
**Community & Economic Development &
Housing Committee**

HB 2746

Brief Description: Concerning community redevelopment financing in apportionment districts.

Sponsors: Representatives Springer, Haler and Anderson.

Brief Summary of Bill

- Allows a city, town, or county to designate a redevelopment area for the purposes of financing public improvements.
- Authorizes a state contribution in the form of a credit against the state sales tax in an amount not to exceed a local-match amount.

Hearing Date: 1/30/12

Staff: Jennifer Thornton (786-7147).

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 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

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property taxes, rather than sharing that increase with the state, county, and other local districts under the normal property tax allocation system.

Structure of the 1982 Community Redevelopment Financing Act.

Washington's original tax increment financing legislation was adopted by the Legislature in 1982. The "Community Redevelopment Financing Act of 1982" (1982 Act) allows a portion of regular property taxes to be allocated, for limited periods of time, to assist in the financing of public facilities. Before the financing of public improvements is approved the following criteria must be satisfied:

1. The public improvement must be located within an urban area.
2. The public improvement will encourage private development.
3. The public improvement will increase the fair market value of property.
4. Private development will be consistent with existing comprehensive land use plans.
5. The public improvement has been approved by the legislative authority of the city, town, or county where the improvement will be located.

Apportionment of regular property tax revenues may not occur in a previously established apportionment district unless the financing agent of the public improvement concurs. Bonds which are payable in whole or in part from tax allocation revenues may not exceed 2 percent of the value of taxable property within the city or town where the public improvement will be constructed. Only regular property taxes may be apportioned.

In order to obtain an allocation of regular property taxes to finance a public improvement, information explaining the project, its cost, location, and geographic tax base must be included in a proposed ordinance. Provision must also be made for three public hearings. Notice of the hearings and of any subsequently enacted ordinance is required.

Regular property taxes will be apportioned annually. The county assessor determines the value of taxable property within the apportionment district at the time the district is established. This value is referred to as the tax allocation base value. Each year, all regular property taxes on the value of property within the district above the tax allocation base value are allocated to the sponsor for public improvements within the district. These allocations are referred to as tax allocation revenues. Apportionment of tax allocation revenues stops when the principal and interest on bonds issued to finance public improvements are paid off.

Tax allocation revenues may be applied to pay public improvement costs, principal and interest on bonds, bond funds, or any combination thereof.

Tax allocation bonds may be issued at the discretion of the sponsor financing the public improvement. These bonds will not be the general obligation of, or guaranteed by, the full faith and credit of the sponsor or any other state or local government.

General obligation bonds, which are issued to finance public improvements and for which all or part of the principal and interest will be paid by tax increment financing, are subject to notice and hearing provisions and potential referendum by the voters on the ordinance authorizing the issuance of the bonds.

The increase in value of taxable property will not be included in the increase in assessed value for purposes of determining any limitation upon regular property taxes until the termination of the apportionment.

No legal action may be commenced after 30 days from the date of publication of notice of the enactment of a public improvement ordinance.

Constitutionality of the Community Redevelopment Financing Act of 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 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 Constitution requires that the state tax for common schools be applied exclusively to the support of the common schools.

Recently Enacted Tax Increment Financing Programs.

Since 2001 the Legislature has authorized five additional types of tax increment financing: the Community Revitalization Financing Act (CRFA), the Local Infrastructure Financing Tool (LIFT), the Hospital Benefit Zone Program (HBZ), the Local Revitalization Program (LRF), and the Landscape Conservation and Local Infrastructure Statute (LCLIS). The LIFT, HBZ, and LRF programs are similar in that all three are essentially state match programs. As a general matter, under all three programs, a jurisdiction designates an area targeted for infrastructure improvements, issues bonds to pay for the improvements, and then is eligible to receive a limited state sales tax contribution as long as a number of requirements are met. The CRFA is similar to the 1982 Act, except no state contribution is provided. The LCLIS allows cities to capture local property tax revenues with no state match, for infrastructure financing. The LCLIS has limited eligibility and must have a nexus with transferable developer rights.

Property Taxes.

