through a permanent deed restriction, severs potential development rights from a property and transfers them to a recipient for use on a different property. In a TDR transaction, transferred rights are generally shifted from sending areas with lower population densities to receiving areas with higher population densities. The monetary values associated with transferred rights constitute compensation to a landowner for development that may have otherwise occurred on the transferring property.

<u>Preliminary Actions by a Sponsoring City</u>. The creation of a LIPA must be accomplished through an ordinance or resolution of the sponsoring city that describes the area boundaries

and the proposed public improvements to be financed in the LIPA, specifies the date when LIPA-related property tax distributions will begin, and delineates participating taxing districts.

Summary of Bill: Any increase in assessed value within a LIPA is specified as an add-on to the levy growth limit, if not already included as an add-on resulting from new construction, construction of wind turbine, solar, biomass, and geothermal facilities, improvement to property, or increased value of state-assessed property.

A sponsoring city must adopt Department of Commerce TDR interlocal terms and conditions as specified by rule if the city chooses to form a LIPA after the effective date of the act.

The sponsoring city may receive an additional portion of the regular property taxes levied within the LIPA to be used for financing public improvement costs. Regular property taxes are expanded to include any specific statutory purpose other than use in a county's current expense fund.

The portion of the tax receipts distributed to the sponsoring city may only be used to finance the public improvement costs within the local infrastructure project area. The definition of permissible use of funds is expanded to include affordable housing as a public improvement activity. Affordable housing may be provided directly by the sponsoring city, or funded in part or in full, through municipal governments or nonprofit organizations that fund or provide housing.

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: PRO: This is a tool to address the housing crisis and address our tax code. It ensures that the tax burden doesn't fall disproportionately on low income folks and gives local governments the tools to focus on local infrastructure needs for their own communities. The central Puget Sound metro region is expecting another 1.8 million residents over the next 30 years. Working farms and forests in Pierce, Snohomish, and King Counties are facing the most growth pressure, while cities are struggling to provide the infrastructure to revitalize communities and attract new jobs. Counties and cities need the tools and funding that LIPA provides to support growth near jobs and services and to reduce conversion pressure on these farms and forests, and this program facilitates strong inter-local working relationships. We appreciate the inclusion of affordable housing as a part of the growth that this program provides.

Persons Testifying: PRO: Senator Mona Das, Prime Sponsor; Olgy Diaz, Forterra; Ryan Mello, Pierce County Council; MICHAEL MURPHY, King County Transfer of Development Rights Program.

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