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HOUSE BILL 2813

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State of Washington                      65th Legislature                      2018 Regular Session

By Representatives Fey, Muri, McBride, and Jenkins

Read first time 01/17/18. Referred to Committee on Local Government.

1            AN ACT Relating to incentivizing the development of commercial  
2 office space in cities with a population of greater than thirty-five  
3 thousand and located in a county with a population of less than one  
4 million five hundred thousand; adding a new section to chapter 82.14  
5 RCW; adding a new chapter to Title 35 RCW; and providing an  
6 expiration date.

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

8            NEW SECTION.    **Sec. 1.** The legislature finds that the cost of  
9 developing high-quality, commercial office space is prohibitive in  
10 cities located outside of a major metropolitan area. The legislature  
11 finds these cities plan to locate commercial office space within  
12 those urban centers. The legislature also finds that solely planning  
13 for commercial office space within urban centers is inadequate and an  
14 incentive should be created to stimulate commercial office space  
15 development in urban centers outside major metropolitan areas. The  
16 legislature intends to provide these cities with local options to  
17 incentivize the development of commercial office space in urban  
18 centers with access to transit, transportation systems, and other  
19 amenities.

1        NEW SECTION.     **Sec. 2.**     A governing authority of a city may  
2 designate a commercial office space development area. Within the  
3 area, the city may:

4        (1) Adopt a local sales and use tax remittance program to  
5 incentivize the development of commercial office space; and

6        (2) Establish a local property tax reinvestment program to make  
7 public improvements that incentivize the development of commercial  
8 office space.

9        NEW SECTION.     **Sec. 3.**     The definitions in this section apply  
10 throughout this chapter unless the context clearly requires  
11 otherwise.

12        (1) "City" means a city with a population greater than thirty-  
13 five thousand and located in a county with a population of less than  
14 one million five hundred thousand.

15        (2) "Commercial office space" means a high quality building or  
16 buildings in the local market, as determined by a city's governing  
17 authority. High quality must be reflected in the finishes,  
18 construction, and infrastructure of the project building. The  
19 building or buildings must be at least fifty thousand square feet,  
20 and at least three stories. The building must be centrally located in  
21 a city, provide close access to available public transportation and  
22 freeways, be managed professionally, and offer amenities and advanced  
23 technology options to tenants.

24        (3) "Commercial office space development area" means an area that  
25 has been designated by the city legislative authority as a commercial  
26 office space development area. Each area is limited to contiguous  
27 tracts, lots, pieces, or parcels of land without the creation of  
28 islands of property not included in the commercial office space  
29 development area. The commercial office space development area or  
30 areas within a city cannot contain more than twenty-five percent of  
31 the total assessed value of the taxable real property within the  
32 boundaries of the city at the time the area is established.

33        (4) "County" means a county with a population of less than one  
34 million five hundred thousand.

35        (5) "Family living wage job" means a job with a wage that is  
36 sufficient for raising a family. A family living wage job must have  
37 an average wage of eighteen dollars an hour or more, working two  
38 thousand eighty hours per year, as adjusted annually by the consumer

1 price index. The family living wage may be increased by the local  
2 authority based on regional factors and wage conditions.

3 (6) "Operationally complete" means that a certificate of  
4 occupancy has been issued for the building.

5 (7) "Public improvement" means infrastructure improvements to be  
6 owned by a public entity within the commercial office space  
7 development area that include:

8 (a) Street, road, bridge, and rail construction and maintenance;

9 (b) Water and sewer system construction and improvements;

10 (c) Sidewalks, streetlights, landscaping, and streetscaping;

11 (d) Parking, terminal, and dock facilities;

12 (e) Park and ride facilities of a transit authority;

13 (f) Park facilities, recreational areas, and environmental  
14 remediation;

15 (g) Stormwater and drainage management systems;

16 (h) Seismic improvements to buildings eligible for or eligible  
17 for listing in the Washington state register of historic places (RCW  
18 27.34.220) or the national register of historic places as defined in  
19 the national historic preservation act of 1966 (Title 1, Sec. 101,  
20 P.L. 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter  
21 amended;

22 (i) Electric, gas, fiber, and other utility infrastructures; and

23 (j) Expenditures for any of the following purposes:

24 (i) Providing environmental analysis, professional management,  
25 planning, and promotion within the commercial office space  
26 development area; and

27 (ii) Providing maintenance and security for common or public  
28 areas in the commercial office space development area.

