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## Local Government Committee

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### HB 1495

**Brief Description:** Incentivizing the development of commercial office space in cities with a population of greater than fifty thousand and located in a county with a population of less than one million five hundred thousand.

**Sponsors:** Representatives Fey, Muri, Sawyer, Sells, Jinkins and Doglio.

#### Brief Summary of Bill

- Creates a local sales and use, and local property tax exemption program in cities with a population greater than 50,000 that are located in a county with a population of less than 1.5 million to incentivize the development of class A commercial office space in urban centers with access to transit, high capacity transportation systems, and other amenities.
- Requires the Department of Revenue to determine eligibility of a purchaser applying for a remittance.
- Requires cities to meet specific requirements and establish guidelines and criteria for qualifying projects.

**Hearing Date:** 1/25/17

**Staff:** Desiree Omli (786-7383).

#### **Background:**

##### Local Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. Local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

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*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.*

Twenty-five different types of local sales and use taxes are currently authorized. The most common is a two-part (0.5 percent basic plus 0.5 percent optional) city and county sales and use tax of up to 1 percent. The tax is used for general local purposes. Almost all cities and counties levy the full 1 percent rate. The county sales and use tax is credited against the city tax; however, cities are required to share 15 percent of their tax with the counties. Local sales and use taxes are deposited into the Local Sales and Use Tax Account (Account). On a monthly basis, the State Treasurer distributes taxes in the Account to the jurisdictions imposing local sales and use taxes.

#### 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 one percent of the true and fair value of the property. Also, 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.

#### **Summary of Bill:**

A governing authority of a city with a population greater than 50,000 that is located in a county with a population of less than 1.5 million may adopt a local sales and use tax exemption program and a local property tax exemption program to incentivize the development of Class A commercial office space in urban centers with access to transit, high capacity transportation systems, and other amenities. A Class A commercial office space is among the most competitive and highest quality building or buildings in the local market, as determined by a city's governing authority. Class A buildings must have certain characteristics including:

- be at least 50,000 square feet;
- be at least three stories tall;
- be centrally located in a city;
- provide close access to public transportation and freeways;
- be managed professionally; and
- offer amenities and advanced technology options to tenants.

#### Creation of Local Sales and Use Tax Exemption Program.

To use the sales and use tax exemption, a city must meet certain requirements, including:

- obtaining a written agreement for the use of the exemption from any taxing authority that imposes a sales or use tax;
- holding a public hearing after notice is provided;
- establishing criteria for a qualifying project exempt from local sales and use tax under this program, which must include certain considerations; and
- adopting an ordinance announcing the use of sales and use tax exemption, which must contain specific information about the qualifying project.

A purchaser may claim an exemption from the tax imposed on the sale of or charge made for:

- labor and services rendered relating to construction or rehabilitation of a qualifying project; and
- sales of tangible personal property that is incorporated as an ingredient or component of a qualifying project.

The tax exemptions provided are in the form of a remittance. The purchaser claiming an exemption must pay all applicable state and local sales taxes, and, after four years of the qualifying project being operationally complete, but no later than five years after all local sales taxes have been paid, the purchaser may apply for a remittance with the Department of Revenue (DOR). A purchaser requesting remittance must obtain a certification from the governing authority verifying that the project satisfies the criteria established by the city to qualify for the exemption, and submit specified information subject to audit by the DOR. The DOR must determine eligibility. The amount of the exemption is 100 percent of the local sales tax paid, if the taxing authorities imposing sales and use taxes authorized the city to use the exemption under this program.

Use taxes will not be imposed on tangible personal property that will be incorporated as an ingredient or component of the qualifying project in a city during the course of the constructing or rehabilitating.

The use of the tax incentive may be used for the expansion of a business, including the development of additional officers or satellite facilities.

The sale and use taxes that apply under this program are the taxes made on or after October 1, 2017.

#### Creation of Local Property Tax Exemption Program.

To use the local property tax exemption, a city must:

- establish criteria under which property can qualify for the tax exemption; and
- designate an area as a commercial office development targeted area which meets specified requirements for designating such an area.

A "commercial office development targeted area" is an area within an urban center or urban growth area that has been designated by the governing authority as a commercial office development targeted area. When designating an area as a commercial office development targeted area, the governing authority must adopt a resolution of its intent to designate an area, give notice, and hold a hearing.

Once a governing authority designates an area as a commercial office development targeted area, a governing authority is required to adopt and implement standards and guidelines for new construction and rehabilitation including:

- the application process;
- requirements addressing demolition;
- building requirements; and
- guidelines regarding individual units that are part of a qualifying project that meets the requirements of the exemption.

The value of new construction and rehabilitation improvements of real property is exempt from the:

- city share of ad valorem property taxation for 10 successive years beginning January 1 the year after the certificate of exemption is filed with the county assessor, if the city meets the requirements to use the local property tax exemption; and
- county share of ad valorem property taxation for 10 successive years beginning January 1 the year after the certificate of exemption is filed with the county assessor, upon approval by a county legislative authority.

