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**Community & Economic Development &  
Trade Committee**

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**2SSB 5045**

**Brief Description:** Regarding community revitalization financing.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Zarelli, Brown, Kauffman, Shin, Marr, King, Regala, Rockefeller, Haugen, Berkey, Eide, Kastama, Jarrett, Pridemore, McAuliffe and Ranker).

**Brief Summary of Second Substitute Bill**

- Authorizes cities, towns, and counties that follow a prescribed process and meet certain conditions to create revitalization areas and invest in public improvements that promote community and economic development.
- Authorizes sponsoring local governments to issue general obligation bonds to finance public improvements in revitalization areas and to retire the indebtedness through use of incremental increases in local property and sales and use taxes.
- Prescribes a process for sponsoring local governments to apply to the Department of Revenue to receive a state contribution in the form of a sales and use tax credit that can be used to retire indebtedness of the public improvement bonds.
- Sets a limit to the state contribution of \$2.5 million per year statewide and \$500,000 per project.

**Hearing Date:** 3/16/09

**Staff:** Meg Van Schoorl (786-7105)

**Background:**

Traditional Tax Increment Financing.

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

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 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 Tax Increment Financing Act (Act) followed the general contours of traditional tax increment financing, as described above.

At the same time the Act was adopted, the Legislature also adopted Senate Joint Resolution (SJR) 143, a proposed constitutional amendment that expressly authorized the financing methods described in the 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 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 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 (Supreme Court) invalidated Spokane's use of the Act, ruling that the Act violated article IX, section 2, of the state Constitution, in that it allowed diversion of property tax revenues away from the common schools. That section of the state 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 state 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.

### The Community Revitalization Financing Act of 2001.

In 2001 the Legislature authorized a type of tax increment financing similar to the 1982 Act. Cities, counties, and towns may create a tax increment area and finance public improvements within the area by allocating property taxes derived from 75 percent of any property value increase generated within the area after the area is created.

*Eligible public improvements.* Infrastructure improvements within the increment area including: street and road construction and maintenance; water and sewer system construction and improvements; sidewalks and streetlights; parking, terminal, and dock facilities; park and ride facilities of a transit authority; park facilities and recreational areas; and, storm water and drainage management systems.

*Public improvement costs.* Costs associated with eligible public infrastructure improvements include: Cost of design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement, and installation; relocating, maintaining, and operating property pending construction of public improvements; relocating utilities as a result of public improvements; financing public improvements; assessments incurred in revaluing real property; and, related administrative expenses and feasibility studies.

*The process.*

- An eligible local government adopts an ordinance setting up a tax increment area and specifying the proposed public improvements. The public improvements are expected to encourage private development and increase the fair market value of real property within the area. The private development must be consistent with countywide planning policy under the Growth Management Act (GMA).
- An increment area cannot be created without approval of the local governments imposing at least 75 percent of the regular property taxes within the area. This is considered concurrence by all taxing districts within the area.
- Any fire protection district included within an increment area must agree to participate for the project to proceed.
- A public hearing must be held on the proposed ordinance, preceded by publication and posting of legal notices.

*Allocation of property tax revenues.* The increment area is apportioned property taxes on 75 percent of any value increase in the area after the area is created. The local governments imposing regular property taxes within the area are apportioned the remaining property taxes from 25 percent of any value increase in the area.

*State property tax.* No portion of the state property tax is diverted to the tax increment area, eliminating the state Constitutional issue addressed in the 1995 Supreme Court decision.

*Bond repayment.* Bonds may be repaid from the tax allocation revenues, other tax revenues, full faith and credit of the local government, and other sources of non-tax money available to the local government.

Five areas in Spokane County currently use this authority: West Plains; Liberty Lake; Iron Bridge; Medical Lake; and, Kendall.

#### **Summary of Bill:**

#### **CREATING A REVITALIZATION AREA.** **(Sections 101-107)**

**Findings.** The Legislature recognizes that investment in public infrastructure promotes community and economic development by stimulating business activity, helping create jobs, redeveloping brown-fields and blighted areas, lowering housing costs, promoting efficient land use, and generating state revenue.

**Authority.** A city, town, county, or combination of these, may sponsor a "revitalization area" in need of economic development or redevelopment and may use certain tax revenues and other non-tax resources to finance eligible public improvements within the area.

**Eligible public improvement.** Street and road construction and maintenance; water and sewer system construction and improvements; sidewalks and streetlights; parking, terminal, and dock facilities; park and ride facilities of a transit authority; park facilities and recreational areas; storm water and drainage management systems; bridge and rail construction and maintenance; landscaping and streetscaping; environmental remediation; electric, gas, fiber, and other utility infrastructure. Eligible costs include: Design, planning, acquisition (including land), site preparation (including land clearing), construction, reconstruction, rehabilitation, improvement, and installation of public improvements; relocating, maintaining, operating, and demolishing property pending construction of public improvements; relocating utilities as a result of public improvements; financing public improvements; assessments incurred in revaluing real property; reasonable and related administrative expenses and feasibility studies. Also eligible are expenditures for: environmental analysis, professional management, planning and promotion, certain historic preservation activities, and maintenance and security for common or public areas.

