

HOUSE BILL REPORT

SSB 5984

As Reported by House Committee On: Ways & Means

Title: An act relating to local government financial soundness.

Brief Description: Concerning local government financial soundness.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Murray, Zarelli, Parlette, Kilmer, Fraser, Harper, Kohl-Welles and Chase).

Brief History:

Committee Activity:

Ways & Means: 2/15/12, 2/20/12 [DP].

Brief Summary of Substitute Bill

- Authorizes a city that is the anchor jurisdiction of a public facilities district that has defaulted on a debt obligation to impose a 0.2 percent sales and use tax.
- Requires financial feasibility reviews when a public facilities district (PFD) is formed, issues debt, or leases, purchases, or develops a facility.
- Prohibits a PFD or any of its forming jurisdictions from restricting the statutorily authorized taxing authority of the PFD.

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass. Signed by 18 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle, Chandler, Cody, Dickerson, Haigh, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Pettigrew, Seaquist, Springer and Sullivan.

Minority Report: Do not pass. Signed by 8 members: Representatives Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Haler, Parker, Ross, Schmick and Wilcox.

Staff: Rick Peterson (786-7150).

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.

Background:

Public facilities districts (PFDs) are municipal corporations with independent taxing authority and are taxing districts under the Washington Constitution. There are two enabling statutes, one for counties and another for cities or joint arrangements between a group of cities or a county and one or more cities.

A PFD may charge fees for the use of its facilities, levy an admissions tax not exceeding 5 percent, and impose a vehicle parking tax not exceeding 10 percent. In addition to these revenue sources, state law allows PFDs to impose two different types of sales and use taxes:

1. Public facilities districts may impose a local sales and use tax of up to 0.033 percent to finance regional centers. Regional centers are defined to include convention and conference centers and special events facilities, such as facilities for community events, sporting events, trade shows, and artistic performances. This tax is not an additional tax for consumers, and it does not change the overall retail sales or use tax rate. Rather, the receipts are credited against the state 6.5 percent tax, and therefore the burden is shifted to the State General Fund. Authority to levy the tax is limited to districts that were created by certain dates and that commenced the construction, improvement, or rehabilitation of eligible projects prior to certain dates. This tax does not require voter approval. Once imposed, the local sales and use tax may remain in place until bonds that finance the construction of the facility are retired, but in no case may the tax be levied for longer than 25 years. In order to utilize the state-credited tax receipts, the statute requires that public or private matching funds must be obtained for the project. First levied in August 2000, the tax is currently utilized to fund 22 projects throughout the state.
2. With voter approval, PFDs may also impose a local sales and use tax up to 0.2 percent to finance, design, construct, remodel, maintain, or operate public facilities. The tax is not credited against the state sales and use tax and therefore increases the aggregate sales and use tax rate. Also, unlike the 0.033 percent sales and use tax, the 0.2 percent is not limited in duration. Currently, the Spokane County Public Facilities District is the only jurisdiction imposing the voter-approved 0.2 percent tax.

In 2006 legislation was passed that extended the 0.033 percent local sales and use tax to the Greater Wenatchee Regional Events Center Public Facilities District (Wenatchee PFD), formed by Chelan and Douglas counties and the cities of Wenatchee, East Wenatchee, Entiat, Chelan, Waterville, Cashmere, and Rock Island. The local sales and use tax is used to finance a multi-purpose events center located in the City of Wenatchee, which has been open since 2008.

In 2008 the Wenatchee PFD issued \$41,770,000 in short-term bonds. The bonds were due on December 1, 2011. The Wenatchee PFD was unable to refinance the short-term bonds and defaulted on its December 1 obligation. Several factors contributed to the PFD's inability to secure long-term financing on the facility. First, operating revenues were substantially overestimated. Second, a superior court decision invalidated a contingent loan agreement where the City of Wenatchee guaranteed the repayment of the Wenatchee PFD short-term

bonds. The court held that by pledging its full faith and credit to the repayment of the Wenatchee PFD debt, the city had exceeded its debt limit.

Summary of Bill:

An independent financial review of a public facilities district (PFD) is required prior to the formation of a PFD, the issuance of debt by a PFD, or the lease, purchase, or development of a facility by a PFD. The independent financial review is conducted by the Department of Commerce through the Municipal Research and Services Center. The independent financial review must analyze the potential costs and the adequacy of the revenues for the proposed action by the PFD. The costs of the independent financial review must be borne by the PFD or the local government proposing the formation of the PFD. Upon completion, the independent financial review shall be submitted to the State Treasurer, State Auditor, the PFD, participating local governments, and appropriate committees of the Legislature. The independent financial review of debt issuances by a PFD is not required if the PFD is refinancing existing debt.

If a PFD has defaulted on debt, the jurisdiction in which the public facility is located – the anchor jurisdiction – may impose a councilmanic sales tax of two-tenths of 1 percent for the purposes of refinancing the debt. This is in addition to any sales tax imposed by the PFD.

After the effective date of the act, a PFD may not agree to restrict its taxing authority. This provision is prospective, not retroactive.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 5 and 6, relating to sales tax authorization for anchor jurisdictions, which contain an emergency clause and take effect immediately.

Staff Summary of Public Testimony:

(In support) This bill will allow the Wenatchee City Council (Council) to take the first step and impose the 0.2 percent sales tax in Wenatchee. Then the Wenatchee public facilities district (PFD) will ask voters for a 0.1 percent sales tax. These two revenue streams will fund about \$3.2 million of the \$4 million needed each year to fund the refinancing of the bond anticipation notes. Tax increases approved only by the Council should only be used in the most dire situation. The current situation is dire. Under this plan, Wenatchee takes on the majority of the responsibility for paying the debt. The 0.033 percent state sales tax credit money will remain with the facility for operating expenses and capital reserves. Legal fees are building but were manageable until the Securities and Exchange Commission request for copies of records. If the bill does not pass, Wenatchee's budget will be devastated and legal

fees will be unsustainable. The bill reduces the uncertainty and risk associated with full default. A default will have a huge impact on the entire region. The community will pay for the arena one way or another. We need to keep the building open to provide the community benefits that were intended. The bill is an important step to end uncertainty, lower risk, and allow the region to move forward. It is clear from the history of the PFD that due diligence was not there. A key provision of this bill requires an outside review of facility investments. This facility would not have been built with an outside review.

(Opposed) None.

Persons Testifying: Senator Parlette; Frank Kuntz, City of Wenatchee; Ron Walter, Chelan County; Dale Snyder, Douglas County; Joshua Tarr, Friends of the Town Toyota Center; Rufus Woods, The Wenatchee World; and Craig Larson, Wenatchee Valley Chamber of Commerce.

Persons Signed In To Testify But Not Testifying: None.