SENATE BILL REPORT
SB 5539

As of February 9, 2023

Title: An act relating to making technical corrections to the local tax increment financing program under chapter 39.114 RCW by applying the definition of real property to ensure private investments made on state and local government-owned land are included in the increment value, ensuring that the relocation and construction of a government-owned facility is included as an eligible project, ensuring that acquisition costs include appurtenant rights, providing clarification to definitions of increment value and tax allocation base value for consistency with current law, clarifying notice requirements for the creation of a tax increment area, and creating consistency with current law for add-on levies codified in RCW 84.55.010.

Brief Description: Making technical corrections to the local tax increment financing program.

Sponsors: Senators Cleveland, Wilson, L., Mullet, Boehnke, King, Liias, Frame and Wellman; by request of State Treasurer.

Brief History:

Committee Activity: Business, Financial Services, Gaming & Trade: 1/31/23, 2/02/23 [DP].

Ways & Means: 2/13/23.

Brief Summary of Bill

- Defines the term real property as it relates to local tax increment financing areas.
- Clarifies that an increment area takes effect on June 1st following the adoption of the ordinance designating the increment area.
- Provides local taxing districts the authority to increase their property tax levy capacity for increases in assessed value in certain situations.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

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.

Majority Report: Do pass.

Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke, Gildon, Hasegawa, Lovick, MacEwen and Mullet.

Staff: Clinton McCarthy (786-7319)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Alia Kennedy (786-7405)

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. If a project analysis indicates an increment area will impact at least 20 percent of assessed value in a fire district, mitigation strategies must be negotiated. 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 a 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 shall 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 shall receive 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 shall receive 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: Definitions. The definition of real property is expanded to include privately owned or used improvements located on publicly owned land subject to property taxation or the leasehold excise tax.

Public improvements that can be financed using LTIF are expanded to include relocation and construction of a government-owned facility, so long as there is written permission from the agency owning the facility and the Office of Financial Management. In addition, public improvement costs can also include site acquisition, and the expansion of public improvements.

The definition of "tax allocation base value" is changed from the year in which the increment area is first designated to when the increment area takes effect.

Public Notice Requirement. The period of time between when a published notice in a legal newspaper prior, and when a local government can authorize the creation of an increment area is at least two weeks. A certified copy of an adopted ordinance must be sent to each taxing district within the increment area within ten days of when the ordinance was adopted.

Tax Allocation. To reflect the expansion of the definition of real property, the county assessor is directed to adjust the tax allocation base value for the increment area to reflect the assessed value of any privately owned improvements located on publicly owned land. This change does not impact any apportionment or distributions occurring in calendar years before 2024.

Local Tax Increment Financing and Limitations on Levies. Local taxing districts are provided the authority to increase their property tax levy capacity for increases in assessed value within the LTIF area in certain situations. Specifically, a local taxing district may increase their levy capacity when:
- restoring a regular levy after not levied since 1985;
- levying after the consolidation of taxing districts; and
- levying after annexing another property into the taxing district.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Business, Financial Services, Gaming & Trade): PRO: Many districts that thought they were eligible to use this program have found out they might not be eligible in recent months. Pasco has created a TIF area that is adjacent to where there is a lot of development. The TIF area has created infrastructure to support the development of vacant lands. This change will enable the TIF to pay for improvements on state infrastructure. TIFs allow ports to pay for infrastructure, but this bill will provide more clarity on how the program will work. Clarity for TIFs will get good projects across the finish line. Cities have been long proponents of bringing TIF to work in the state of Washington.

Persons Testifying (Business, Financial Services, Gaming & Trade): PRO: Blake Baldwin, Chelan Douglas Regional Port Authority; matt zuvich, Office of State Treasurer; Briahna Murray, City of Pasco contract lobbyist; Mike Bomar, Port of Vancouver USA; Candice Bock, Association of Washington Cities; Eric ffitch, Washington Public Ports Association.

Persons Signed In To Testify But Not Testifying (Business, Financial Services, Gaming & Trade): No one.