
Housing Committee

HB 2849

Brief Description: Concerning affordable housing financing.

Sponsors: Representatives Ormsby and Miloscia.

Brief Summary of Bill

- Authorizes certain local governments to impose a "Housing Everyone Financing Tool" local sales and use tax the proceeds of which will be used for the financing of affordable housing within a designated area.

Hearing Date: 1/24/08

Staff: Robyn Dupuis (786-7166).

Background:

Sales and Use Tax:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. Use taxes apply to the value of most tangible personal property and some services when used in this state, if retail sales taxes were not collected when the property or service was acquired by the user. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 2.4 percent, depending on the location. The average local tax rate is 2 percent, for an average combined state and local tax rate of 8.5 percent.

Sales tax: Sales tax is levied on the selling price of tangible personal property and certain services purchased at retail. This includes goods, construction including labor, repair of tangible personal property, lodging for less than 30 days, and some personal and professional services, such as landscape maintenance and physical fitness.

Use Tax: For items used in Washington, but the acquisition of which was not subject to the Washington retail sales tax, the Washington use tax is applied. This includes purchases made from out-of-state sellers, including catalog and internet purchases, purchases from sellers who are not required to collect sales tax, items produced for use by the producer, and gifts and prizes. The tax

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

is measured by the value of the item at the time of the first use within Washington, excluding any delivery charges.

Local Sales and Use Taxes: Cities and counties may levy a local sales and use tax. State law authorizes 17 different types of local sales and use taxes.

Local taxes include:

- (a) A basic 0.5 percent tax for cities and counties;
- (b) An optional tax of up to 0.5 percent for cities and counties;
- (c) Three local taxes for the support of transportation programs;
- (d) A tax of up to 1 percent to fund high capacity transportation;
- (e) Two taxes for funding criminal justice or public safety programs;
- (f) Taxes of 0.1 percent each for public facilities, juvenile correctional facilities, zoos, and emergency communications facilities;
- (g) Two state-credited taxes to finance professional sports stadiums; and
- (h) Two state-credited taxes to support rural counties and regional centers.

Tax Collection: The state sales tax is collected from purchasers by retail vendors at the time of sale using the tax rate schedules provided by the Department of Revenue (DOR). Total transactions are reported in the seller's Combined Excise Tax Return (CETR) and receipts are forwarded to the DOR on a monthly or quarterly basis.

Summary of Bill:

The Housing Everyone Financing Tool (HEFT) program is created in the Department of Community, Trade and Economic Development (DCTED). The program provides grants to local governments to finance affordable housing within specific designated areas. Funding for the program comes from authorizing certain local governments to establish a new sales and use tax to capture a portion of the anticipated growth in state revenues that is expected to occur within a designated area of a local government as the result of development or re-development activities.

To utilize the HEFT program, a local government must:

- (1) Conduct a public hearing on the proposed financing of affordable housing through the HEFT program.
- (2) Designate a specific designated area by ordinance that is located within the urban growth area. The designated area must contain a variety of products and services including retail establishments, public facilities and a mix of uses and activities. This is the area in which the local government will finance affordable housing projects.
- (3) Apply to the DCTED and be approved for a project award amount based on information including:
 - (a) The estimated type, number and cost of the proposed affordable housing units in the designated area that will receive financial assistance through the HEFT program;
 - (b) The estimated number of years that the sales and use tax will need to be imposed; and
 - (c) The amount of revenue from local public sources to be dedicated to affordable housing in the designated area and the time period of the local government's commitment to provide such revenue. The local government must certify that the revenue from local public sources is available to finance its portion of the affordable housing.

The DCTED will give priority to applications from local governments planning under the Growth Management Act and to those that provide financing for affordable housing that supports transit-oriented development.

(4) Once a local government's application has been approved by the DCTED, a notice of approval will be sent to the applicant local government which shall contain a project award amount which shall consist of the lesser of:

- (a) \$5 million per fiscal year for a period of up to 25 years;
- (b) The estimated total increase of state property taxes and state sales and use taxes above the base year within the designated area for up to 25 years; or
- (c) An amount equal to the revenue from local public sources dedicated by the local government for the financing of affordable housing developments within the designated area for a period of up to 25 years.

Note: The annual statewide contribution limit is 15 million dollars.

(5) Upon approval of its application, a local government is authorized to impose the local sales and use tax (on or after July 1, 2009).

HEFT Tax Conditions:

The DOR shall determine the amount of tax receipts distributed to each participating local government which shall equal the state contribution and shall be no more than the total revenue from local public sources.

If the amount of tax received by the local government equals the amount of the state contribution, or if the amount of tax received by the local government equals the amount of the project award granted by the DCTED, the Department of Revenue (DOR) shall cease to distribute the tax to the local government for the remainder of the fiscal year and any excess revenue shall belong to the state of Washington and will be deposited into the General Fund. In such an instance, the tax shall be distributed again at the beginning of the next fiscal year.

"HEFT" Local Sales and Use Tax Rate: The rate of the HEFT tax may not exceed the retail sale rate of 6.5 percent of the selling price (as provided in RCW 82.08.020), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under the sales tax chapter 82.08 and the use tax chapter 82.12. Rates may be changed on the first fiscal day of a fiscal year and notices of rate changes must be provided to the DOR. The HEFT tax shall be credited against the state sales and use taxes.

The DOR shall perform the collection of such taxes on behalf of the local government at no cost to the local government and shall remit the taxes as provided in RCW 82.14.060.

Tax Expiration: The HEFT tax will expire when either the local government's bonds issued to finance affordable housing are retired (but not more than 25 years after the tax is first imposed) or the local government has received the amount of the project award.

Use of HEFT Funds:

Money collected from the local sales and use tax may only be used to:

- (a) Pay all or a portion of the debt service on bonds issued by the local government to finance affordable housing within the designated area; and to

(b) Pay outright for affordable housing within the designated area.

Eligible Activities to Receive Financing from the HEFT Program Include:

- (a) New construction, rehabilitation or acquisition of affordable housing;
- (b) Acquisition of existing housing units for resale or rent as affordable housing; and
- (c) Acquisition of land to be used for affordable housing.

Definition of Affordable Housing: Residential rental housing within the means of low-income households and housing intended for owner occupancy which is within the means of low or moderate income households. Housing financed by the HEFT program must be maintained affordable for a period of not less than 50 years.

Definitions of Low and Moderate Income Households: Low-income households are defined as those making at or below 80 percent of the area median income (or 100 percent in high cost areas) and moderate-income households are defined as those making below 115 percent of the area median income (or 150 percent in high cost areas).

Reporting

The DCTED and the DOR shall periodically report on the implementation of the HEFT program to the Governor and the Legislature as the departments deem appropriate.

Appropriation: None.

Fiscal Note: Requested on January 16, 2008.

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