
SUBSTITUTE SENATE BILL 6361

State of Washington

65th Legislature

2018 Regular Session

By Senate Economic Development & International Trade (originally sponsored by Senators Billig, Baumgartner, Conway, Short, and Darneille)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to authorizing certain cities to establish a
2 limited tax expenditure from local property taxes for the value of
3 new construction to encourage redevelopment of vacant lands in urban
4 areas; and adding a new chapter to Title 84 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** Tax expenditures reduce revenues collected
7 from the tax base and provide preferential treatment to some at the
8 expense of those not getting a tax expenditure. Almost as much money
9 as is collected in tax revenues is not collected and is given out as
10 tax expenditures. While every expenditure of revenue must be
11 authorized and appropriated in the state budget approved by the
12 legislature, the massive amounts of funding for these tax preferences
13 and exemptions continue without any readoption by the legislature in
14 each budget. These exemptions and preferences are, therefore, tax
15 expenditures, most of which continue without any legislative action
16 year after year while the state seeks other funding to meet
17 constitutional duties to fund education and other services and
18 obligations.

19 NEW SECTION. **Sec. 2.** The legislature finds that:

1 (1) A meaningful, fair, and predictable economic incentive should
2 be created to stimulate the redevelopment of vacant or underdeveloped
3 property in targeted urban areas through a limited tax expenditure as
4 provided by this chapter; and

5 (2) This limited tax expenditure should help the owners of vacant
6 or undeveloped property achieve the highest and best use of land and
7 enable cities to more fully realize their planning goals.

8 NEW SECTION. **Sec. 3.** It is the purpose of this chapter to
9 encourage the redevelopment of vacant or undeveloped land in targeted
10 urban areas, thereby increasing employment opportunities for family
11 living wage jobs and helping accomplish the planning goals of
12 Washington cities. The legislative authorities of cities to which
13 this chapter applies may authorize an ad valorem tax expenditure for
14 the value of new construction within the city if the legislative
15 authority of the city finds that there are both significant areas of
16 vacant or undeveloped land and insufficient family living wage jobs
17 for its wage earning population in areas proximate to the vacant or
18 undeveloped land.

19 NEW SECTION. **Sec. 4.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires
21 otherwise.

22 (1) "City" means a first-class city with a population of at least
23 one hundred fifty thousand and not more than two hundred fifty
24 thousand.

25 (2) "Family living wage job" means a job with an average wage of
26 twenty-one dollars an hour or more, working two thousand eighty hours
27 per year on the subject site, as adjusted annually for inflation by
28 the consumer price index. The family living wage may be increased by
29 the local authority based on regional factors and wage conditions.

30 (3) "Governing authority" means the local legislative authority
31 of a city having jurisdiction over the property for which an
32 expenditure may be applied under this chapter.

33 (4) "Growth management act" means chapter 36.70A RCW.

34 (5) "Owner" means the property owner of record.

35 (6) "Vacant or undeveloped" means property within a downtown
36 urban core with no existing habitable building improvements which is
37 targeted for new or expanded industrial, residential, commercial, or
38 manufacturing uses.

1 NEW SECTION. **Sec. 5.** (1)(a) The value of new construction
2 qualifying under this chapter is exempt from property taxation,
3 except taxes levied by the state and school districts, for a period
4 of ten successive years beginning January 1st of the year immediately
5 following the calendar year of issuance of the certificate.

6 (b) The expenditure provided in this section does not apply to
7 the value of the land.

8 (2) The expenditure provided in this section is in addition to
9 any other expenditures, deferrals, credits, grants, or other tax
10 expenditures provided by law; provided, that the expenditure provided
11 in this section is not available for properties exempt under the
12 multiple family tax exemption pursuant to chapter 84.14 RCW.

13 (3) This chapter does not apply to increases in assessed
14 valuation made by the assessor on nonqualifying portions of buildings
15 and value of land nor to increases made by lawful order of a county
16 board of equalization, the department of revenue, or a county, to a
17 class of property throughout the county or specific area of the
18 county to achieve the uniformity of assessment or appraisal required
19 by law.

20 (4) Upon the expiration of the expenditure period, or upon
21 termination of the expenditure, the cost of new construction and
22 improvements to the property not previously considered as new
23 construction during the expenditure period, must be considered as new
24 construction for purposes of calculating levies under chapter 84.55
25 RCW.