Property taxes are imposed by state and local governments. The county assessor determines assessed value for each property. The county assessor also calculates the tax rate necessary to raise the correct amount of property taxes for each taxing district. The assessor calculates the rate so the individual district rate limit, the district revenue limit, and the aggregate rate limits are all satisfied. The property tax bill for an individual property is determined by multiplying the

assessed value of the property by the tax rate for each taxing district in which the property is located. The assessor delivers the county tax roll to the county treasurer. The county treasurer collects property taxes based on the tax roll starting February 15 each year. The annual increase in district property tax revenues is restricted by the property tax revenue limit. This limit requires the district's tax rate to be reduced as necessary to limit the total amount of property taxes to the highest property tax amount in the three most recent years, plus 1 percent, plus an amount equal to last year's tax rate multiplied by the value of new construction in the district. This limit acts to reduce district rates below the maximum rate allowed for the district.

The sum of property tax rates is also limited by the state Constitution to a maximum of 1 percent of true and fair value, or \$10 per \$1,000 of market value. The Constitution provides a procedure for voter approval for tax rates that exceed the 1 percent limit. These taxes are called "excess" levies. Property taxes that are subject to this 1 percent limitation are referred to as regular property tax levies.

The Legislature has established individual taxing district tax rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. For example, the state levy rate is limited to \$3.60 per \$1,000 of assessed value, county general levies are limited to \$1.80 per thousand, county road levies are limited to \$2.25 per thousand, and city levies are limited to \$3.375 per thousand. Fire, library, and hospital districts each have specific rate limits as well. The tax rates for most of these districts must fit within an overall rate limit of \$5.90 per \$1,000 of value.

Community Economic Revitalization Board.

The Community Economic Revitalization Board (CERB) is a 20-member statutory state board created in 1982 that is charged with funding public infrastructure improvements that encourage new business development and expansion in areas seeking economic growth. The CERB's focus is on creating and retaining jobs in partnership with local governments, with traditional assistance primarily targeted to rural communities. Through the CERB, local governments can apply for low-interest loans and, occasionally, grants, to help finance public facility projects.

Summary of Bill:

Conditions for Using Community Redevelopment Financing.

A local government is permitted to finance public improvements using community redevelopment financing upon meeting the following requirements:

- The local government adopts an ordinance designating a redevelopment area within its boundaries and specifies the public improvements to be financed with the use of community redevelopment financing. The local government must follow specified requirements pertaining to notification, public hearings, and estimated costs;
- The public improvements are expected to encourage private development within the redevelopment area and to increase the fair market value of real property within the redevelopment area;
- The local government has entered into a contract or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the redevelopment area;

- Private development that is anticipated to occur within the redevelopment area, as a result of the public improvements, will be consistent with the countywide planning policy and the local government's comprehensive plan and development regulations;
- The local government finds that the community redevelopment financing:
 - will not be used to relocate a business from another part of the state into the redevelopment area;
 - will improve the viability of existing business entities within the redevelopment area;
 - will be used exclusively in areas in need of economic development or redevelopment, and without the community redevelopment financing, the proposed economic development or redevelopment would more than likely not occur;
 - will likely increase private investment and employment within the redevelopment area; and
 - will likely generate increases in state and local property, sales, and use tax revenues that are equal to or greater than the respective state and local contributions made for the purpose of community redevelopment financing.

Boundaries.

A redevelopment area must include contiguous parcels of land, and boundaries may not be drawn to exclude areas where economic growth is unlikely to occur. A redevelopment area cannot comprise more than 25 percent of the assessed value of the taxable real property in the boundaries of the sponsoring local government. A redevelopment area also cannot include in its boundaries any part of a LIFT, HBZ, LRF or CRF area, unless there was a completed environmental cleanup for which the state lent money, and the creation of the redevelopment area is needed to protect the state's investment.

Participation Requirements.

Participating taxing districts must allow the use of all of their local property tax allocation revenues for community redevelopment financing. There are provisions for allowing a local taxing district to choose not to participate or to partially participate.

A participating local government must enter into an interlocal agreement to participate in community redevelopment financing with the sponsoring local government. If a local government that imposes a local option sales and use tax does not want to participate, it may remove itself by adopting an ordinance and notifying the sponsoring local government.

