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**SUBSTITUTE SENATE BILL 6361**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Economic Development & International Trade (originally sponsored by Senators Billig, Baumgartner, Conway, Short, and Darneille)

AN ACT Relating to authorizing certain cities to establish a limited tax expenditure from local property taxes for the value of new construction to encourage redevelopment of vacant lands in urban areas; and adding a new chapter to Title 84 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  Tax expenditures reduce revenues collected from the tax base and provide preferential treatment to some at the expense of those not getting a tax expenditure. Almost as much money as is collected in tax revenues is not collected and is given out as tax expenditures. While every expenditure of revenue must be authorized and appropriated in the state budget approved by the legislature, the massive amounts of funding for these tax preferences and exemptions continue without any readoption by the legislature in each budget. These exemptions and preferences are, therefore, tax expenditures, most of which continue without any legislative action year after year while the state seeks other funding to meet constitutional duties to fund education and other services and obligations.

NEW SECTION. **Sec.**  The legislature finds that:

(1) A meaningful, fair, and predictable economic incentive should be created to stimulate the redevelopment of vacant or underdeveloped property in targeted urban areas through a limited tax expenditure as provided by this chapter; and

(2) This limited tax expenditure should help the owners of vacant or undeveloped property achieve the highest and best use of land and enable cities to more fully realize their planning goals.

NEW SECTION. **Sec.**  It is the purpose of this chapter to encourage the redevelopment of vacant or undeveloped land in targeted urban areas, thereby increasing employment opportunities for family living wage jobs and helping accomplish the planning goals of Washington cities. The legislative authorities of cities to which this chapter applies may authorize an ad valorem tax expenditure for the value of new construction within the city if the legislative authority of the city finds that there are both significant areas of vacant or undeveloped land and insufficient family living wage jobs for its wage earning population in areas proximate to the vacant or undeveloped land.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "City" means a first-class city with a population of at least one hundred fifty thousand and not more than two hundred fifty thousand.

(2) "Family living wage job" means a job with an average wage of twenty-one dollars an hour or more, working two thousand eighty hours per year on the subject site, as adjusted annually for inflation by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(3) "Governing authority" means the local legislative authority of a city having jurisdiction over the property for which an expenditure may be applied under this chapter.

(4) "Growth management act" means chapter 36.70A RCW.

(5) "Owner" means the property owner of record.

(6) "Vacant or undeveloped" means property within a downtown urban core with no existing habitable building improvements which is targeted for new or expanded industrial, residential, commercial, or manufacturing uses.

NEW SECTION. **Sec.**  (1)(a) The value of new construction qualifying under this chapter is exempt from property taxation, except taxes levied by the state and school districts, for a period of ten successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate.

(b) The expenditure provided in this section does not apply to the value of the land.

(2) The expenditure provided in this section is in addition to any other expenditures, deferrals, credits, grants, or other tax expenditures provided by law; provided, that the expenditure provided in this section is not available for properties exempt under the multiple family tax exemption pursuant to chapter 84.14 RCW.

(3) This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of buildings and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(4) Upon the expiration of the expenditure period, or upon termination of the expenditure, the cost of new construction and improvements to the property not previously considered as new construction during the expenditure period, must be considered as new construction for purposes of calculating levies under chapter 84.55 RCW.

NEW SECTION. **Sec.**  (1) For the purpose of creating a property tax expenditure program under this chapter, the governing authority must adopt a resolution of intention to create a property tax expenditure program as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the creation of the property tax expenditure program and may include such other information pertaining to the creation of the expenditure program as the governing authority determines to be appropriate to apprise the public of the action intended. However, the resolution must provide information pertaining to:

(a) The application process;

(b) The approval process;

(c) The appeals process for applications denied approval; and

(d) Requirements, conditions, and obligations that must be followed post-approval of an application.

(2) The governing authority must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city. The notice must state the time, date, place, and purpose of the hearing.

(3) Following the hearing or a continuance of the hearing, the governing authority may authorize the creation of the program.

NEW SECTION. **Sec.**  An owner of property seeking a tax expenditure under this chapter must complete the following procedures:

(1) The owner must apply to the city on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested expenditure including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, and other information requested;

(c) A statement of the expected number of new family living wage jobs to be created;

(d) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the expenditure provided under this chapter;

(e) A statement that the applicant is aware that the new construction must be completed within three years from the date of approval of the application; and

(f) A statement that the applicant would not have built in this location but for the availability of the tax expenditure under this chapter;

(2) The applicant must verify the application by oath or affirmation; and

(3) The application must be accompanied by the application fee, if any, required under this chapter. The duly authorized administrative official or committee of the city may permit the applicant to revise an application before final action by the duly authorized administrative official or committee of the city.

NEW SECTION. **Sec.**  The duly authorized administrative official or committee of the city may approve the application if it finds that:

(1) A minimum of five new family living wage jobs will be created on the subject site as a result of new construction within one year of issuance of a certificate of building occupancy;

(2) The proposed project is, or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

(3) The new construction will occur on land which is vacant or undeveloped;

(4) The area where the new construction will occur is located within an area primarily zoned for mixed use, commercial, or industrial uses;

(5) The terms and conditions of the implementation of the development meets the requirements of this chapter and any requirements of the city that are not otherwise inconsistent with this chapter;

(6) The general contractor overseeing the new construction meets the responsibility criteria required of responsible bidders in RCW 39.04.350(1) and pays the prevailing rate of wage as defined in RCW 39.12.010(1); and

(7) All other requirements of this chapter have been satisfied as well as any other requirements of the city that are not otherwise inconsistent with this chapter.

NEW SECTION. **Sec.**  (1) The duly authorized administrative official or committee of the city must approve or deny an application filed under this chapter within ninety days after receipt of the application.