29 (8) "Public improvement costs" means the costs of:

30 (a) Design; planning; acquisition, including land acquisition;  
31 site preparation, including land clearing; construction;  
32 reconstruction; rehabilitation; improvements; and installation of  
33 public improvements;

34 (b) Demolishing, relocating, maintaining, and operating property  
35 pending construction of public improvements;

36 (c) Relocating utilities as a result of public improvements;

37 (d) Financing public improvements, including interest during  
38 construction; legal, and other professional services; taxes;  
39 insurance; principal and interest costs on general indebtedness

1 issued to finance public improvements; and any necessary reserves for  
2 general indebtedness; and

3 (e) Administrative expenses and feasibility studies reasonably  
4 necessary and related to these costs, including related costs that  
5 may have been incurred before adoption of the ordinance authorizing  
6 the public improvements and use of funds deposited into the  
7 commercial office development public improvement fund.

8 (9) "Qualifying project" means new construction or rehabilitation  
9 of a building or group of buildings intended for use as commercial  
10 office space. A "qualifying project" may include mixed-use buildings,  
11 not solely intended to be used as office space, but does not include  
12 any portion of a project intended for residential use or  
13 noncommercial use. "Qualifying project" does not include the land  
14 associated with the new construction or rehabilitation.

15 (10) "Rehabilitation" and "rehabilitation improvements" means  
16 modifications to an existing building or buildings made to achieve  
17 substantial improvements such that the building or buildings can be  
18 categorized as commercial office space.

19 (11) "Rehabilitation improvements" means modifications to an  
20 existing building or buildings made to achieve substantial  
21 improvements such that the building or buildings can be categorized  
22 as commercial office space.

23 (12) "Urban center" means a compact identifiable district where  
24 urban residents may obtain a variety of products and services. An  
25 urban center must contain:

26 (a) Several existing or previous, or both, business  
27 establishments that may include but are not limited to shops,  
28 offices, banks, restaurants, and governmental agencies;

29 (b) Adequate public facilities including streets, sidewalks,  
30 lighting, transit, domestic water, and sanitary sewer systems; and

31 (c) A mixture of uses and activities that may include housing,  
32 recreation, and cultural activities in association with either  
33 commercial or office use, or both commercial and office use.

34 NEW SECTION. **Sec. 4.** (1) In order for a city to approve a  
35 qualifying project to receive a sales and use tax remittance and  
36 participate in a local property tax reinvestment program, the city  
37 legislative authority must adopt an ordinance designating a  
38 commercial office space development area or areas. In the ordinance,  
39 the city legislative authority must:

1 (a) Outline the boundaries of the commercial office space  
2 development area or areas, consistent with the definitions of this  
3 chapter;

4 (b) Find that the area is wholly within an urban center;

5 (c) Find that the area lacks sufficient available, desirable,  
6 high-quality, and convenient commercial office space to provide  
7 family living wage jobs in the urban center;

8 (d) Outline standards and guidelines consistent with section 5 of  
9 this act to accept and approve applications for qualifying projects  
10 to be considered for a local sales and use tax remittance or a  
11 property tax reinvestment program; and

12 (e) Establish a commercial office development public improvement  
13 fund in which to deposit property tax reinvestment revenues.

14 (2) The city legislative authority must hold a public hearing on  
15 the ordinance establishing the commercial office space development  
16 area or areas. The city legislative authority must give notice of a  
17 hearing held under this section by publication of the notice once  
18 each week for two consecutive weeks, not less than seven days, nor  
19 more than thirty days before the date of the hearing in a paper  
20 having a general circulation in the city where the proposed  
21 commercial office space development area or areas would be located.  
22 The notice must state the time, date, place, and purpose of the  
23 hearing and generally identify the area proposed to be designated as  
24 a commercial office space development area.

25 NEW SECTION. **Sec. 5.** (1) In order to approve the sales and use  
26 tax remittance and property tax reinvestment for a qualifying project  
27 under section 4 of this act, an owner of a qualifying project must,  
28 in coordination with the city, submit an application to the city  
29 consistent with the standards and guidelines provided in section 4 of  
30 this act. Additionally, the application must include:

31 (a) Whether the qualifying project is located within a commercial  
32 office space development area, in accordance with an adopted  
33 ordinance under section 4 of this act;

34 (b) Whether the qualifying project meets the definition of a  
35 qualifying project;

36 (c) The number of family living wage jobs estimated to be  
37 generated by the qualifying project;

38 (d) A description of the qualifying project, including a physical  
39 description of proposed building or buildings including estimated

1 square footage, number of floors, and a list of features and  
2 amenities;

3 (e) The cost of construction or rehabilitation, and length of  
4 time that the qualifying project will be under construction;

5 (f) Whether the qualifying project is or will be, at the time of  
6 completion, in conformance with all local plans and regulations that  
7 apply at the time the application is approved; and

8 (g) A statement that the qualifying project is not anticipated to  
9 be used for the purpose of relocating a business from outside of the  
10 commercial office space development area, but within the state, to  
11 within the commercial office space development area. This does not  
12 exclude the incentives authorized under this chapter and section 11  
13 of this act from being used for the expansion of a business,  
14 including the development of additional offices or satellite  
15 facilities.