**Creation process.** The sponsoring local government must: (1) Send a notice of intent to create a revitalization area, with specified information, to all taxing districts and local governments with boundaries within the proposed revitalization area at least 30 days in advance of a required public hearing; (2) Provide notice of the public hearing within certain timelines, using certain communication means, and containing specified information; (3) Hold a public hearing; (4) Adopt an ordinance that describes the revitalization area boundaries, the public improvements, the costs of the public improvements, and the portion to be financed using local revitalization financing, the time-frames for allocating local revenues, the taxing districts that have not opted out, the anticipated tax rate for the local credit against the state sales and use tax, and the expected start date for imposing the tax; and, (5) Deliver a certified copy of the adopted ordinance to certain government agencies.

**Conditions.** A local government is authorized to finance public improvements using local revitalization financing if: (1) It has adopted an ordinance; (2) The public improvements are expected to encourage private development and increase the fair market value of real property; (3) There is a contract or letter of intent with a private developer for private improvements, and the private development will be consistent with local GMA-related plans and regulations; and (4) The financing will not be used for costs associated with public facilities districts and regional centers. The local governing body must find that the local revitalization financing: (1) Will not be used to relocate an in-state business from another area (unless there is convincing evidence the firm would otherwise leave the state); (2) Will improve viability of existing businesses; (3) Will be used only in areas in need of economic development or redevelopment, which would more than likely not occur without this financing, and (4) Is reasonably likely to increase private investment, employment and generate taxes in excess of the state and local contributions.

**Limitations.** A revitalization area: (1) May not have within its boundaries a hospital benefit zone, a community revitalization financing increment area, a Local Infrastructure Financing Tool (LIFT) revenue development area, or another revitalization area; (2) Must involve contiguous land (no "islands" of property); (3) Must not purposely exclude parcels where economic growth is unlikely; (4) Must include the public improvements to be financed; (5) May not contain more than 25 percent of the total assessed value of the taxable real property within the sponsoring local government's boundaries; (6) May not change boundaries during the bond repayment period; and, (7) Is restricted to the location of the public improvements and adjacent locations like a neighborhood or block that will have a high likelihood of direct positive business and economic impacts from the public improvements.

**Opting in and out.** A taxing district that does not want to participate must adopt an ordinance to remove itself, and submit it to the sponsoring local government before the revitalization area creation ordinance is adopted. This same process must be used by a local government that imposes a sales and use tax and does not want to participate. Otherwise, for a local government to participate, it must enter into an inter-local agreement with the sponsoring local government.

### **FINANCING THE PUBLIC IMPROVEMENTS.**

**(Sections 201, 301, 401, 601, 602, 701-703)**

**General obligation bonds.** A sponsoring local government may issue general obligation bonds to finance the public improvements within the revitalization area. The process for authorizing, issuing, and retiring the bonds is provided. The indebtedness may be retired in whole or in part through local revitalization financing, defined as revenues from local public sources and from a sales and use tax credit to local governments ("state contribution"). The indebtedness may also be payable from other tax revenues, from the full faith and credit of the sponsoring local government, and from nontax moneys available to the local government such as income, revenues, fees, and rents from the public improvements, grants, and contributions. Bonds issued by the local government will not constitute an obligation of the state.

**Local revitalization financing.** One hundred percent of the estimated increase in local sales and use taxes and 75 percent of the increase in the assessed value of real property that results from construction or improvements initiated after the area is approved are authorized to be used to retire the general obligation bonds.

**State contribution.** The Legislature finds it is in the public interest for the state to invest in these improvements by providing a sales and use tax credit to local governments that can demonstrate returns to the state. The maximum state contribution for all revitalization areas statewide is \$2.5 million per fiscal year. The maximum state contribution per project is \$500,000 per fiscal year.

A sponsoring local government that has adopted a revitalization area and is seeking a "state contribution" must apply for a project award amount from the Department of Revenue (DOR). The application must contain specified information and documents. The DOR must begin accepting applications on September 1, 2009. The DOR will determine project awards on a first-come basis contingent on availability of a state contribution and on the ability of the sponsoring local government to generate sufficient tax revenues to match the project award. Notification of approval or denial must be made within 60 days of application. Once project awards reach the annual state contribution limit, no more applications will be accepted and those already received

will be returned. If the annual contribution limit is increased, applications will be accepted again 60 days after the effective date.

A sponsoring local government approved by the DOR for a project award may impose the local sales and use tax at a rate not to exceed the state tax rate (6.5 percent) less the aggregate rates of all other local taxes credited against the state sales and use tax, or authorized to be imposed for hospital benefit zones, LIFT, or additional revitalization areas within its jurisdiction. Once the tax rate is approved, it cannot be increased. No tax can be imposed before: (1) July 1, 2011, (2) approval by the DOR, (3) bonds have been issued, and (4) the state sales tax increment for the preceding calendar year is at least equal to the amount of annual state contribution approved by the DOR.

Moneys collected from this tax may be used only for paying debt service on bonds issued for the public improvements in the revitalization area. The tax will expire when the bonds are retired, or 25 years after the tax is first imposed, whichever is first.

**ACCOUNTABILITY.**  
**(Section 501)**

A sponsoring local government receiving a project award must report annually to the DOR by March 1, with specified data from the previous calendar year. The DOR must make a report available to the public and the Legislature by June 1, summarizing the information received.

**OTHER.**  
**(Sections 803 and 804)**

Nothing in this Act may be construed as giving port districts authority to impose a sales or use tax.

The DOR may adopt rules under the Administrative Procedures Act to administer this chapter.

**Appropriation:** None.

**Fiscal Note:** Available.

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