

HOUSE BILL REPORT

HB 1161

As Reported by House Committee On:
Finance

Title: An act relating to local excise taxation on the sale of real property in lieu of imposing local sales and use taxes.

Brief Description: Modifying local excise tax provisions on the sale of real property.

Sponsors: Representatives B. Sullivan, Strow, Ericks and Sells.

Brief History:

Committee Activity:

Finance: 2/9/07, 3/1/07 [DPA].

Brief Summary of Amended Bill

- Requires a city that imposes the 0.5 percent real estate excise tax (REET) in lieu of the optional sales and use tax authority for cities to reduce its REET tax rate by the amount of rate imposed by the county under the county optional sales and use tax authority.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. 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:

Retail Sales and Use Taxes. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax applies if retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is about 2 percent statewide. Sales taxes

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are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue. State revenues are deposited to the State General Fund.

Cities and counties both have two authorities to impose sales and use taxes for general purposes. The first authority, known as the "basic" sales and use tax, is imposed by all jurisdictions at the maximum 0.5 percent rate. The second authority is known as the "optional" sales and use tax and is also authorized at up to 0.5 percent. The optional sales tax is imposed at least in part in 277 of the 281 cities, and in 36 of the 39 counties.

The county basic sales and use tax authority applies throughout the county. However, if a city within the county imposes its basic general sales tax authority, the tax must be credited against any county tax imposed. The city then is required to share 15 percent of its receipts with the county. The effect is that the maximum rate paid by consumers is no more than 0.5 percent total in any area of the county.

The mechanics of the optional sales and use tax is the same as for the basic tax.

Real Estate Excise Tax. The real estate excise tax (REET) is imposed on each sale of real property, which includes both the transfer of ownership and the transfer of controlling interests. Real property includes any interest in land or anything affixed to land. The state tax rate is 1.28 percent. Additional local rates are allowed. The combined state and local rate in most areas is 1.78 percent or less. The highest rate is 2.78 percent in the City of Friday Harbor.

Current law allows any city or county that chooses not to impose its optional sales tax to impose instead a local REET of 0.5 percent. This optional local REET was first enacted in 1982 to provide a mitigating revenue source to border jurisdictions (although available to all jurisdictions) desiring to keep their sales tax rates as low as possible so as to protect their retail sales base. However, because of the nature of county general sales taxes, no city could keep its sales tax rates minimized unless the county did the same. It is a possible that a consumer could face both the full 1 percent general sales tax rates and the 0.5 percent optional REET within a city that opts not to impose its optional sales tax authority and chooses to impose the optional REET instead, if the city is located in a county that imposes the county optional sales tax authority.

To date, only two jurisdictions have imposed the local 0.5 percent REET in lieu of the optional sales tax: the cities of Clarkston and Asotin. Both are located in Asotin County, which does not impose the county optional sales tax.

Summary of Amended Bill:

A city that imposes the optional 0.5 percent REET in lieu of its optional sales and use tax authority must reduce the rate imposed by the rate of county tax imposed under the county optional sales and use tax authority.

Amended Bill Compared to Original Bill:

Allows a city choosing to impose the optional REET in lieu of its optional general sales tax authority to do so at less than the maximum rate if the county imposes its optional general sales tax authority at less than the maximum, rather than prohibiting the city from imposing the optional REET if the county imposes any part of its optional general sales tax.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The history of the tax stems from a situation in which Washington cities along the Oregon border lost money because people from these cities were crossing the border to save money on sales tax. The Legislature allowed these cities to give up sales taxes and collect an increased real estate excise tax (REET) in order to make up the difference. Cities not along the border also could impose the REET and ask the county for sales tax because the county is collecting sales tax. The Attorney General has said this is not legal. This bill will clean up the loophole and does not harm cities along the border. In the last 25 years, only one city has only taken advantage of this tax shift.

Some citizens would face double taxation if a city were to take advantage of this loophole. This is a quick and easy fix.

(With concerns) We have concerns with the language, not the intent of the prime sponsor. The intent of the second half REET was to offset sales tax for border communities, and only two cities, Clarkson and Asotin, in Asotin County take advantage of this. If Asotin County were to impose 0.1 percent of that second 0.5 option, these cities would be prohibited from levying any of the additional REET. An amendment to fix this could be created to ensure that the combined sales tax does not exceed 0.5 cents.

(Opposed) None.

Persons Testifying: (In support) Representative B. Sullivan, prime sponsor; and Nathan Gordon, Snohomish Camano Island Association of Realtors.

(With concerns) Jim Justin, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.