SENATE BILL REPORT
SB 5755

As Reported by Senate Committee On:
Housing & Local Government, February 1, 2022
Ways & Means, February 28, 2022

Title: An act relating to authorizing certain cities to establish a limited sales and use tax incentive program to encourage redevelopment of vacant lands in urban areas.

Brief Description: Authorizing certain cities to establish a limited sales and use tax incentive program to encourage redevelopment of vacant lands in urban areas.

Sponsors: Senators Trudeau, Billig, Nobles, Saldaña and Wellman.

Brief History:
Committee Activity: Housing & Local Government: 1/18/22, 2/01/22 [DPS-WM, DNP, w/oRec].
Ways & Means: 2/17/22, 2/28/22 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Authorizes certain cities to establish a limited sales and use tax incentive program to encourage redevelopment of underdeveloped lands in urban areas for affordable housing.
- Creates a ten-year sales and use tax deferral and exemption for qualifying multifamily housing projects if the project includes at least 50 percent of the housing units for very-low, low, and moderate income households.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5755 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.
Signed by Senators Kuderer, Chair; Das, Vice Chair; Cleveland, Lovelett, Salomon

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

and Trudeau.

Minority Report: Do not pass.
Signed by Senators Fortunato, Ranking Member; Gildon, Assistant Ranking Member; Sefzik and Wilson, J.

Minority Report: That it be referred without recommendation.
Signed by Senator Warnick.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5755 be substituted therefor, and the second substitute bill do pass.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Gildon, Hunt, Keiser, Mullet, Pedersen, Rivers, Van De Wege and Wellman.

Minority Report: Do not pass.
Signed by Senators Honeyford, Ranking Minority Member, Capital; Hasegawa.

Minority Report: That it be referred without recommendation.
Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Schoesler, Assistant Ranking Member, Capital; Braun, Muzzall, Wagoner and Warnick.

Staff: Jeffrey Mitchell (786-7438)

Background: 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 products, or services when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary from 0.5 percent to three percent, depending on the location.

Summary of Bill (Second Substitute): A sales and use tax incentive program is established to encourage the redevelopment of underdeveloped land in targeted urban areas. The legislative authority of a qualifying city may authorize a sales and use tax deferral for an investment project within the city if the city finds there are both significant areas of underdeveloped land and a lack of affordable housing. If a conditional recipient maintains the property for qualifying purposes for at least ten years, deferred sales and use taxes need not be repaid. A qualifying city includes a city with a population of at least

135,000 and not more than 250,000. Affordable housing includes multifamily housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income. "Underdeveloped property" is defined as land used as a surface parking lot as of the effective date of the legislation.

The governing authority must adopt a resolution of intention to create a sales and use tax deferral program and hold a public hearing. An owner of underdeveloped property seeking a sales and use tax deferral must apply to the city and include a description of the investment project and site plan, including a statement of the expected number of affordable housing units to be created.

The city may approve an application if it finds the project is set aside primarily for multifamily housing units and the applicant commits to renting or selling at least 50 percent of the units as as affordable rental housing or affordable homeownership housing to very-low, low, or moderate income households. If the project is a mixed use project, only the ground floor of a building may be used for commercial purposes with the remainder dedicated to multifamily housing units. At least 50 percent of the investment project set aside for multifamily housing units must be rented at a price at or below fair market rent for the county or sold at a price at or below county median price. The applicant must commit to any additional affordability and income eligibility conditions adopted by the local government. An investment project must conform to all local plans and regulations that apply at the time the application is approved, and the project must occur on land that is underdeveloped.

A city must approve or deny an application within 90 days after receipt of the application. 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's last known address within ten days of the denial. An applicant may appeal the denial to the city's governing authority within 30 days after receipt of the denial.

A program participant must submit an application to the Department of Revenue (DOR) before initiation of the construction of the investment project. The application must include a copy of the conditional certificate of program approval issued by the city, estimated construction costs, time schedules for completion and operation, and any other information required by the DOR. DOR must rule on the application within 60 days. DOR must keep a running total of all estimated sales and use tax deferrals and may not accept applications for the deferral after June 30, 2032.

