FINAL BILL REPORT
E2SSB 5755

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Synopsis as Enacted

Brief Description: Authorizing certain cities to establish a limited sales and use tax incentive program to encourage redevelopment of underdeveloped lands in urban areas.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Trudeau, Billig, Nobles, Saldaña and Wellman).

Senate Committee on Housing & Local Government
Senate Committee on Ways & Means
House Committee on Finance

Background: Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital products, or services when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary from 0.5 percent to three percent, depending on the location.

State law provides for a range of tax preferences that provide a reduced tax liability for a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Summary: A sales and use tax incentive program is established to encourage the redevelopment of underdeveloped land in targeted urban areas. The legislative authority of a qualifying city may authorize a sales and use tax deferral for an investment project within

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the city if the city finds there are both significant areas of underdeveloped land and a lack of affordable housing. If a conditional recipient maintains the property for qualifying purposes for at least ten years, deferred sales and use taxes need not be repaid. A qualifying city includes a city with a population of at least 135,000 and not more than 250,000. Affordable housing includes multifamily housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income. Underdeveloped property is defined as land used as a surface parking lot for parking motor vehicles off the street that is open to public use as of the effective date of the legislation.

The governing authority must adopt a resolution of intention to create a sales and use tax deferral program and hold a public hearing. An owner of underdeveloped property seeking a sales and use tax deferral must apply to the city and include a description of the investment project and site plan, including a statement of the expected number of affordable housing units to be created.

The city may approve an application if it finds the project is set aside primarily for multifamily housing units and the applicant commits to renting or selling at least 50 percent of the units as affordable rental housing or affordable homeownership housing to very-low, low, or moderate income households. If the project is a mixed use project, only the ground floor of a building may be used for commercial purposes with the remainder dedicated to multifamily housing units. At least 50 percent of the investment project set aside for multifamily housing units must be rented at a price at or below fair market rent for the county, or sold at a price at or below county median price. The applicant must commit to any additional affordability and income eligibility conditions adopted by the local government. An investment project must conform to all local plans and regulations that apply at the time the application is approved, and the project must occur on land that is underdeveloped.

A city must approve or deny an application within 90 days after receipt of the application. If the application is denied by the city, the city must state in writing the reasons for denial and send the notice to the applicant's last known address within ten days of the denial. An applicant may appeal the denial to the city's governing authority within 30 days after receipt of the denial.

A program participant must submit an application to the Department of Revenue (DOR) before initiation of the construction of the investment project. The application must include a copy of the conditional certificate of program approval issued by the city, estimated construction costs, time schedules for completion and operation, and any other information required by DOR. DOR must rule on the application within 60 days. DOR must keep a running total of all estimated sales and use tax deferrals and may not accept applications for the deferral after June 30, 2032.

A city denying a sales and use tax deferral must notify DOR and taxes deferred are immediately due and payable, subject to any appeal by the conditional recipient. DOR must assess interest at the rate provided for delinquent taxes and penalties retroactively to the date the sales and use tax deferral certificate was issued.

A participant in the sale and use tax deferral program must file an annual report with the city including a statement of the affordable housing units constructed on the property, certify the property has not changed use, and any additional information requested by the city. A city participating in the program must file a report annually by December 31st of each year, beginning in 2022, to the Department of Commerce. The report must include the number of program approval certificates granted, the total number and type of new buildings constructed, the number of affordable housing units resulting from the new construction, and the estimated value of the sales and use tax deferral for each investment project.

Beginning the year a certificate of occupancy is issued and each year thereafter for ten years, the recipient must file a complete annual tax performance report with DOR.

A TPPS is included identifying the legislative intent to expand affordable housing options. JLARC must evaluate the number of housing units on underdeveloped property and report to the Legislature by December 31, 2030.

Votes on Final Passage:

Senate	29	19	
House	66	31	(House amended)
Senate	27	21	(Senate concurred)

Effective: June 9, 2022