

HOUSE BILL REPORT

EHB 2122

As Passed House:
June 11, 2015

Title: 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.

Brief Description: Concerning real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions.

Sponsors: Representatives McBride, Nealey, Peterson, Fey, Muri, Ryu, Walsh and Springer.

Brief History:

Committee Activity:

Local Government: 2/19/15 [DP];

Finance: 2/23/15, 2/24/15 [DP].

Second Special Session

Floor Activity:

Passed House: 6/11/15, 86-3.

Brief Summary of Engrossed Bill

- Authorizes counties and cities that impose real estate excise taxes to use the greater of \$100,000 or 25 percent of available funds, not to exceed \$1 million per year, from collected revenues for the maintenance of specified capital projects.
- Authorizes counties and cities that impose additional real estate excise taxes to use the greater of \$100,000 or 25 percent of available funds, not to exceed \$1 million per year, from collected revenues for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, and maintenance of specified capital projects.
- Requires counties and cities to post electronically on a web site maintained by the entity with which the Department of Commerce contracts for the provision of municipal research and services any ordinance, resolution, or policy adopted by the county or city that imposes certain requirements on landlords or sellers of real property.

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.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 5 members: Representatives Takko, Chair; Gregerson, Vice Chair; Fitzgibbon, McBride and Peterson.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; McCaslin and Pike.

Staff: Michaela Murdock (786-7289).

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 14 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Condotta, Fitzgibbon, Manweller, Pollet, Reykdal, Robinson, Ryu, Springer, Stokesbary, Wilcox and Wylie.

Minority Report: Without recommendation. Signed by 2 members: Representatives Orcutt, Assistant Ranking Minority Member; Vick.

Staff: Richelle Geiger (786-7175).

Background:

Real Estate Excise Tax - General Authorization for Counties and Cities.

County legislative authorities may impose an excise tax on each sale of real property in the unincorporated areas of the county. Similarly, city and town (city) legislative authorities may impose an excise tax on each sale of real property within their corporate limits. County and city real estate excise taxes (REET I) may not exceed a rate of 0.25 percent of the selling price of property. However, in lieu of imposing a local sales and use tax, a county or city may impose an additional excise tax on each sale of real property within its jurisdiction at a rate not to exceed 0.50 percent of the selling price.

Proceeds from the REET I may be used for capital purposes, improvements, and projects. In counties and cities with fewer than 5,000 residents, and in counties and cities that do not fully plan under the Growth Management Act (GMA), the proceeds may be used for any capital purpose identified in a capital improvements plan and local capital improvements. In counties with more than 5,000 residents, and cities with more than 5,000 residents that fully plan under the GMA, the proceeds may be used: (a) to finance capital projects specified in a capital facilities plan; (b) for housing relocation assistance for low income tenants; (c) for qualifying debt retirement; and (d) for projects to which revenue was committed prior to April 30, 1992.

For purposes of using REET I proceeds, "capital project" (REET I capital projects) means public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of certain types of facilities and infrastructure, including:

- streets, roads, highways, and sidewalks;

- street and road lighting systems;
- storm and sanitary sewer systems;
- recreational facilities;
- parks;
- law enforcement and fire protection facilities;
- administrative and judicial facilities; and
- river and waterway flood control projects.

Until December 31, 2016, counties and cities have additional authority to use a portion of REET I proceeds for the operation and maintenance of existing REET I capital projects. Counties and cities may use the greater of either \$100,000 or 35 percent of available funds collected under REET I, not to exceed \$1 million per year.

Real Estate Excise Tax - Additional Authorization for Fully Planning Counties and Cities.

Counties and cities that are required to plan under the GMA may impose an additional real estate excise tax (REET II) on each sale of real property within their jurisdictions. However, the issue of whether to impose the REET II must first be approved by voters at a general or special election. The REET II may not exceed a rate of 0.25 percent of the selling price of property.

Counties and cities may use revenue collected from the REET II for: (a) financing capital projects specified in the capital facilities element of a comprehensive plan; (b) qualifying debt retirement; or (c) for projects to which revenue was committed prior to March 1, 1992. For purposes of using REET II proceeds, "capital project" (REET II capital projects) means public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of certain types of facilities and infrastructure, including:

- streets, roads, highways, and sidewalks;
- street and road lighting systems; and
- storm and sanitary sewer systems.