Applications.

The CERB will begin accepting applications on September 1, 2012, and will determine project awards on a first-come basis, as long as the applicant will generate enough sales and use tax revenue to generate the amount of the project award requested.

Bonds.

A sponsoring local government authorizing the use of community redevelopment financing may incur general indebtedness, including issuing general obligation bonds, to finance the public improvements and retire the indebtedness, subject to specified requirements. A sponsoring local government may:

- annually pay into a special fund a fixed amount of any local property tax allocation revenues derived from property within the redevelopment area containing the public improvements funded by the bonds or any revenues derived from sales and use taxes imposed for community redevelopment financing until all bonds payable from the fund are paid in full;
- issue revenue bonds payable from any or all revenues deposited in the special fund; and
- pledge local property tax allocation revenues derived from the public improvements or sales and use tax revenues held in conjunction with the public improvements for the payment of bonds.

Property Taxes.

The county assessor is required to determine the property tax allocation revenue value. Beginning in the second calendar year following the creation of a redevelopment area, the sponsoring local government must receive an additional portion of the regular property taxes levied by it and by each participating taxing district upon the property tax allocation revenue value within the redevelopment area. However, if there is no property tax allocation revenue value, the sponsoring local government may not receive any additional regular property taxes. The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection if bond debt service, reserve, and other bond covenant requirements are satisfied.

The portion of the tax receipts distributed to the sponsoring local government may only be used to finance public improvement costs associated with the public improvements financed in whole or in part by community redevelopment financing. The distribution of local property tax allocation revenue to the sponsoring local government must end when local property tax allocation revenues are no longer obligated to pay the costs of the public improvements.

Sales and Use Taxes.

A sponsoring local government may use annual local sales and use tax amounts equal to some or all of its local sales and use tax increments to finance public improvements in the redevelopment area. As a condition of imposing a sales and use tax, a sponsoring local government must apply to the Department of Revenue (Department) and be approved for a project award amount. The application must include information such as the period of time that the sales and use tax will be imposed, the anticipated tax rate imposed, increases in revenues as a result of public improvements in the redevelopment area.

Any city or county approved for a project award by CERB may impose a sales and use tax that is credited against the state sales and use tax. The tax rate may not exceed the amount necessary to receive the project award over a 10-month period. Furthermore, the program is a local match program so the state sales and use tax contribution may not exceed the amount of local funds allocated to community redevelopment financing. Sales and use taxes collected may only be used to pay debt service on the bonds issued for community redevelopment purposes.

Reporting.

A sponsoring local government receiving a project award must report to the Department annually by March 1. The report must contain information including local property tax allocation revenues received by the sponsoring local government and participating taxing districts, state property tax allocation revenues received by the state, and local sales and use tax and other

revenue from local public sources used for the payment of bonds and public improvement costs within the redevelopment area. The report must also contain the anticipated date when bonds are expected to be retired, information about businesses locating within the redevelopment area, estimates of the number of permanent jobs created and average wages and benefits received by all employees of businesses locating within the redevelopment, and a list of public improvements financed by bonds.

The Department must make a report containing a summary of the information provided by sponsoring local governments available to the public and the Legislature annually by June 1.

Definitions.

"Community redevelopment financing" is defined to mean the use of revenues from local public sources, dedicated to pay the principal and interest on authorized bonds and public improvement costs within the redevelopment area on a pay-as-you-go basis, and revenues received from the authorized local option sales and use tax, dedicated to pay the principal and interest on the authorized bonds.

"Local sales and use tax increment" is defined to mean the estimated annual increase in local sales and use taxes as determined by the local government from taxable activity within the redevelopment area.

"Property tax allocation revenue value" is defined to include up to 100 percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

"Sponsoring local government" is defined to mean a city, town, county, or any combination thereof, that adopts a redevelopment area.

"Taxing district" is defined to a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved redevelopment area.

Repealer.

All provisions of the Community Redevelopment Financing Act of 1982 are repealed.

Appropriation: None.

Fiscal Note: Requested on January 30, 2012.

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