HOUSE BILL REPORT
HB 2120

As Reported by House Committee On:
Finance

Title: An act relating to a leasehold excise tax credit for properties of market value in excess of ten million dollars.

Brief Description: Concerning a leasehold excise tax credit for properties of market value in excess of ten million dollars.

Sponsors: Representatives Fitzgibbon, Takko, Farrell and Walkinshaw.

Brief History:
Committee Activity:
Finance: 2/23/15, 6/8/15 [DPS].

Brief Summary of Substitute Bill

- Allows a five-year leasehold excise tax credit for certain properties owned by a state university where the leasehold excise tax exceeds the property tax that would be due if the property was privately owned.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Fitzgibbon, Pollet, Reykdal, Robinson, Ryu, Springer and Wylie.

Minority Report: Do not pass. Signed by 4 members: Representatives Orcutt, Assistant Ranking Minority Member; Stokesbary, Vick and Wilcox.

Minority Report: Without recommendation. Signed by 2 members: Representatives Nealey, Ranking Minority Member; Condotta.

Staff: Jeffrey Mitchell (786-7139).

Background:

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.

State leasehold excise taxes are levied and collected on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. A "leasehold interest" is an interest in publicly owned real or personal property which exists by virtue of any lease, permit, license, or other written or verbal agreement between a public owner and a person who would not be exempt from property taxes if that person owned the property. The leasehold excise tax is levied at a rate of 12 percent of taxable rent (i.e., the contract rent).

The legislative body of any county or town may also levy and collect a leasehold excise tax on leasehold interests in publicly owned property within the territorial limits of the county or city. The tax levied by a county may not exceed 6 percent of taxable rent and, by a city, may not exceed 4 percent of taxable rent. After a state leasehold excise tax has been computed a credit is allowed for any county or city leasehold excise tax.

Until 2013, in determining the amount of tax payable, a credit was allowed for certain leasehold interests where the leasehold excise tax exceeded the amount of property tax that would have otherwise applied to the property if it were privately owned by the lessee or sub-lessee. In 2013, the credit was repealed as part of a bill that completely eliminated the requirement for county assessors to value publicly owned property for property tax purposes since this property is exempt from property tax.

In 2013 the Legislature passed Engrossed Substitute Senate Bill 5882 (ESSB 5882), which requires all new tax preference legislation to include a tax preference performance statement. Tax preferences include deductions, exemptions, preferential tax rates, and tax credits. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee (JLARC) to evaluate the efficacy of the tax preference. Engrossed Substitute Senate Bill 5882 also establishes an automatic 10-year expiration date for new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

Summary of Substitute Bill:

A credit is allowed against the leasehold excise tax for leasehold interests in real property owned by the University of Washington or Washington State University where the leasehold excise tax exceeds the property tax that would apply if the real property was privately owned. The real property parcel must exceed $10 million in market value. If the parcel does not have a current assessed value, a market value appraisal performed by a Washington state-certified general real estate appraiser can be used.

As indicated in a tax preference performance statement, the primary policy objective of the legislation is to mitigate a structural inefficiency in Washington's tax structure where leasehold excise tax, which is supposed to be in lieu of property tax, exceeds what would otherwise be owed in property taxes if the property was owned instead of leased.

The credit expires on July 1, 2020.

Substitute Bill Compared to Original Bill:

The substitute bill provides a tax preference performance statement and a five-year expiration date. The bill is also limited in its application to real property owned by the University of Washington or Washington State University.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Prior to the passage of legislation in 2013, which was intended to increase the efficiency of the leasehold excise tax, large public property owners with commercial tenants paid a leasehold excise tax that was credited or capped to be equivalent to what private owners would pay in property taxes. This made the leasehold excise tax fair. An unintended consequence of the 2013 legislation, which removed the credit or cap, meant that leasehold excise taxes are now larger than equivalent property taxes. This has particularly impacted the University of Washington's metropolitan tract in downtown Seattle which is commercially leased to a wide variety of tenants. If the University of Washington were to pass the leasehold excise tax onto tenants, this would cause them a competitive disadvantage as a landlord (making their prices higher than other landlords). If the University of Washington instead takes on the cost of the lease as landlord, then they are at a disadvantage because it holds down the return on their investment property and eats into their building fee revenues, which are used to pay for repairs on campus. Passing this legislation would return the cap to the leasehold excise tax and limit future costs to the state.

(Opposed) None.

Persons Testifying: Genesee Atkins, Jeanette Henderson, and Tom Schappacher, University of Washington.

Persons Signed In To Testify But Not Testifying: None.