Until December 31, 2016, counties and cities have additional authority to use a portion of REET II proceeds for the operation and maintenance of existing REET II capital projects. Counties and cities may use the greater of either \$100,000 or 35 percent of available funds collected under REET II, not to exceed \$1 million per year. Also until December 31, 2016, counties may use available REET II proceeds for the payment of existing debt service incurred for REET I capital projects.

Real Estate Seller Disclosures.

Statutes governing real estate transactions require sellers, as part of a residential real property sale, to prepare and transmit to buyers a seller disclosure statement. The prescribed form requires disclosure, based upon the seller's personal knowledge, of matters on various issues, such as title concerns, sewer and septic systems, structural concerns, and hazards such as flooding.

Municipal Research and Services Center.

The Department of Commerce is required by statute to contract for the provision of municipal research and services to cities, towns, counties, and special purpose districts. This

directive is fulfilled through a contract with the Municipal Research and Services Center (MRSC), a nonprofit organization that provides policy, financial, and legal research and support services in accordance with the terms of the contract. The MRSC maintains a website where publications, reports, and materials associated with municipal research and services are posted.

Summary of Engrossed Bill:

Real Estate Excise Tax - New Authorized Uses of Revenue.

Counties and cities that impose the REET I may use the greater of \$100,000 or 25 percent of available funds, not to exceed \$1 million per year, from revenues collected for maintenance of REET I capital projects. In addition, counties and cities that impose the REET II may use the greater of \$100,000 or 25 percent of available funds, not to exceed \$1 million per year, from revenues collected:

- for maintenance of REET II capital projects; and
- for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, and maintenance of some REET I capital projects (*i.e.*, only projects included within the definition of REET I capital projects that are not also included within the definition of REET II capital projects).

"Maintenance" is defined to mean the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

To exercise this authority, counties and cities must first meet certain criteria. The county or city must prepare a written report demonstrating that it has or will have adequate funding to pay for all of its capital projects identified in a capital facilities plan or other document for the succeeding two-year period. The report must be prepared and adopted as part of the county or city's regular, public budget process and must provide specific information, including how revenues collected under the REET I or REET II were used in the preceding two years and how the funds will be used during the succeeding two-years. Additionally, the county or city may not have enacted, after the effective date of the act, any requirement on the listing, leasing, or sale of real property, unless the requirement is authorized by state or federal law.

Local Requirements regarding Real Property Sales or Leases.

Counties and cities must post on the MRSC website any ordinance, resolution, or policy adopted by the county or city that imposes a requirement on landlords or sellers of real property to provide information to a buyer or tenant pertaining to subject property or the surrounding area. The ordinance, resolution, or policy is not effective until posted in accordance with this requirement. If a local ordinance, resolution, or policy was adopted prior to the effective date of the act, the ordinance, resolution, or policy must be posted within 90 days or it will cease to be in effect.

The MRSC must provide a list of all requirements imposed by counties, cities, and towns on landlords or sellers of real property to provide information to a buyer or tenant pertaining to subject property or the surrounding area. The list must be posted on the MRSC website, and it must list by jurisdiction all such local requirements

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Local Government):

(In support) None.

(In support with concerns) This bill takes a broader look at the relationship between real estate transactions and local governments. It will grant local governments some fiscal flexibility when they can show that basic infrastructure is adequately funded in a capital facilities plan required under the GMA. It also provides mechanisms to ensure better disclosure relating to real estate transactions and the regulations that come into effect when a house is sold. This bill provides a good balance between fiscal flexibility for counties and regulatory restraint. The bill is a work in progress as to language, but stakeholders are fully supportive of continuing to work on it.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) This bill has been developed by cities, counties and realtors to make the Real Estate Excise Tax (REET) revenue to be a little bit more flexible regarding capital and maintenance projects. The bill is a work in progress.

The bill allows local governments that can prove their local infrastructure funding needs are met to use a limited amount of REET revenue to finance maintenance and operation costs associated with existing infrastructure.

The bill also includes policy that improves real estate disclosure requirements.

State REET revenue is deposited in the General Fund and is not subject to spending parameters.

About 40 percent of all local jurisdictions that collect REET revenue have taken advantage of current provisions that allow for limited maintenance and operation spending.

(Opposed) None.

Persons Testifying (Local Government): Bill Clarke, Washington Realtors; and Josh Weiss and Alison Helberg, Washington Association of Counties.

Persons Testifying (Finance): Representative McBride, prime sponsor; Bill Clarke, Washington Realtors; Josh Weiss, Washington State Association of Counties; and Allison Hellberg, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Finance): None.