**2032-S AMS WM S7637.1 - NOT FOR FLOOR USE**

**SHB 2032** - S COMM AMD

By Committee on Ways & Means

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the expanded tax deferral contained in section 2, chapter . . ., Laws of 2020 (section 2 of this act). This performance statement is intended to be used only for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to ensure that plans to expand or renovate an existing public facilities district convention center located in a county with a population of one million five hundred thousand or more may proceed on schedule to take advantage of attractive financing and construction costs.

(4) The legislature finds that the state derives certain economic benefits from the earliest completion date for a convention center's expansion or renovations to be in operation:

(a) The loan will be able to take advantage of low interest rates available in the near term, reducing the total cost of loan repayment;

(b) The state will realize additional tax benefits generated by implementation and operation of the expanded or renovated center by additional and larger events occupying the facilities and spending money on hotel rooms, restaurants, transportation, and other hospitality-related services generating taxes and jobs; and

(c) The convention center will begin generating additional revenues earlier, allowing the center to maintain current clients and enabling timely loan repayment.

(5) Therefore, in reviewing the success of this tax preference, the joint legislative audit and review committee must assess:

(a) Whether the interest rate obtained on the loan was lower than it would have been, if the loan was obtained twenty-four months later;

(b) Whether construction costs at the time that meaningful construction begins are lower than such costs would have been, if meaningful construction began two years later; and

(c) Whether the expanded or renovated convention center generated increased revenues, as measured three years after completion of an expanded or renovated facility, and as compared to the center's average revenues over the two-year period prior to such completion.

(6) For purposes of this section, "meaningful construction" means 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.

(7) The joint legislative audit and review committee must conduct an assessment to determine progress toward achieving economic benefits by assessing revenues received and projected for the expansion or renovation of the existing convention center, as measured three years after an expansion or renovation of the existing convention center commences operation.

NEW SECTION. **Sec.**  A new section is added to chapter 36.100 RCW to read as follows:

(1) A public facilities district that has paid the taxes levied by chapters 82.08 and 82.12 RCW on materials incorporated into, and labor and services rendered in respect to, the construction or expansion of an eligible public facility is eligible for deferral from all or a portion of those taxes in the form of a remittance. The total amount of a remittance that a public facilities district may receive under this section is limited to thirty million dollars for an eligible public facility. The remittance under this section is only for the state portion of the sales and use taxes paid after July 1, 2020. A public facilities district must submit an application for deferral of taxes to the department of revenue on or after July 1, 2020, and a signed affidavit stating that the public facility is designed and constructed to be at least the LEED silver standard, as defined in RCW 39.35D.020.

(2)(a) A public facilities district claiming the deferral in the form of a remittance must pay the taxes imposed under chapters 82.08 and 82.12 RCW on such purchases eligible for the remittance. A public facilities district must then apply to the department of revenue for remittance of all or part of the tax paid under chapters 82.08 and 82.12 RCW on such purchases, subject to the limits in this section.

(b) As part of the application for remittance, a public facilities district must submit, in the form and manner as prescribed by the department of revenue:

(i) A listing of purchases and legible copies of invoices; and

(ii) A signed affidavit stating that the public facilities district will not seek a refund of deferred taxes directly from the vendor.

(c) The department of revenue must remit exempted amounts on a monthly basis to a public facilities district for which an application was approved during the previous month.

(3)(a) A public facilities district must begin repaying the deferred taxes by December 31st of the third year after the department of revenue certifies the public facility is operationally complete or by December 31, 2025, whichever is sooner. Subsequent annual payments are due on December 31st of each of the following four years. Each payment must equal twenty percent of the deferred tax, except in the event that the department of revenue is unable to determine the actual amount of the deferred tax at least thirty days before the first payment is due, the department of revenue must invoice twenty percent of the maximum amount of tax eligible for deferral. Subsequent payments will equal one-fourth of the remaining amount of deferred tax. The department of revenue must assess interest, but not penalties, on the deferred taxes. The interest must be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date the project was certified as operationally complete or January 1, 2026, whichever is sooner, and will accrue until the deferred taxes are repaid.

(b) Before the first payment is due under (a) of this subsection, the public facilities district must provide to the department of revenue certification from the department of enterprise services that the facility has been constructed or renovated to at least the LEED silver standard and is operationally completed. Failure to provide this certification will result in a five million dollar penalty, divided and due in equal amounts with each payment of deferred tax.

(4) The department of revenue may authorize an accelerated repayment schedule upon request of a public facilities district.

(5) The debt for deferred taxes is not extinguished by insolvency or other failure of a public facilities district.

(6) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Eligible public facility" means a public facility that is designed and will be constructed to be at least the LEED silver standard, as defined in RCW 39.35D.020.

(b) "Operationally complete" means that a public facilities district convention center, including any new buildings, has completed expansion and renovation construction and is hosting events and generating revenue.

(c) "Public facility" means an existing public facilities district convention center that is undergoing expansion or renovation and is located in a county with a population of one million five hundred thousand or more.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805(1)(a) do not apply to this act.

NEW SECTION. **Sec.**  This act takes effect July 1, 2020."

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On page 1, line 2 of the title, after "centers;" strike the remainder of the title and insert "adding a new section to chapter 36.100 RCW; creating new sections; prescribing penalties; and providing an effective date."

EFFECT: Lowers the maximum amount of deferred state sales and use tax from $45 million to $30 million.