Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

E2SSB 5287

Brief Description: Concerning affordable housing incentives.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Das, Kuderer, Conway, Keiser, Liias, Nguyen, Nobles, Pedersen, Randall, Salomon and Wilson, C.).

Brief Summary of Engrossed Second Substitute Bill

- Authorizes a 12-year extension of existing eight-year and 12-year Multi-Family Property Tax Exemptions (MFTEs) that are set to expire if they meet certain affordability requirements.
- Establishes a new 20-year property tax exemption for the creation of permanently affordable homes.
- Temporarily expands the definition of a city not otherwise eligible for the 12-year MFTE and the 20-year exemption for permanently affordable homes to include all cities until December 31, 2031 and authorizes those cities to offer the 12-year MFTE and the 20-year exemption for permanently affordable homes until December 31, 2024.

Hearing Date: 3/16/21

Staff: Nick Tucker (786-7383).

Background:

Property Tax.
All property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. The county assessor determines assessed value for each property and calculates property taxes. The property tax bill for an individual property is determined by

multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located. The aggregate of all regular tax levies upon real and personal property by the state and all taxing districts may not exceed 1 percent of the true and fair value of the property. In addition, the aggregate regular levies of junior taxing districts and senior taxing districts, other than the state, may not exceed $5.90 per $1,000 of assessed valuation.

Multifamily Property Tax Exemption.
The Multifamily Property Tax Exemption (MFTE) (also referred to as the multi-unit urban housing property tax exemption) exempts real property associated with the construction, conversion, or rehabilitation of qualified, multi-unit residential structures located in residential targeted areas (RTAs) contained within an urban center. The tax exemption applies only to the value of the construction, conversion, or rehabilitation projects and does not exempt the value of the underlying property or other improvements on the property.

The tax exemption on qualifying property lasts for eight consecutive years. However, the exemption is extended to a 12-year period if the owner commits to renting or selling at least 20 percent of multi-family housing units as affordable housing to low- and moderate-income (LMI) households.

To qualify for an exemption, the housing project must be located within RTA designated by a qualifying county or city. The RTA must be in an urban center that lacks sufficient residential housing, including affordable housing, to meet the needs of the public who would likely live in the urban center if housing were available.

Cities with a population of 15,000 or more may designate an RTA. Certain smaller cities are also eligible. Counties with an unincorporated population over 350,000 are eligible to designate an RTA. The county-designated RTA must be in an unincorporated area of the county that is within an urban growth area under the Growth Management Act.

Property owners within a designated RTA must submit an application for the tax exemption to the designating city or county. The city or county may include additional eligibility requirements for the tax exemption, including a higher percentage of units used for affordable housing to qualify for the 12-year exemption. Counties eligible to apply the tax exemption must require owners to commit to selling or renting at least 20 percent of the multi-family housing units for affordable housing in order to qualify for either the eight or 12-year exemption.

For properties receiving a 12-year exemption where that exemption is set to expire after June 11, 2020, but prior to December 31, 2021, the exemption is extended until December 31, 2021. Any eligibility criteria or limitations that apply to the underlying exemption also apply to the extension.

For the purpose of the MFTE, affordable housing is housing for LMI households that does not exceed one third of the household's monthly income. Low-income households must have an income that is no more than 80 percent of the median income of their county. Moderate-income households must have an income between 80 and 115 percent of the median income of their county. A county where the median house price is 130 percent of the statewide median house price is considered to be a high-cost area. For high cost areas, low-income households must have an income that is no more than 100 percent of the median income of their county and moderate-income households must have an income between 100 and 150 percent of the median income of their county.

Tax Preferences.

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 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.

Summary of Engrossed Second Substitute Bill:

Until December 31, 2031, the definition of "city" is modified to include any city. Until December 31, 2024, a city not otherwise eligible to offer the MFTE program may offer the 12-year MFTE to qualifying properties in areas zoned for average density of 15 dwelling units per acre, or for cities with a population over 20,000, a minimum density equivalent of 25 dwelling units or more per acre. In addition, counties with an unincorporated population over 170,000 are eligible to designate an RTA for purposes of the MFTE program.

The definition of multiple-unit housing is modified to include a group of buildings with four or more dwelling units. For purposes of calculating median family income, city and metropolitan statistical area family median income may be used in addition to county family median income.

High-cost areas and the associated low-income household and median-income household median family income thresholds for high cost areas are removed from the MFTE program.

A property that qualified for and used an eight-year or 12-year exemption and is within 18 months of expiration may apply to extend the exemption for an additional 12 years if they meet minimum locally adopted requirements for affordability. To qualify, an applicant must be approved by the city or county and commit to rent or sell at least 20 percent of the housing units to low-income households.

An MFTE applicant must provide notice to tenants of rent restricted units at the end of both the tenth and eleventh years of the exemption period. An MFTE applicant must provide tenant relocation assistance to a qualified tenant in an amount equal to one month's rent at the time the exemption expires. To be eligible for tenant relocation assistance, the tenant must occupy an income-restricted unit and qualify as a low-income household.

A governing authority may adopt requirements that applicants pay prevailing wages, follow certain payroll requirements, use apprenticeship requirements, or include a contracting inclusion plan developed in consultation with the Office of Minority and Women's Business Enterprises.

An owner of rehabilitated or newly constructed property must file additional information with the city or county including unit size, annual income, and household size. All cities and counties that issue certificates of tax exemption must report annually by April 1 of each year. A city or county must be in compliance with reporting requirements to offer certificates of tax exemption under the MFTE program.

At the conclusion of the exemption period, the value of the new housing, construction, conversion or rehabilitation improvements must be considered as new construction for property tax purposes as though the property was not exempt under the MFTE program. No new MFTE applications may be approved on or after January 1, 2032, or any extensions of existing tax exemptions on or after January 1, 2046.

A new 20-year tax exemption is created for properties that sell or rent 25 percent of the units to non-profit organizations or local government partners that assure permanently affordable homeownership. Permanently affordable homeownership units must be sold to households earning no more than 80 percent of the average median income for the city or local jurisdiction in which the unit is located. A local jurisdiction may assign and collect an administration fee at each point of sale to cover the administrative costs for oversight of the permanently affordable homeownership program. Permanently affordable homeownership is housing sponsored by a nonprofit organization or local government that restricts resale to low and moderate income buyers and executes at least a 99-year ground lease or deed restriction with each sale. Commerce must develop a template for deed restrictions that can be used by local governments.

Until December 31, 2024, a city not otherwise qualified to offer the 20-year permanently affordable homeownership exemption may offer the 20-year MFTE to qualifying properties in areas zoned for average density of 15 dwelling units per acre, or for cities with a population over 20,000, a minimum density equivalent of 25 dwelling units or more per acre.

Commerce must provide an annual report to the appropriate committees of the Legislature and JLARC on city and county compliance with MFTE reporting requirements.

For preliminary or final applications submitted on or before February 15, 2020, with any outstanding application requirements, such as obtaining a temporary certificate of occupancy, the city or county may choose to extend the deadline for completion for an additional five years. The five-year extension begins immediately following the completion of any outstanding applications or previously authorized extensions, whichever is later

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 12, 2021.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.