A city denying a sales and use tax deferral must notify DOR and taxes deferred are immediately due and payable, subject to any appeal by the conditional recipient. DOR must assess interest at the rate provided for delinquent taxes and penalties retroactively to the date the sales and use tax deferral certificate was issued.

A participant in the sale and use tax deferral program must file an annual report with the city including a statement of the affordable housing units constructed on the property, certify that the property has not changed use, and any additional information requested by the city. A city participating in the program must file a report annually by December 31st of each year, beginning in 2022, to the Department of Commerce. The report must include the number of program approval certificates granted, the total number and type of new buildings constructed, the number of affordable housing units resulting from the new construction, and the estimated value of the sales and use tax deferral for each investment project.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Limits the sales and use tax deferral program to underdeveloped property, defined as land used as a surface parking lot as of the effective date of the legislation.
- Makes corresponding changes to terminology throughout the draft as well.
- Disallows the use of the sale and use tax deferral program for projects where the underlying land was acquired through eminent domain.

EFFECT OF CHANGES MADE BY HOUSING & LOCAL GOVERNMENT COMMITTEE (First Substitute):

- Adds that data regarding the number of additional units created due to the limited tax deferral will be evaluated to determine if the tool could be used to increase affordable housing in other areas of the state.
- Modifies the definition of affordable housing to include affordable rental housing for households with very-low or low-income, and affordable homeownership housing for households with low or moderate income.
- Adds a definition of "very-low income" to include a household with adjusted gross income below 50 percent of area median income.
- Adds a definition of "initiation of construction", and clarifies that the deferral certificate is not for use after construction is complete and a certificate of occupancy has been issued.
- Modifies the definition of "multifamily housing" to mean a building or group of buildings having two or more dwelling units.
- Requires a recipient to contact the Department of Revenue to schedule an audit of purchases.
- Authorizes a governing authority to extend the deadline for completion of construction for a period not to exceed 24 months.
- Clarifies that for an investment project seeking a certificate of program approval, it must commit to renting or selling at least 50 percent of the units as affordable rental housing or affordable homeownership housing to very-low, low, or moderate income households.
- Provides that for projects involving multiple qualified buildings, applications must be

made before the initiation of construction for each qualified building.
- Provides that the Department of Revenue must rule on an application within 60 days, rather than 30 days.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Housing & Local Government): *The committee recommended a different version of the bill than what was heard.* PRO: Washington needs new and additional incentives for developers to build affordable housing. In certain urban areas there are sufficient vacant lands, but there is a high cost to develop on these lands. This incentive has a report back requirement, and can be a pilot program to see if the incentive should be expanded to other areas. Prices for building materials have increased significantly, driving up the cost of housing. This approach would make affordable housing more attractive to developers. Other cities would like to participate in the program, including Kent. Kent has additional light rail and the Sounder and needs additional incentives to attract development.

Persons Testifying (Housing & Local Government): PRO: Senator Yasmin Trudeau, Prime Sponsor; Jason Gauthier, Tacoma/Pierce County Habitat for Humanity; Briahna Murray, Lobbyist for Tacoma and Kent.

Persons Signed In To Testify But Not Testifying (Housing & Local Government): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The tool provided in this bill can be used in conjunction with tax increment financing, which creates a good development scenario to attract developers. Many places are experiencing a housing crisis and a lot of vacant land is comprised of surface parking lots. Surface parking lots have little incentive to develop, which this bill will address. To build truly affordable housing requires robust public investment, which can come in the form of tax incentives. This legislation's limited and targeted approach allows cities to evaluate its usefulness for individual areas. Any revenue impact means the incentive is being used to create affordable housing.

Persons Testifying (Ways & Means): PRO: Amanda DeShazo, Tacoma-Pierce County Affordable Housing Consortium; Briahna Murray, Contract Lobbyist for Cities of Tacoma and Kent; Zack Zappone, Spokane City Councilmember.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.