

SENATE BILL REPORT

ESHB 1418

As Reported By Senate Committee On:
Economic Development & Telecommunications, March 28, 2001
Ways & Means, April 2, 2001

Title: An act relating to community revitalization financing.

Brief Description: Promoting community revitalization.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Gombosky, McMorris, Mulliken, Pennington, Ahern, Wood, Ogden, Benson, Reardon, Linville, Haigh, Miloscia, Simpson, McIntire, Santos, Rockefeller and Kessler).

Brief History:

Committee Activity: Economic Development & Telecommunications: 3/26/01,
3/28/01[DPA-WM].
Ways & Means: 4/2/01 [DPA, DNP]

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TELECOMMUNICATIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators T. Sheldon, Chair; B. Sheldon, Vice Chair; Fairley, Finkbeiner, McCaslin and Stevens.

Staff: Andrea McNamara (786-7483)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.
Signed by Senators Brown, Chair; Constantine, Vice Chair; Fraser, Kline, Kohl-Welles, Rasmussen, Roach, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau and Winsley.

Minority Report: Do not pass.
Signed by Senators Fairley, Vice Chair; and Zarelli.

Staff: David Schumacher (786-7474)

Background: Many local governments are seeking ways to raise revenue to finance public improvements that are designed to encourage economic growth and development, particularly those local governments in areas characterized by high levels of unemployment, and stagnant employment and income growth. It is believed that the construction of necessary public improvements will encourage investments in job-producing private development and expand the public tax base.

One approach supported by some local governments is property tax increment financing. Property tax increment financing temporarily reallocates property taxes paid on the increase in the tax base in a specified area to pay the costs of public improvements that benefit the property in the area.

Washington State does not currently utilize tax increment financing. State voters defeated proposed constitutional amendments in 1973, 1982, and 1985, authorizing counties, cities, and towns to engage in tax increment financing or community redevelopment financing. Enabling legislation was enacted in 1982, along with the constitutional amendment that year, but the enabling legislation was not made contingent on the approval of the constitutional amendment that was defeated later that year. The city of Spokane attempted to use the enabling legislation after defeat of the constitutional amendment, but the Supreme Court found the statute to be defective in 1995.

Forty-five other states authorize some form of tax increment financing.

Summary of Ways & Means Amended Bill: Counties, cities, towns, and port districts, alone or in combination with one another, are authorized to create tax increment areas within their boundaries where community revitalization projects and programs are financed by diverting a portion of the regular property taxes imposed by local governments within the tax increment area.

Community revitalization projects and programs include traditional infrastructure improvements, (such as street and road construction and maintenance, water and sewer system construction, sidewalks and streetlights, parking, terminal, and dock facilities, and park and recreation facilities); and the following: environmental analysis, professional management, planning, and promotion, management and promotion of retail trade activities, maintenance and security for common areas, and historic preservation.

The projects financed by property tax increment financing must be expected to encourage private development within the tax increment area and increase the fair market value of real property within the tax increment area. Private development that is anticipated to occur within the tax increment area, as a result of the public improvements, must be consistent with the countywide planning policy adopted by the county under the Growth Management Act and the county's, city's or town's comprehensive plan and development regulations adopted under the Growth Management Act.

A county, city, town, or port district may pledge and use the diverted regular property tax collections to pay principal and interest on general obligations issued to finance the community revitalization projects and programs. A nonpublic participant may be required to provide security to protect the public investment in the tax increment area.

Regular property taxes imposed by all local governments within the tax increment area on 75 percent of any increase in assessed valuation occurring in that area after its creation are diverted to finance the projects. Regular property taxes imposed by any local government on all of the remaining value (the assessed valuation in the year before the tax increment area was created plus 25 percent of any increase in assessed valuation in the tax increment area) are distributed to the local governments as if the tax increment area had not been created. The state's property taxes are not affected, nor are excess property tax levies. Most regular

property taxes imposed by port districts and public utility districts are subject to this potential diversion, but port district and public utility district regular property tax levies that are allowed specifically for bond retirement purposes are also not affected. The county, city, town, metropolitan park district, or port district creating the tax increment finance area may agree to reduce the amount of property taxes that are diverted.

Each local government taxing district authorized to impose regular property taxes is granted the express authority to provide the public improvements financed by a property tax increment financing, but if the taxing district is not otherwise granted this authority, the additional authority is only provided to the extent the taxing district agrees to participate in the tax increment financing.

Any diversion of county road district regular property tax levies for such purposes is allowed without penalizing the distribution of state highway moneys to the county.

Limitations under what is called the 106 percent limitation continue whether or not a tax increment area has been created.

A direct or collateral attack on a tax increment area must be commenced within 30 days of the date the county, city, town, or port district publishes a notice that the tax increment area has been created.

The steps involved in creating a tax increment area are specified and include the following:

- The sponsoring county, city, town, or port district adopts an ordinance designating the tax increment area within its boundaries and specifies the public improvements to be financed.
- The tax increment area may not be established unless the taxing districts (including the state) imposing at least 70 percent of the regular property taxes within this area sign written agreements approving the tax increment financing.
- A public hearing on the proposal is held.
- Any fire protection district with territory located in the increment area must approve the creation of the increment area.
- The county, city, town, or port district adopts an ordinance establishing the tax increment finance area.

Ways & Means Amended Bill Compared to Economic Development & Telecommunications Amended Bill: The striking amendment removed metropolitan park districts, increased the threshold from 60 percent to 70 percent for approval and deleted the voter approval requirement.

Amended Bill Compared to Substitute Bill: The striking amendment makes several technical and clarifying changes only, including: correcting the definition of "tax allocation base value;" clarifying that the redistribution of property taxes begins in the calendar year following the creation of the increment area; clarifying that a combination of authorized local

governments can co-sponsor an increment area; clarifying that the program does not affect excess property tax levies; and making technical changes regarding where a sponsor must publish notice of required public hearings and information about a project.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This tool is especially important to border communities that must compete for economic development opportunities against neighboring states that use tax increment financing. This bill has no impact on the state budget or on public school funding. More than 40 other states use tax increment financing. The bill is carefully crafted to include public participation and accountability in the creation and implementation of the increment areas and projects. It will encourage greater coordination and collaboration between local governments.

Testimony Against: The bill is unconstitutional taxation without representation. It favors the most aggressive local government in an area. Under this bill, a city could effectively create an increment area over the objection of all other taxing districts and then obtain 75 percent of the increases in property tax revenues from those other districts. This will result in unfair tax shifts.

Testified: Representative Jeff Gombosky, prime sponsor; Jorgen Bader, Seattle Community Council Federation (con); Todd Mielke, Spokane Regional Charter of Commerce (pro); Scott Taylor, Washington Public Ports Association (pro); Mark Brown, City of Vancouver (pro); Bryan Wahl, Realtors (pro).