(2) If the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of tax expenditure. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required criteria of this chapter.

(3) If the application is denied by the city, the city must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by the city, an applicant may appeal the denial to the city's governing authority or a city official designated by the city to hear such appeals within thirty days after receipt of the denial. The appeal before the city's governing authority or designated city official must be based upon the record made before the city with the burden of proof on the applicant to show that there was no substantial evidence to support the city's decision. The decision of the city on the appeal is final.

NEW SECTION. **Sec.**  The governing authority may establish an application fee. This fee may not exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee must be paid at the time the application for limited expenditure is filed. If the application is approved, the governing authority of the city must pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the city's governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

NEW SECTION. **Sec.**  (1) Upon completion of the new construction for which an application for a tax expenditure under this chapter has been approved and issued a certificate of occupancy, the owner must file with the city the following:

(a) A description of the work that has been completed and a statement that the new construction on the owner's property qualifies the property for an expenditure under this chapter;

(b) A statement of the new family living wage jobs to be offered as a result of the new construction; and

(c) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax expenditure

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the city must determine whether the work completed and the jobs to be offered are consistent with the application and the contract approved by the city and whether the application is qualified for a tax expenditure under this chapter.

(3) If the criteria of this chapter have been satisfied and the owner's property is qualified for a tax expenditure under this chapter, the city must file the certificate of tax expenditure with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The city must notify the applicant that a certificate of tax expenditure is denied if the city determines that:

(a) The work was not completed within three years of the application date;

(b) The work was not constructed consistent with the application or other applicable requirements;

(c) The jobs to be offered are not consistent with the application and criteria of this chapter; or

(d) The owner's property is otherwise not qualified for an expenditure under this chapter.

(5) If the city finds that the work was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority may extend the deadline for completion of the work for a period not to exceed twenty-four consecutive months.

(6) The city's governing authority may enact an ordinance to provide a process for an owner to appeal a decision by the city that the owner is not entitled to a certificate of tax expenditure to the city. The owner may appeal a decision by the city to deny a certificate of tax expenditure in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city to the owner of the expenditure denial.

NEW SECTION. **Sec.**  (1) Thirty days after the anniversary of the date of the certificate of tax expenditure and each year for the tax expenditure period, the owner of the new construction must file with a designated authorized representative of the city an annual report indicating the following:

(a) A statement of the family living wage jobs at the facility as of the anniversary date;

(b) A certification by the owner that the property has not changed use;

(c) A description of changes or improvements constructed after issuance of the certificate of tax expenditure; and

(d) Any additional information requested by the city.

(2) A city that issues a certificate of tax expenditure under this chapter must report annually by December 31st of each year, beginning in 2019, to the department of commerce. The report must include the following information:

(a) The number of tax expenditure certificates granted;

(b) The total number and type of new buildings constructed;

(c) The number of family living wage jobs resulting from the changes or improvements constructed after issuance of the certificate of tax expenditure;

(d) The number of family living wage jobs created after completion of the project; and

(e) The value of the tax expenditure for each project receiving a tax expenditure and the total value of tax expenditures granted.

NEW SECTION. **Sec.**  (1) If the value of improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under this chapter so long as they are not converted to another use and continue to satisfy all applicable conditions including, but not limited to, zoning, land use, building, and family living wage job creation.

(2) If an owner voluntarily opts to discontinue compliance with the requirements of this chapter, the owner must notify the assessor within sixty days of the change in use or intended discontinuance.

(3) If, after a certificate of tax expenditure has been filed with the county assessor, the city discovers that a portion of the property is changed or will be changed to disqualify the owner for expenditure eligibility under this chapter, the tax expenditure must be terminated and the following occurs:

(a) Additional real property tax must be imposed on the value of the nonqualifying improvements in the amount that would be imposed if an expenditure had not been available under this chapter, plus a penalty equal to twenty percent of the additional tax due. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonqualifying use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter;

(c) The additional tax, interest, and penalty are due in full thirty days following the date on which the treasurer's statement of additional tax due is issued. The additional tax must be distributed by the county treasurer in the same manner in which current property taxes applicable to the subject property are distributed; and

(d) The additional tax owed together with interest and penalty becomes a lien on the property and attaches at the time the property or portion of the property is removed from the qualifying use under this chapter or the amenities no longer meet the applicable requirements for expenditures under this chapter. A lien under this section has priority to, and must be fully paid and satisfied before, a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the property may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent property taxes.

(4) Upon a determination that a tax expenditure is to be terminated for a reason stated in this section, the city's governing authority must notify the county assessor and record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to terminate the expenditure. The owner may appeal the determination to the city, within thirty days by filing a notice of appeal with the city, which notice must specify the factual and legal basis on which the determination of termination is alleged to be erroneous. At an appeal hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of termination of expenditure based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court as provided in RCW 34.05.510 through 34.05.598.

(5) Upon determination by the city to terminate an expenditure, the county officials having possession of the assessment and tax rolls must correct the rolls in the manner provided for omitted property under RCW 84.40.080. The county assessor must make such a valuation of the property and improvements as is necessary to permit the correction of the rolls. The cost of the new construction and improvements to the property, not previously considered as new construction during the exempt period, must be considered as new construction for purposes of calculating levies under chapter 84.55 RCW. The owner may appeal the valuation to the county board of equalization as provided in chapter 84.48 RCW, and according to the provisions of RCW 84.40.038. If there has been a failure to comply with this chapter, the property must be listed as an omitted assessment for assessment years beginning January 1st of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

NEW SECTION. **Sec.**  This act applies to taxes levied for collection in 2019 and thereafter.

NEW SECTION. **Sec.**  Sections 1 through 14 of this act constitute a new chapter in Title 84 RCW.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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