16 (2) If the project applicant is seeking a sales and use tax  
17 remittance, the application must also include:

18 (a) A written agreement for the use of the local sales and use  
19 tax remittance from any taxing authority that imposes a sales or use  
20 tax under chapter 82.14 RCW. The agreement must be authorized by the  
21 governing body of such participating taxing authorities. If a taxing  
22 authority does not provide a written agreement, the sales and use tax  
23 for that taxing authority may not be remitted and the revenue may not  
24 be estimated in the application;

25 (b) An estimate of the amount of local sales and use tax revenue  
26 that will be remitted to a taxpayer;

27 (c) The approximate date that the local sales and use tax revenue  
28 will be remitted to a taxpayer; and

29 (d) The criteria under this section by which a qualifying project  
30 can later receive certification under section 11(4) of this act  
31 confirming that a taxpayer is eligible for the remittance.

32 (3) If the city intends to approve the qualifying project for a  
33 property tax reinvestment, the application must also include:

34 (a) A written agreement of the participation of any taxing  
35 authority that collects a local property tax allocation. The  
36 agreement must be authorized by the governing body of such  
37 participating local taxing authorities. If a taxing authority does  
38 not provide written agreement, the local property tax for that taxing  
39 authority may not be remitted to the city legislative authority that  
40 established a commercial office development public improvement fund;

1 (b) An estimated amount of property tax to be deposited into a  
2 commercial office development public improvement fund resulting from  
3 the qualifying project; and

4 (c) A prioritized list of public improvements that support the  
5 development of the qualifying project, and the estimated public  
6 improvement costs.

7 NEW SECTION. **Sec. 6.** (1) The duly authorized administrative  
8 official or committee of the city may approve the application if it  
9 finds that:

10 (a) The proposed qualifying project meets the criteria as defined  
11 by the city in section 4 of this act;

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

15 (c) The owner has complied with all standards and guidelines  
16 adopted by the city in section 4 of this act; and

17 (d) The site is located in a commercial office space development  
18 area that has been designated by the city legislative authority in  
19 accordance with the procedures and guidelines indicated in section 4  
20 of this act.

21 (2) If the application is approved, the city must issue the owner  
22 of the property a conditional certificate of acceptance of the  
23 project for the sales and use tax remittance and participation in a  
24 property tax reinvestment program.

25 (3) If the application is denied by the authorized administrative  
26 official or committee authorized by the city legislative authority,  
27 the deciding administrative official or committee must state in  
28 writing the reasons for denial and send the notice to the applicant  
29 at the applicant's last known address within ten days of the denial.

30 (4) Upon denial by a duly authorized administrative official or  
31 committee, an applicant may appeal the denial to the city legislative  
32 authority within thirty days after receipt of the denial. The appeal  
33 before the governing authority must be based upon the record made  
34 before the administrative official or committee with the burden of  
35 proof on the applicant to show that there was no substantial evidence  
36 to support the administrative official's or committee's decision. The  
37 decision of the city legislative authority in denying or approving  
38 the application is final.

1        NEW SECTION.    **Sec. 7.**    (1) Once the city approves an application  
2 for a qualifying project to participate in a property tax  
3 reinvestment program, the city must deposit into a commercial office  
4 development public improvement fund, the equivalent of the city's  
5 share of the ad valorem property taxation on the value of new  
6 construction and rehabilitation improvements of real property for  
7 qualifying projects under this chapter for a period of ten successive  
8 years beginning January 1st of the calendar year immediately  
9 following the calendar year in which the application is initially  
10 approved.

11        (2) For a period of ten successive years beginning January 1st of  
12 the calendar year immediately following the calendar year in which  
13 the application is initially approved, taxing districts participating  
14 under this section that provide a written agreement under section 5  
15 of this act must transfer to the city an amount equivalent to the  
16 portion of the taxing district's ad valorem property tax on the value  
17 of new construction and rehabilitation improvements of real property  
18 for qualifying projects for the city to deposit into a commercial  
19 office development public improvement fund.

20        NEW SECTION.    **Sec. 8.**    (1) The city may only make expenditures  
21 from the commercial office development public improvement fund that:

22        (a) Are to construct the public improvement that was identified  
23 in the approved application, requesting the property tax reinvestment  
24 submitted under section 5 of this act and approved under section 6 of  
25 this act;

26        (b) Transfer funding to the project applicant to construct the  
27 public improvement and transfer ownership of the public improvement  
28 to a public agency; and

29        (c) Meet any additional criteria established in an ordinance  
30 adopted under section 4 of this act.

