

# SENATE BILL REPORT

## E2SHB 2354

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As of February 15, 2024

**Title:** An act relating to creating an option for impacted taxing districts to provide a portion of their new revenue to support any tax increment area proposed within their jurisdiction and clarifying that a tax increment area must be dissolved when all bond obligations are paid.

**Brief Description:** Creating an option for impacted taxing districts to provide a portion of their new revenue to support any tax increment area proposed within their jurisdiction and clarifying that a tax increment area must be dissolved when all bond obligations are paid.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Street, Orcutt, Bronoske, Robertson, Chambers, Callan, Bateman, Doglio and Reed).

**Brief History:** Passed House: 2/12/24, 96-1.

**Committee Activity:** Local Government, Land Use & Tribal Affairs: 2/15/24.

### Brief Summary of Bill

- Requires the project analysis conducted by a local government prior to establishing a tax increment area to assess impacts on local emergency medical services and public hospital services.
- Requires mitigation agreements between local governments and affected public hospital districts.
- Requires arbitration if the local government and a public hospital district, fire protection district, or regional fire protection service authority cannot agree to a mitigation agreement.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT, LAND USE & TRIBAL AFFAIRS

**Staff:** Karen Epps (786-7424)

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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 part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Tax Increment Financing. 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 Tax Increment Financing. In 2021 the Legislature authorized local governments to use local tax increment financing (LTIF). A local government may designate up to two LTIF areas, and use resulting tax allocation revenues to pay for public improvement costs. To do so the local government must adopt an ordinance designating a specific increment area within its boundaries. Public improvements to be financed with the use of LTIF must be specified. The increment area cannot include the area of the entire jurisdiction of the local government. A local government can create no more than two active increment areas at any given time, and they may not physically overlap. An increment area must be retired after no more than 25 years. There is an assessed value limit within an increment area of \$200 million. If a jurisdiction sponsors two increment areas the two areas may not equal more than \$200 million or more than 20 percent of the sponsoring jurisdiction's total assessed value, whichever is less.

Prior to establishing an increment area, the local government must consider a project analysis that includes objectives for the increment area, identification of properties within the financing area, assessments of likely job creation and private development expected from the project, potential impacts and mitigation measures needed, among others. The local government must negotiate a mitigation plan with a fire protection district or regional fire protection service authority if a project analysis indicates that an increment area will impact at least 20 percent of the assessed value in a fire protection district or regional fire protection service authority, or the fire service agency's annual report demonstrates an increase in the level of service in an increment area.

Prior to adoption of an ordinance authorizing an increment area the project analysis must be submitted to the Office of the State Treasurer for review. The local government must hold at least two public briefings for the community regarding the tax increment project.

A local government designating an LTIF area may issue general obligation bonds to finance the public improvements within an increment area. Any increase in assessed value within an area is included in the add-ons for purposes of the 1 percent revenue growth limit calculation.

Apportionment of Taxes. Beginning in the calendar year following the passage of the ordinance, the county treasurer must distribute receipts from regular taxes on real property located in the increment area. Property taxes to be apportioned under TIF include property tax levies subject to the \$10 and \$5.90 limits. Taxes levied by port districts or public utility districts specifically for the purpose of making payment on bonds, and taxes levied by the

state for support of the common schools are excluded from TIF apportionment.

Each taxing district receives that portion of its regular property taxes produced by the rate of tax levied by the taxing district on the tax allocation base value for that TIF project in the taxing district. The local government that created the increment area receives an additional portion of the regular property taxes levied by each taxing district upon the increment value within the increment area. The local government that created the increment area may agree to receive less than the full amount of this portion as long as bond debt service, reserve, and other bond covenant requirements are satisfied. The portion of the tax receipts distributed to the local government may only be expended to finance public improvement costs financed by TIF.

The apportionment of increases in assessed valuation in an increment area cease when the taxing district certifies to the county assessor that allocation revenues are no longer needed to pay the public improvement costs. Any excess tax allocation revenues must be returned to the county treasurer and distributed to the taxing districts that imposed regular property taxes.

**Summary of Bill:** Public improvement costs for the tax increment areas may include funding for mitigation to impacted taxing districts.

The project analysis must include an assessment of impacts on local emergency medical services and public hospital services in addition to local fire services. Local governments must provide written notice to each taxing district within a proposed tax increment area at least 90 days before submitting a project analysis. The project analysis must be submitted to all local governments and taxing districts affected by the increment area at least 90 days before an ordinance establishing the increment area is adopted. Public briefings on the tax increment project must occur 90 days or later after the project analysis is submitted.

If the project analysis indicates that an increment area will impact at least 20 percent of the assessed value in a public hospital district or if an annual report or other governing board adopted capital facilities plan demonstrates an increase in the level of service directly related to the increased development in the increment area, the local government must enter into negotiations for a mitigation plan to address level of service issues in the increment area.

If the local government and public hospital district, fire district, or regional fire protection service authority cannot agree to a mitigation plan, the parties must proceed with arbitration to determine the appropriate mitigation plan. The board of arbitrators must consist of three members:

- one appointed by the local government within 60 days;
- one appointed by the junior taxing district within 60 days; and
- one appointed by agreement of the other two arbitrators within 90 days.

If the third arbitrator is not agreed to by both arbitrators, then the superior court judge from the county with the largest portion within the proposed tax increment area must designate the arbitrator. The determination by arbitrators is binding on both the local government seeking to impose the increment area and the junior taxing district.

**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: TIF is a great opportunity for cities to invest in their infrastructure to spur growth. With its implementation, there have been some concerns raised from hospital districts, fire districts, and library districts. This bill establishes proactive notice of a TIF before it is implemented, a process for different taxing districts to discuss the implications, and an option for arbitration for some districts if an agreement is not reached. This bill is a good compromise for mitigating impacts to taxing districts.

OTHER: There was support for the original version of the bill as it addressed who should have decision-making authority about how tax dollars are used when imposed by a legislative body. The Port of Seattle could have up to 80 independent TIFs, with the possibility of roughly 20 percent of their underlying tax levy going to these TIFs with no oversight or no limit on the amount that could come from their taxing authority. There should be a change to the bill to ensure that a mitigation plan will not negatively impact the tax allocation revenues pledged or dedicated to repayment for any bonds issued to finance public improvements.

**Persons Testifying:** PRO: Representative Chipalo Street, Prime Sponsor.

OTHER: Sean Eagan, Port of Tacoma; John Flanagan, Port of Seattle; Alice Ostdiek, Stradling LLP (Bond and Disclosure Counsel).

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