26 NEW SECTION. **Sec. 6.** (1) For the purpose of creating a property
27 tax expenditure program under this chapter, the governing authority
28 must adopt a resolution of intention to create a property tax
29 expenditure program as generally described in the resolution. The
30 resolution must state the time and place of a hearing to be held by
31 the governing authority to consider the creation of the property tax
32 expenditure program and may include such other information pertaining
33 to the creation of the expenditure program as the governing authority
34 determines to be appropriate to apprise the public of the action
35 intended. However, the resolution must provide information pertaining
36 to:

37 (a) The application process;

38 (b) The approval process;

39 (c) The appeals process for applications denied approval; and

1 (d) Requirements, conditions, and obligations that must be
2 followed post-approval of an application.

3 (2) The governing authority must give notice of a hearing held
4 under this chapter by publication of the notice once each week for
5 two consecutive weeks, not less than seven days, nor more than thirty
6 days before the date of the hearing in a paper having a general
7 circulation in the city. The notice must state the time, date, place,
8 and purpose of the hearing.

9 (3) Following the hearing or a continuance of the hearing, the
10 governing authority may authorize the creation of the program.

11 NEW SECTION. **Sec. 7.** An owner of property seeking a tax
12 expenditure under this chapter must complete the following
13 procedures:

14 (1) The owner must apply to the city on forms adopted by the
15 governing authority. The application must contain the following:

16 (a) Information setting forth the grounds supporting the
17 requested expenditure including information indicated on the
18 application form or in the guidelines;

19 (b) A description of the project and site plan, and other
20 information requested;

21 (c) A statement of the expected number of new family living wage
22 jobs to be created;

23 (d) A statement that the applicant is aware of the potential tax
24 liability involved when the property ceases to be eligible for the
25 expenditure provided under this chapter;

26 (e) A statement that the applicant is aware that the new
27 construction must be completed within three years from the date of
28 approval of the application; and

29 (f) A statement that the applicant would not have built in this
30 location but for the availability of the tax expenditure under this
31 chapter;

32 (2) The applicant must verify the application by oath or
33 affirmation; and

34 (3) The application must be accompanied by the application fee,
35 if any, required under this chapter. The duly authorized
36 administrative official or committee of the city may permit the
37 applicant to revise an application before final action by the duly
38 authorized administrative official or committee of the city.

1 NEW SECTION. **Sec. 8.** The duly authorized administrative
2 official or committee of the city may approve the application if it
3 finds that:

4 (1) A minimum of five new family living wage jobs will be created
5 on the subject site as a result of new construction within one year
6 of issuance of a certificate of building occupancy;

7 (2) The proposed project is, or will be, at the time of
8 completion, in conformance with all local plans and regulations that
9 apply at the time the application is approved;

10 (3) The new construction will occur on land which is vacant or
11 undeveloped;

12 (4) The area where the new construction will occur is located
13 within an area primarily zoned for mixed use, commercial, or
14 industrial uses;

15 (5) The terms and conditions of the implementation of the
16 development meets the requirements of this chapter and any
17 requirements of the city that are not otherwise inconsistent with
18 this chapter;

19 (6) The general contractor overseeing the new construction meets
20 the responsibility criteria required of responsible bidders in RCW
21 39.04.350(1) and pays the prevailing rate of wage as defined in RCW
22 39.12.010(1); and

23 (7) All other requirements of this chapter have been satisfied as
24 well as any other requirements of the city that are not otherwise
25 inconsistent with this chapter.

26 NEW SECTION. **Sec. 9.** (1) The duly authorized administrative
27 official or committee of the city must approve or deny an application
28 filed under this chapter within ninety days after receipt of the
29 application.

30 (2) If the application is approved, the city must issue the owner
31 of the property a conditional certificate of acceptance of tax
32 expenditure. The certificate must contain a statement by a duly
33 authorized administrative official of the governing authority that
34 the property has complied with the required criteria of this chapter.

35 (3) If the application is denied by the city, the city must state
36 in writing the reasons for denial and send the notice to the
37 applicant at the applicant's last known address within ten days of
38 the denial.

1 (4) Upon denial by the city, an applicant may appeal the denial
2 to the city's governing authority or a city official designated by
3 the city to hear such appeals within thirty days after receipt of the
4 denial. The appeal before the city's governing authority or
5 designated city official must be based upon the record made before
6 the city with the burden of proof on the applicant to show that there
7 was no substantial evidence to support the city's decision. The
8 decision of the city on the appeal is final.