31        (2) The city and the project applicant must enter into a written  
32 agreement outlining the specifics of the public improvement,  
33 associated public improvement costs, responsible parties, and any  
34 other information required by the city.

35        NEW SECTION.    **Sec. 9.**    If a qualifying project participating in  
36 the property tax reinvestment program under this chapter changes  
37 ownership, the property continues to qualify for the reinvestment, if  
38 the new owner complies with all of the application requirements,



1 procedures, terms, conditions, and reporting requirements under this  
2 chapter, and meets all of the criteria established by the city to  
3 which the application was submitted under this chapter.

4 NEW SECTION. **Sec. 10.** (1) The joint legislative audit and  
5 review committee must study the effectiveness of the local sales and  
6 use tax remittance and the local property tax reinvestment programs  
7 authorized in this chapter, and submit a report as provided in  
8 subsection (3) of this section.

9 (2) The report must include, but is not limited to, an assessment  
10 of the local sales and use tax remittance and the property tax  
11 reinvestment programs authorized under this chapter and an evaluation  
12 of:

13 (a) The availability of quality office space;

14 (b) The effects on affordable housing;

15 (c) The effects on transportation, traffic congestion, and  
16 greenhouse gas emissions; and

17 (d) Job creation.

18 (3) By October 1, 2028, and in compliance with RCW 43.01.036, the  
19 joint legislative audit and review committee must submit to the  
20 appropriate committees of the legislature a final report with their  
21 findings and recommendations under this section.

22 (4) This section expires December 31, 2028.

23 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.14  
24 RCW to read as follows:

25 (1) Subject to the requirements of chapter 35.--- RCW (the new  
26 chapter created in section 12 of this act), a project is eligible for  
27 a sales and use tax remittance under the authority of this chapter  
28 on:

29 (a) The sale of or charge made for labor and services rendered in  
30 respect to construction or rehabilitation of a qualifying project  
31 located in a city; and

32 (b) The sales or use of tangible personal property that will be  
33 incorporated as an ingredient or component of a qualifying project  
34 located in a city during the course of the constructing or  
35 rehabilitating.

36 (2)(a) A qualifying project owner claiming a remittance under  
37 this section must pay all applicable state and local sales and use

1 taxes imposed or authorized under RCW 82.08.020, 82.12.020, and this  
2 chapter on all purchases and uses qualifying for the remittance.

3 (b) The amount of the remittance is one hundred percent of the  
4 local sales and use taxes paid under an ordinance enacted under the  
5 authority of this chapter for purchases or uses qualifying under  
6 subsection (1) of this section, if the taxing authorities imposing  
7 taxes under the authority of this chapter have authorized the use of  
8 the remittance to the city legislative authority as provided under  
9 section 6 of this act.

10 (3) After the qualifying project has been operationally complete  
11 for eighteen months, but not more than thirty-six months, and after  
12 all local sales and use taxes for purchases and uses qualifying under  
13 subsection (1) of this section have been paid, a qualifying project  
14 owner who submits an application for a building permit for that  
15 qualifying project prior to July 1, 2027, may apply to the department  
16 for a remittance of local sales and use taxes.

17 (4) A qualifying project owner requesting a remittance under this  
18 section must obtain certification from the governing authority of a  
19 city verifying that the qualifying project has satisfied the criteria  
20 in section 6 of this act.

21 (5) A qualifying project owner must specify the amount of  
22 exempted tax claimed and the qualifying purchases or uses for which  
23 the exemption is claimed. The qualifying project owner must retain,  
24 in adequate detail, records to enable the department to determine  
25 whether the qualifying project owner is entitled to an exemption  
26 under this section, including invoices, proof of tax paid, and  
27 construction contracts.

28 (6) The department must determine eligibility under this section  
29 based on information provided by the qualifying project owner, which  
30 is subject to audit verification by the department.

31 (7)(a) A person otherwise eligible for a remittance under this  
32 section that transfers the ownership of the qualifying project before  
33 the requirements in subsection (3) of this section are met may assign  
34 the right to the remittance under this section to the subsequent  
35 owner of the qualifying project.

36 (b) Persons applying for the remittance as an assignee must  
37 provide the department the following documentation in a form and  
38 manner as provided by the department:

39 (i) The agreement that transfers the right to the remittance to  
40 the assignee;

1 (ii) Proof of payment of sales and use tax on the qualifying  
2 project; and

3 (iii) Any other documentation the department requires.

4 (8) The definitions in section 3 of this act apply to this  
5 section.

6 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act  
7 constitute a new chapter in Title 35 RCW.

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