S-1717.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5585**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Government Operations & Security (originally sponsored by Senators Dansel, Mullet, and Braun)

AN ACT Relating to real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions; amending RCW 82.46.010, 82.46.035, 43.110.030, 35.21.698, and 36.01.240; and adding a new section to chapter 64.06 RCW.

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

**Sec.**  RCW 82.46.010 and 2014 c 44 s 1 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2)(a) The legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax must be used by any city or county with a population of five thousand or less and any city or county that does not plan under RCW 36.70A.040 for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040. If a city or county has adequate funds available during the six-year period following the initial receipt of funds under this subsection (2)(a) for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of capital projects and identified in a capital improvements plan or equivalent plan, the city or county may use the greater of one hundred thousand dollars or twenty-five percent of available funds under this section, but not to exceed one million dollars per year, for the maintenance of capital projects.

(b) After April 30, 1992, revenues generated from the tax imposed under this subsection (2) in counties over five thousand population and cities over five thousand population that are required or choose to plan under RCW 36.70A.040 must be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (i) pledged by such counties and cities to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (ii) committed prior to April 30, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed. If a city or county has adequate funds available during the six-year period following the initial receipt of funds under this subsection (2)(b) for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of capital projects and identified in the capital facilities plan required under RCW 36.70A.070(3), the city or county may use the greater of one hundred thousand dollars or twenty-five percent of available funds under this section, but not to exceed one million dollars per year, for the maintenance of capital projects.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section must be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section must comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

(6) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative ((~~and/or~~)) facilities; judicial facilities; river ((~~and/or~~)) flood control projects; or waterway flood control projects by those jurisdictions that, prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; ((~~and~~)), until December 31, 1995, housing projects for those jurisdictions that, prior to June 11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes; and technology infrastructure that is integral to the capital project.

((~~(7) From July 22, 2011, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty-five percent of available funds under this section, but not to exceed one million dollars per year, for the operations and maintenance of existing capital projects as defined in subsection (6) of this section.~~))

**Sec.**  RCW 82.46.035 and 2011 c 354 s 3 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. A city located within a county that has adopted a resolution under RCW 36.70A.040(2)(b) to remove the county and cities located within the county from the obligation to plan under RCW 36.70A.040 may continue to impose and collect the excise tax authorized under this section.

(3) Revenues generated from the tax imposed under subsection (2) of this section must be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed. If a city or county has adequate funds available during the six-year period following the initial receipt of funds under this subsection for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of capital projects as defined in subsection (5) of this section and identified in the capital facilities plan required under RCW 36.70A.070(3), it may use the greater of one hundred thousand dollars or twenty-five percent of available funds under this section, but not to exceed one million dollars per year, for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of capital projects as defined in RCW 82.46.010.

(4) Revenues generated by the tax imposed by this section must be deposited in a separate account.

(5) ((~~As used in this section,~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "City" means any city or town ((~~and~~)).

(b) "Capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems, and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks.

(6) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section is temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

((~~(7) From June 30, 2012, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty-five percent of available funds under this section, but not to exceed one million dollars per year, for operations and maintenance of existing capital projects as defined in subsection (5) of this section, and counties may use available funds under this section for the payment of existing debt service incurred for capital projects as defined in RCW 82.46.010. If a county uses available funds for payment of existing debt service under RCW 82.46.010, the total amount used for payment of debt service and any amounts used for operations and maintenance is subject to the limits in this subsection.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 64.06 RCW to read as follows:

Beginning on the effective date of this section, any real estate seller disclosure requirement adopted by a local government is effective only after the seller disclosure requirement is posted electronically by the municipal research and services center established under RCW 43.110.030. Any local government seller disclosure requirement adopted prior to the effective date of this section must be posted electronically by the municipal research and services center within ninety days of the effective date of this section.

**Sec.**  RCW 43.110.030 and 2012 2nd sp.s. c 5 s 5 are each amended to read as follows:

(1) The department of commerce must contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services must be made with state agencies, educational institutions, or private consulting firms, that in the judgment of the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the department are qualified to provide such support.

(2) Municipal research and services consists of:

(a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

(b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

(c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

(d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.

(3) Requests for legal services by county officials must be sent to the office of the county prosecuting attorney. Responses by the department of commerce to county requests for legal services must be provided to the requesting official and the county prosecuting attorney.

(4) The department of commerce must coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section.

(5) The web site used for the provision of municipal research and services shall include a specific section listing, by jurisdiction, of all real estate seller disclosure requirements adopted by local governments, as required by chapter 64.06 RCW.

**Sec.**  RCW 35.21.698 and 2005 c 338 s 2 are each amended to read as follows:

(1) A city, town, or governmental entity subject to this title may not regulate the terms, conditions, or disclosures of any lawful financial transaction between a consumer and ((~~(1)~~)) (a) a business or professional under the jurisdiction of the department of financial institutions, or ((~~(2)~~)) (b) any financial institution as defined under RCW ((~~30.22.041~~)) 30A.22.041.

(2) A city, town, or governmental entity subject to this title may not regulate the terms or conditions or otherwise impose requirements on the listing or sale of real property, unless the local requirement is a seller disclosure requirement consistent with RCW 82.46.010, or unless the local government regulation is specifically authorized by state or federal law.

**Sec.**  RCW 36.01.240 and 2005 c 338 s 4 are each amended to read as follows:

(1) A county or governmental entity subject to this title may not regulate the terms, conditions, or disclosures of any lawful financial transaction between a consumer and (1) a business or professional under the jurisdiction of the department of financial institutions, or (2) any financial institution as defined under RCW ((~~30.22.041~~)) 30A.22.041.

(2) A county or governmental entity subject to this title may not regulate the terms or conditions or otherwise impose requirements on the listing or sale of real property, unless the local requirement is a seller disclosure requirement consistent with RCW 82.46.010, or unless the local government regulation is specifically authorized by state or federal law.

**--- END ---**