9 NEW SECTION. **Sec. 10.** The governing authority may establish an
10 application fee. This fee may not exceed an amount determined to be
11 required to cover the cost to be incurred by the governing authority
12 and the assessor in administering this chapter. The application fee
13 must be paid at the time the application for limited expenditure is
14 filed. If the application is approved, the governing authority of the
15 city must pay the application fee to the county assessor for deposit
16 in the county current expense fund, after first deducting that
17 portion of the fee attributable to its own administrative costs in
18 processing the application. If the application is denied, the city's
19 governing authority may retain that portion of the application fee
20 attributable to its own administrative costs and refund the balance
21 to the applicant.

22 NEW SECTION. **Sec. 11.** (1) Upon completion of the new
23 construction for which an application for a tax expenditure under
24 this chapter has been approved and issued a certificate of occupancy,
25 the owner must file with the city the following:

26 (a) A description of the work that has been completed and a
27 statement that the new construction on the owner's property qualifies
28 the property for an expenditure under this chapter;

29 (b) A statement of the new family living wage jobs to be offered
30 as a result of the new construction; and

31 (c) A statement that the work has been completed within three
32 years of the issuance of the conditional certificate of tax
33 expenditure

34 (2) Within thirty days after receipt of the statements required
35 under subsection (1) of this section, the city must determine whether
36 the work completed and the jobs to be offered are consistent with the
37 application and the contract approved by the city and whether the
38 application is qualified for a tax expenditure under this chapter.

1 (3) If the criteria of this chapter have been satisfied and the
2 owner's property is qualified for a tax expenditure under this
3 chapter, the city must file the certificate of tax expenditure with
4 the county assessor within ten days of the expiration of the thirty-
5 day period provided under subsection (2) of this section.

6 (4) The city must notify the applicant that a certificate of tax
7 expenditure is denied if the city determines that:

8 (a) The work was not completed within three years of the
9 application date;

10 (b) The work was not constructed consistent with the application
11 or other applicable requirements;

12 (c) The jobs to be offered are not consistent with the
13 application and criteria of this chapter; or

14 (d) The owner's property is otherwise not qualified for an
15 expenditure under this chapter.

16 (5) If the city finds that the work was not completed within the
17 required time period due to circumstances beyond the control of the
18 owner and that the owner has been acting and could reasonably be
19 expected to act in good faith and with due diligence, the governing
20 authority may extend the deadline for completion of the work for a
21 period not to exceed twenty-four consecutive months.

22 (6) The city's governing authority may enact an ordinance to
23 provide a process for an owner to appeal a decision by the city that
24 the owner is not entitled to a certificate of tax expenditure to the
25 city. The owner may appeal a decision by the city to deny a
26 certificate of tax expenditure in superior court under RCW 34.05.510
27 through 34.05.598, if the appeal is filed within thirty days of
28 notification by the city to the owner of the expenditure denial.

29 NEW SECTION. **Sec. 12.** (1) Thirty days after the anniversary of
30 the date of the certificate of tax expenditure and each year for the
31 tax expenditure period, the owner of the new construction must file
32 with a designated authorized representative of the city an annual
33 report indicating the following:

34 (a) A statement of the family living wage jobs at the facility as
35 of the anniversary date;

36 (b) A certification by the owner that the property has not
37 changed use;

38 (c) A description of changes or improvements constructed after
39 issuance of the certificate of tax expenditure; and

1 (d) Any additional information requested by the city.

2 (2) A city that issues a certificate of tax expenditure under
3 this chapter must report annually by December 31st of each year,
4 beginning in 2019, to the department of commerce. The report must
5 include the following information:

6 (a) The number of tax expenditure certificates granted;

7 (b) The total number and type of new buildings constructed;

8 (c) The number of family living wage jobs resulting from the
9 changes or improvements constructed after issuance of the certificate
10 of tax expenditure;

11 (d) The number of family living wage jobs created after
12 completion of the project; and

13 (e) The value of the tax expenditure for each project receiving a
14 tax expenditure and the total value of tax expenditures granted.