When the local government adopts guidelines and conditions that must be satisfied with respect to individual commercial units, rather than with respect to the qualifying project as a whole, the local government has the discretion to limit the exemption to the value of the improvements allocable to those individual commercial units that meet the local guidelines.

#### Property Tax Exemption – Values Not Included.

The property tax exemption does not:

- include the value of improvements constructed prior to the submission of an application, in the case with rehabilitation of existing buildings; or
- apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land, or 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.

#### Property Tax Exemption – Qualification Criteria.

The owner of property seeking tax incentives must meet the following requirements:

- locate the qualified project in an urban center;
- meet criteria established by the governing authority in order to use the property tax exemptions;
- complete new construction within three years of the approval date of an application; and
- enter into a contract with the governing authority establishing terms and conditions for the implementation of the development.

#### Property Tax Exemption – Application Process.

The owner of property applying for the tax exemption must comply with procedures including:

- securing verification of property noncompliance with building codes in the case of rehabilitation or where demolition or new construction is required;
- applying to the city or county using forms adopted by the governing authority that must contain certain information, in the case of new construction;
- verifying the application by oath or affirmation; and
- paying the application fee, if such a fee exists.

An application may be approved by the authorized administrative official or committee of the city when it finds that:

- the qualifying project meets the criteria established by the city under which property can qualify for the tax exemption;
- the project is or will be in conformance with all local plans and regulations applicable at the time the application is approved;

- the owner complied with standards and guidelines adopted by the city or county; and
- the site is located in a commercial office development targeted area of an urban center or urban growth area.

A governing authority or authorized administrative official or commission must approve or deny an application within 90 days after receipt of the application. When the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of tax exemption. If the application is denied, the deciding entity must state in writing the reasons for denial and send the notice to the applicant within 10 days of denial. The applicant may appeal the denial to the governing authority within 30 days after receipt of the denial.

#### Property Tax Exemption – Permissive Application Fee.

The governing authority may establish an application fee, which may not exceed the amount required to cover the cost to be incurred by the governing authority and the assessor in administering this program. If the application is approved, the governing authority must pay the application fee to the county assessor after first deducting its own administrative costs. If the application is denied, the governing authority may keep the portion attributable to its administrative costs and refund the remainder to the applicant.

#### Property Tax Exemption – Issuance of Tax Exemption.

The owner of the property must file with the city, upon the completion of rehabilitation or new construction, and after issuance of the certificate of occupancy:

- a statement of expenditures;
- the amount of new family living wage jobs to be created;
- a description of the work completed and how it qualifies for a tax exemption; and
- a statement confirming that the project meets prescribed requirements and was completed within the required three-year time frame.

Within 30 days after the city receives the information listed above, the city must determine whether the work completed is qualified for a limited tax exemption. The city must also determine which specific improvements completed meet the requirements and required findings. If the project is completed within three years of the filing date of the application, the city must file the certificate of tax exemption with the county assessor within 10 days of the expiration of the 30-day determination period. A city may extend the three-year time frame under certain circumstances.

If the city determines that the project does not qualify for the tax exemption, the city must notify the applicant. The governing authority may provide, by ordinance, for an appeal of a decision that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city or county officer authorized to hear the appeal. The owner may, within 30 days of notification of denial, appeal a decision that is not subject to local appeal or a decision by the local appeal authority in superior court.

#### Property Tax Exemption – Annual Reports and Publications.

The owner of the rehabilitated or newly constructed property must file an annual report with the city or county containing:

- a statement of family living wage jobs at the qualifying project;
- a certification that the property has not changed use;

- a description of changes or improvements made after issuance of the certificate of tax exemption; and
- any additional information as requested by the city or county.

Cities that issue certificates of tax exemption for multiunit housing must annually publish specified information on the city's website or another format that is easily available to the public.

Property Tax Exemption – Termination of Tax Exemption.

Improvements that have been exempted continue to be exempted for the specified period, so long as they are not converted to another use. An owner who intends to convert the project to another use, or discontinue compliance with criteria established by the city, must notify the assessor within 60 days of the change or intended discontinuance. If the property or portion of the property no longer qualifies for the exemption, the exemption must be canceled and an additional real property tax must be imposed on the value of the nonqualifying improvements, plus a penalty of 20 percent. In addition, the tax must include interest. The additional tax owed together with interest and penalty must become a lien on the land and attach at the time that the property or portion of the property no longer qualifies for the exemption. The governing authority must provide notice to the record owner upon determination that the tax exemption will be canceled. The owner may appeal within 30 days.

County officials must, upon determination to terminate an exemption, correct the tax rolls pursuant to statute. The owner may appeal the valuation to the county board of equalization.

A change in ownership of a property exempted under this program does not disqualify the property from the tax exemption, provided that the new owner complies with all application procedures, terms, conditions, and reporting requirements, and meets all criteria established by a city. However, the exemption continues to be limited to 10 successive years, beginning on January 1 of the year after the certificate of tax exemption is filed.

This program applies to taxes levied for collection in 2018 and after.

**Appropriation:** None.

**Fiscal Note:** Available.

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