

HOUSE BILL REPORT

E2SHB 1495

As Amended by the Senate

Title: An act relating to 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.

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: House Committee on Finance (originally sponsored by Representatives Fey, Muri, Sawyer, Sells, Jinkins and Doglio).

Brief History:

Committee Activity:

Local Government: 1/25/17, 2/9/17 [DPS];

Finance: 2/22/17, 2/23/17 [DP2S(w/o sub LG)].

Floor Activity:

Passed House: 3/8/17, 79-18.

Senate Amended.

Passed Senate: 4/12/17, 33-16.

Brief Summary of Engrossed Second Substitute Bill

- Creates a local sales and use 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 commercial office space in urban centers with access to transit, high capacity transportation systems, and other amenities.
- Requires certain agencies and local jurisdictions to determine eligibility for the tax exemption program, and establish guidelines and criteria for qualifying projects.
- Requires a study by the Joint Legislative Audit and Review Committee on the effectiveness of the program.
- Establishes an end date for new participation in the tax exemption program.

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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Taylor.

Staff: Desiree Omli (786-7383).

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 11 members: Representatives Lytton, Chair; Frame, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Dolan, Pollet, Springer, Stokesbary, Wilcox and Wylie.

Staff: Rachelle Harris (786-7137).

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.

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.

Summary of Engrossed Second Substitute 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 to incentivize the development of commercial office space in urban

centers with access to transit, high capacity transportation systems, and other amenities. 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. Commercial office space 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 a 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.

Sales and Use Tax Exemption.

A project owner may claim an exemption from taxes imposed on:

- the sale of or charge made for labor and services rendered in respect to construction or rehabilitation of a qualifying project; and
- the sales or use of tangible personal property that will be incorporated as an ingredient or component of a qualifying project located in a city during the course of the constructing or rehabilitating.

Eligibility and Form of Exemption.

The local sales and use tax exemptions provided are in the form of a remittance. The project owner claiming an exemption must first pay all applicable state and local sales and use taxes. A project owner who submits a building permit application prior to July 1, 2027 may apply for a remittance with the Department of Revenue (DOR) after four years of the qualifying project being operationally complete, but no later than five years after all local sales and use taxes have been paid. A project owner requesting a remittance must obtain a certification from the governing authority of the city verifying that the project satisfies the criteria established by the city to qualify for the exemption. The project owner must also specify the amount of exempted tax claimed and the qualifying purchases or uses for which the exemption is claimed, as well as retain adequate records and proof. The DOR then determines a project owner's eligibility for a remittance based on the information provided. The amount of the exemption is 100 percent of the local sales and use tax paid, if the taxing authorities imposing sales and use taxes authorized the city to use the exemption under this program. A project owner who is eligible for a remittance, but transfers ownership of the

project before they can claim it, may assign the rights to the remittance to the subsequent owner.

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

Study.

The Joint Legislative Audit and Review Committee is required to conduct a study and report to the Legislature by October 1, 2025, on the effectiveness of the local sales and use tax exemption program and local property tax exemption program.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment reduces the population requirement for cities to adopt a local sales and use tax exemption program so that cities with a population of greater than 35,000, instead of 50,000, may adopt such an exemption.

The Senate amendment leaves unchanged other provisions concerning adoption of a local sales and use tax exemption program by cities.

The Senate amendment adds language allowing a city with a population of greater than 35,000 and located in a county with a population of less than 1,500,000 to adopt a local property tax exemption program to incentivize the development of commercial office space in urban centers with access to transit, transportation systems, and other amenities.

The Senate amendment adds the following provisions concerning the local property tax exemption programs by cities:

For taxes levied in 2018 and after, a city may exempt its share of local property taxes under this 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 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, hold a hearing, and give notice.

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 to be used in considering applications for new construction and rehabilitation including:

- the application process;
- 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. The exemption does not apply to any county share of property tax unless the legislative authority of the county adopts a resolution allowing the property to be exempt.

When the governing authority 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 governing authority has the discretion to limit the exemption to the value of the improvements allocable to those individual commercial units that meet the local guidelines.

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 DOR, 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.

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;
- complete new construction or rehabilitation 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.

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 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 a required application fee.

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; and
- the site is located in a commercial office development targeted area of an urban center.

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.

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.

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 estimated 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.

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

- a statement of the estimated 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.

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 by the original owner.

Includes local property tax exemption programs as an item that the Joint Legislative Audit and Review Committee must study in addition to local sales and use tax exemption programs.

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) This is an important economic development bill that will serve many cities. It is a local option to help create jobs in communities like Tacoma and other communities of similar size. There is built up congestion and long commute times because people work in Seattle but live elsewhere, which also takes people away from time with their families. Other urban centers need to be used to provide jobs in more cities. However, medium-sized cities have trouble attracting first class office space to their urban centers. There have not been any nongovernmental commercial buildings built outside of King County since 2001. This bill provides cities with tools necessary to attract office space and gain the prosperity that comes with putting an office building in their community.

The City of Tacoma has aimed to improve and revitalize its downtown by streamlining its permitting process and improving other aspects that local government has control over, but it still has trouble attracting developers. The cost of construction is the same everywhere, but

the difference is in the cost recovery. In Seattle and Bellevue, the cost recovery is about \$42 per square foot. In a place like Tacoma, the cost recovery is about \$27 per square foot. A builder is going to build where they can maximize their revenue. This bill bridges that difference so that it makes economic sense to build office space in communities outside of King County.

This bill exempts the city portion of the property and sales tax, has no impact on state revenues or state budget, and provides the proper oversight.

(Opposed) None.

Staff Summary of Public Testimony (Finance):

(In support) The City of Tacoma, along with several other cities, have brought this bill forward to incentivize construction of commercial office space outside of King County. There has been no commercial office space developed outside of King County since 2006. The high rate of development in King County puts pressure on affordable housing and transit in the region.

This bill provides options for other areas in the state to incentivize development. There will not be an impact on state revenues, since the bill is only applicable to local city sales and use and property taxes, in addition to any other special taxing district given they agree to being included.

An alternative option would be to have the Joint Legislative Audit and Review Committee conduct the study instead of the Department of Commerce. Another option is having a city that has used the programs submit a report, alleviating some of the burden on the state.

Commercial office space is defined in the bill as space that has square footage of over 50,000 square feet and requires that at least three stories of the space be managed professionally. The building must also contain modern amenities.

(Opposed) None.

Persons Testifying (Local Government): Representative Fey, prime sponsor; Briahna Murray, City of Tacoma; Ryan Mello, Tacoma City Council; and Michael Transue, Tacoma-Pierce County Chamber of Commerce.

Persons Testifying (Finance): Briahna Murray, City of Tacoma.

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

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