

# HOUSE BILL REPORT

## HB 2032

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### As Reported by House Committee On: Finance

**Title:** An act relating to providing a tax deferral for the expansion of certain existing public facilities district convention centers.

**Brief Description:** Providing a tax deferral for the expansion of certain existing public facilities district convention centers.

**Sponsors:** Representatives Tarleton, Morris, Ryu, Springer and Macri.

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/25/19, 2/26/19 [DP], 2/10/20 [DPS].

#### **Brief Summary of Substitute Bill**

- Authorizes a state retail sales and use tax deferral in the form of a remittance for the expansion of the Washington State Convention Center.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Chapman, Frame, Macri, Orwall, Springer, Stokesbary, Vick and Wylie.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Young, Assistant Ranking Minority Member.

**Staff:** Tracey O'Brien (786-7152).

#### **Background:**

##### Retail Sales and Use Tax.

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

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acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities 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 3.9 percent, depending on the location.

#### Public Facilities District.

Public facilities districts (PFDs) are corporate municipal bodies with independent taxing authority. State law authorizes a PFD to impose a local sales and use tax of 0.033 percent to finance the construction of regional centers. A PFD that has experienced an annual net loss of at least 0.5 percent due to streamlined sales tax destination sourcing may increase its rate up to 0.037 percent. This tax is not an additional tax for consumers, and it does not change the overall retail sales or use tax rate. Rather, the receipts are credited against the state 6.5 percent tax, and therefore the burden is shifted to the State General Fund.

Regional centers are defined to include convention and conference centers and special events facilities, such as facilities for community events, sporting events, trade shows, and artistic performances. Authority to levy the PFD sales and use tax for regional centers is limited to districts that were created by certain dates and commenced the construction, improvement, or rehabilitation of eligible projects prior to certain dates. Once imposed, the tax may remain in place until bonds that finance the construction of the facility are retired, but in no case may the tax be levied for longer than 20 years. In order to utilize the state-credited tax receipts, the statute requires that public or private matching funds be obtained for the project. The 0.033 percent tax is currently used to finance 22 projects statewide.

The PFDs in Cowlitz and Yakima counties are also authorized to levy an additional local sales and use tax of 0.02 percent to finance the construction of regional theaters. The same restrictions that apply to the 0.033 percent tax also apply to the 0.02 percent tax.

#### Washington State Convention Center.

In 1982 the Legislature created a public, nonprofit corporation to acquire land and to design, construct, promote, and operate the Washington State Convention Center (Convention Center). Construction was completed in 1988.

Since 2010 the Convention Center operates as a PFD created by King County. It is directed by a nine-member board of community members appointed by the State of Washington, King County, and the City of Seattle.

#### Leadership in Energy and Environmental Design Standards.

In 2005 the Legislature enacted High-Performance Public Building Standards. These standards require all major facility projects over 5,000 square feet or renovation projects greater than 50 percent of the building replacement value, either of which use state resources, to be certified to at least the Leadership in Energy and Environmental Design (LEED) Silver standard. This requirement applies to any state entity, including public agencies and public school districts, although school districts may use the Washington Sustainable School Design Protocol. The stated purpose of the standard is to improve the built environment and emphasize design and construction practices that reduce energy consumption and water use, improve indoor air quality, and minimize the impact on the natural environment.

Developed by the United States (U.S.) Green Building Council, LEED is the most widely used green building rating system in the world. The LEED standard is a fee-based third-party certification with four ranks: LEED Certified; LEED Silver; LEED Gold; and LEED Platinum. The LEED standard and the related logo is a trademark owned by the U.S. Green Building Council and is used with permission.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. 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 10 years unless an alternative expiration date is provided.

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**Summary of Substitute Bill:**

A PFD may apply for a deferral of state sales and use taxes on the construction of buildings, site preparation, and the acquisition of related machinery and equipment for a new public facility. The deferral will be in the form of a remittance. Under the remittance deferral program, the Department of Revenue (DOR) will make monthly remittance payments to the public facilities district upon complete applications, including receipts. The deferral is capped at \$45 million. "Public facility" is defined as the expansion of an existing PFD convention center located in a county with 1.5 million persons (Convention Center).

The application for deferral must include a statement that the Convention Center will be designed and constructed to at least the LEED Silver standard. Upon completion, a certificate must be obtained from the Department of Enterprise Services that the facility meets or exceeds this standard and that the Convention Center is operationally complete. This must be submitted to the DOR prior to the first repayment; failure to provide the certificate will result in a \$5 million penalty.

The repayment of deferred taxes will be paid in five equal payments to begin the third year after operationally complete or December 31, 2025, whichever is first. Interest will apply from the date the project is operationally complete, or January 1, 2026, whichever is sooner.

According to the TPPS, the purpose of this tax preference is to provide tax relief to certain businesses or individuals. It is the Legislature's public policy objective to insure plans to expand an existing PFD Convention Center located in a county of at least 1.5 million persons to proceed on schedule and take advantage of attractive financing and construction costs.

The JLARC will review the tax preferences by assessing:

- whether the interest rate obtained on the loan was lower than it would have been 24 months later;

- whether construction costs at the time meaningful construction began are lower than such costs would have been if meaningful construction began two years later; and
- whether the expanded Convention Center generated increased revenues, as measured three years after completion of an expanded facility, and as compared to the Convention Center's average revenues over the two-year period prior to such completion.

"Meaningful construction" is defined as an active construction site, where excavation of a building site, laying of a building foundation, or other tangible signs of construction are taking place such that a progression in the construction process is clearly demonstrated. Planning, permitting, or land clearing before excavation of a building site, without more, does not constitute meaningful construction.

This tax preference does not expire in 10 years.

**Substitute Bill Compared to Original Bill:**

The substitute bill changes the state retail sales and use tax deferral into a remittance deferral. Under the remittance deferral program, the DOR will make monthly remittance payments to the PFD upon complete applications, including receipts. The repayment of deferred taxes will be paid in five equal payments to begin the third year after operationally complete or December 31, 2025, whichever is first. The deferred state retail sales and use taxes is capped at \$45 million. Interest will apply from the date the project is operationally complete, or January 1, 2026, whichever is sooner.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on July 1, 2020.

**Staff Summary of Public Testimony:**

See House Bill Report in the 2019 Legislative Session.

**Persons Testifying:** See House Bill Report in the 2019 Legislative Session.

**Persons Signed In To Testify But Not Testifying:** See House Bill Report in the 2019 Legislative Session.