

HOUSE BILL REPORT

ESB 5498

As Passed House:

April 13, 2007

Title: An act relating to revising voter-approved funding sources for local taxing districts.

Brief Description: Revising voter-approved funding sources for local taxing districts.

Sponsors: By Senators Regala, Clements, Morton, Brandland, Pridemore, Delvin, Prentice, Hatfield and Rasmussen.

Brief History:

Committee Activity:

Finance: 4/6/07 [DP].

Floor Activity:

Passed House: 4/13/07, 74-23.

Brief Summary of Engrossed Bill

- Excludes certain nonrecurring expenditures for the purposes of meeting the non-supplanting requirements of the 0.3 percent "public safety" optional tax for counties and the authority for multi-year lid lifts.
- Allows all taxing districts with regular levying authority to seek multi-year lid lifts, up to a maximum of six years.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 6 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Conway, Ericks, McIntire and Santos.

Minority Report: Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member and Roach.

Staff: Mark Matteson (786-7145).

Background:

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.

Retail Sales and Use Tax. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax is imposed on taxable items and services used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. Sales tax is paid by the purchaser and collected by the seller. Use tax is paid directly to the Department of Revenue.

There are both state and local sales and use taxes. At the state level, the taxes are imposed at a 6.5 percent rate by the state. All cities and counties are required to impose a 0.5 percent basic tax for general purposes. There are a number of other local optional taxes, most of which are required to be used for specific purposes. The 0.3 percent "public safety" optional tax for counties was enacted in 2003. The tax allows counties, subject to voter approval, to impose an additional local tax of up to 0.3 percent. The tax applies to the same tax base as the state tax of 6.5 percent, with the exception of the retail sale or use of motor vehicles and leases of motor vehicles, which are specifically exempt. One-third of the tax proceeds is required to be used for criminal justice purposes, including additional police protection, mitigation of congested court systems, and relief of overcrowded correctional facilities. Proceeds are prohibited from being used to supplant existing funds dedicated to the same purposes for which a county imposes the tax. Of the proceeds, two-fifths must be distributed to cities within the county on a per capita basis.

Regular Property Taxes; Lid Lifts. The State Constitution limits the sum of property tax rates to a maximum of 1 percent of true and fair value, or \$10 per \$1,000 of value. Levies that are subject to the 1 percent rate limitation are known as "regular" levies. Other levies are not subject to the 1 percent limit, but require supermajority voter approval; these are called "excess" levies.

A property taxing district's regular property tax levy is limited by a statutory maximum growth rate in the amount of tax revenue that may be collected from year to year. The limit requires a reduction of property tax rates as necessary to limit the growth in the total amount of property tax revenue received to the lesser of 1 percent or inflation, generally. The revenue limitation does not apply to new value placed on tax rolls attributable to new construction, to improvements to existing property, to changes in state-assessed valuation, or to construction of certain wind turbines. In areas where property values have grown more rapidly than 1 percent per year, the 101 percent revenue limit has caused district tax rates to decline below the maximum rate.

The revenue limit for regular property taxes may be superseded by voter approval; this process is known as a "lid lift." Lid lifts require approval by a majority of the voters in a taxing district, and allow the district to set its levy in an amount for the next year that exceeds 101 percent of the previous year's tax, as long as the resulting tax rate is within the statutory rate limit. Counties, cities, and towns may seek multi-year lid lifts, in which voters may approve a rate of growth or equivalent dollar amount in excess of the 101 percent limit for each year for up to six years. The ballot title must state the purpose for which the lid lift funds are to be used, and the moneys thus raised may not be used to supplant existing funds used for

the same purpose. These multi-year lid lifts may be proposed only at a primary or general election.

In seeking a lid lift, the jurisdiction may include several conditions in its proposition to the voters. The proposal may limit the time period for which the increased levy is to be made; limit the levy's purpose; set the levy at a rate less than the maximum rate allowed; provide that the maximum allowable dollar amount of the final levy will serve as the base from which future levies are calculated; or a combination of these conditions.

If the ballot measure includes conditions that limit a lid lift's purpose or time period and does not explicitly provide that the basis for future levies will be the dollar amount of the final lid lift, future levies must be calculated as if the proposition had not been enacted and instead the district had levied taxes at the highest allowable rate during the time that the lid lift was in effect. If the ballot measure does not include conditions limiting a lid lift's purpose or time period, then future levies may be based on the dollar amount of the final lid lift.

Requirements Regarding Non-Supplanting of Existing Funds. In December 2005, the Office of the Attorney General provided an informal opinion in response to an inquiry from the Yakima County prosecuting attorney concerning the non-supplanting provisions of the 0.3 percent public safety local sales and use tax, which the county imposed beginning April 2005. Specifically, the prosecutor's concern was whether a county imposing such a tax could reduce the budgets of departments and agencies eligible to receive the proceeds from the tax and then use the proceeds to restore the budgets to pre-existing levels. In the letter, the assistant attorney general disagreed with such an interpretation, finding that the funding from the tax could be used only to increase funding among eligible programs above the level at the point the voters approved the tax.

Summary of Bill:

Modifications are made to the 0.3 percent "public safety" optional tax for counties and in the authority for multi-year lid lifts, with respect to the provisions that prohibit the use of incremental revenues for supplanting existing funds. Existing funds are considered to be the actual operating expenditures in the calendar year in which the ballot was approved by the voters. Existing funds exclude expenditures from temporary federal or state grants or loans and exclude nonrecurring expenditures, such as major capital expenditures.

Any property taxing district with regular levying authority may seek multi-year lid lifts over a six year period in the same manner as counties, cities, and towns.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Fire Commissioners Association wants to be able to spend tax dollars on equipment and fighting fires rather than on elections. Excess levies are for activities above and beyond those normally conducted in our regular operating budgets. It's important to have both this tool and the special levy tool.

South King Fire and Rescue has successfully run lid lifts over the past six years, costing us \$500,000. Voters have overwhelmingly supported us. Five hundred thousand dollars could otherwise buy a fire truck or a couple of aid cars, or other things that are more important to my constituents than paying for multiple elections.

The State Council of Firefighters support this. The long-term planning relies on a secure revenue stream. We find it uncomfortable to have high election costs instead of having the dollars roll into operations funding. With my city council background, I have a reasonable understanding of the process. I find it a little difficult that fire protection districts have to rely on excess levies. The 1 percent growth of regular levies is arbitrary and does not correspond to increases in cost of services. It makes more sense to start with a specific rate and allow use of the Consumer Price Index to adjust the levy each year after that.

(Opposed) None.

Persons Testifying: Ryan Spiller, South King County Fire and Rescue; Mark Freitas, South King County Fire and Rescue Commissioner; and Bud Sizemore, Washington State Fire Commissioners.

Persons Signed In To Testify But Not Testifying: None.