15 NEW SECTION. **Sec. 13.** (1) If the value of improvements have
16 been exempted under this chapter, the improvements continue to be
17 exempted for the applicable period under this chapter so long as they
18 are not converted to another use and continue to satisfy all
19 applicable conditions including, but not limited to, zoning, land
20 use, building, and family living wage job creation.

21 (2) If an owner voluntarily opts to discontinue compliance with
22 the requirements of this chapter, the owner must notify the assessor
23 within sixty days of the change in use or intended discontinuance.

24 (3) If, after a certificate of tax expenditure has been filed
25 with the county assessor, the city discovers that a portion of the
26 property is changed or will be changed to disqualify the owner for
27 expenditure eligibility under this chapter, the tax expenditure must
28 be terminated and the following occurs:

29 (a) Additional real property tax must be imposed on the value of
30 the nonqualifying improvements in the amount that would be imposed if
31 an expenditure had not been available under this chapter, plus a
32 penalty equal to twenty percent of the additional tax due. This
33 additional tax is calculated based upon the difference between the
34 property tax paid and the property tax that would have been paid if
35 it had included the value of the nonqualifying improvements dated
36 back to the date that the improvements were converted to a
37 nonqualifying use;

38 (b) The tax must include interest upon the amounts of the
39 additional tax at the same statutory rate charged on delinquent

1 property taxes from the dates on which the additional tax could have
2 been paid without penalty if the improvements had been assessed at a
3 value without regard to this chapter;

4 (c) The additional tax, interest, and penalty are due in full
5 thirty days following the date on which the treasurer's statement of
6 additional tax due is issued. The additional tax must be distributed
7 by the county treasurer in the same manner in which current property
8 taxes applicable to the subject property are distributed; and

9 (d) The additional tax owed together with interest and penalty
10 becomes a lien on the property and attaches at the time the property
11 or portion of the property is removed from the qualifying use under
12 this chapter or the amenities no longer meet the applicable
13 requirements for expenditures under this chapter. A lien under this
14 section has priority to, and must be fully paid and satisfied before,
15 a recognizance, mortgage, judgment, debt, obligation, or
16 responsibility to or with which the property may become charged or
17 liable. The lien may be foreclosed upon expiration of the same period
18 after delinquency and in the same manner provided by law for
19 foreclosure of liens for delinquent real property taxes. An
20 additional tax unpaid on its due date is delinquent. From the date of
21 delinquency until paid, interest must be charged at the same rate
22 applied by law to delinquent property taxes.

23 (4) Upon a determination that a tax expenditure is to be
24 terminated for a reason stated in this section, the city's governing
25 authority must notify the county assessor and record owner of the
26 property as shown by the tax rolls by mail, return receipt requested,
27 of the determination to terminate the expenditure. The owner may
28 appeal the determination to the city, within thirty days by filing a
29 notice of appeal with the city, which notice must specify the factual
30 and legal basis on which the determination of termination is alleged
31 to be erroneous. At an appeal hearing, all affected parties may be
32 heard and all competent evidence received. After the hearing, the
33 deciding body or officer must either affirm, modify, or repeal the
34 decision of termination of expenditure based on the evidence
35 received. An aggrieved party may appeal the decision of the deciding
36 body or officer to the superior court as provided in RCW 34.05.510
37 through 34.05.598.

38 (5) Upon determination by the city to terminate an expenditure,
39 the county officials having possession of the assessment and tax
40 rolls must correct the rolls in the manner provided for omitted

1 property under RCW 84.40.080. The county assessor must make such a
2 valuation of the property and improvements as is necessary to permit
3 the correction of the rolls. The cost of the new construction and
4 improvements to the property, not previously considered as new
5 construction during the exempt period, must be considered as new
6 construction for purposes of calculating levies under chapter 84.55
7 RCW. The owner may appeal the valuation to the county board of
8 equalization as provided in chapter 84.48 RCW, and according to the
9 provisions of RCW 84.40.038. If there has been a failure to comply
10 with this chapter, the property must be listed as an omitted
11 assessment for assessment years beginning January 1st of the calendar
12 year in which the noncompliance first occurred, but the listing as an
13 omitted assessment may not be for a period more than three calendar
14 years preceding the year in which the failure to comply was
15 discovered.

16 NEW SECTION. **Sec. 14.** This act applies to taxes levied for
17 collection in 2019 and thereafter.

18 NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act
19 constitute a new chapter in Title 84 RCW.

20 NEW SECTION. **Sec. 16.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

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