Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1791

Brief Description: Increasing the flexibility of existing funding sources to fund public safety and other facilities by modifying the local real estate excise tax.

Sponsors: Representatives Paul, Low, Ramel, Peterson, Nance, Springer and Leavitt.

Brief Summary of Bill

- Aligns allowable uses of Real Estate Excise Tax (REET) 1 and 2 revenues.
- Removes the expiration date on the ability to use certain local government REET funds for facilities for those experiencing homelessness or for affordable housing and removes a $1 million limit on the annual use of such funds.
- Makes the ability for local governments to use up to 35percent of REET revenues for operations and maintenance permanent.
- Removes certain reporting requirements for use of REET 1 and 2 revenues.
- Creates a REET exemption for the certain sales of portions of affordable housing developments for specific community purposes.

Hearing Date: 2/13/25

Staff: Rachelle Harris (786-7137).

Background:

Real Estate Excise Tax.
Real Estate Excise Tax (REET) applies to real estate transactions including the sale of property

and the transfer of controlling interest in property. The rate applies to the selling price and is usually paid by the seller. The REET is due and payable to the county treasurer in which the property is located on the date of the sale, regardless of the date of recording, except in a controlling interest transfer. The REET is imposed at the following rates:

- 1.1 percent if the selling price is equal to or less than $525,000;
- 1.28 percent on the portion of the selling price that is greater than $525,000 but equal to or less than $1.525 million;
- 2.75 percent on the portion of the selling price that is greater than $1.525 million but equal to or less than $3.025 million; and
- 3 percent on the portion of the selling price that is greater than $3.025 million.

Local governments are authorized to impose a local REET in addition to the state rate. The two main local REET options are:

- REET 1: A local government may levy a 0.25 percent REET. The revenues from REET 1 are primarily to be used for capital projects and limited maintenance.
- REET 2: An additional 0.25 percent REET may be imposed by cities and counties that are fully planning under the Growth Management Act.

Local REET capital projects are local government public works projects for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of:

- streets, roads, highways, and sidewalks;
- street and road lighting systems and traffic signals;
- bridges, domestic water systems, storm and sanitary sewer systems;
- judicial, parks and recreational, administrative, law enforcement, and fire protection facilities;
- trails and libraries;
- certain housing projects;
- river flood control projects and certain other waterway flood control projects; and
- technology infrastructure that is integral to the capital project.
- river flood control projects and certain other waterway flood control projects; and
- technology infrastructure that is integral to the capital project.

Uses of Local REET Revenues.
Uses of REET revenues are specifically limited based on size and whether or not a city or town is fully planning under the Growth Management Act (GMA). For cities and counties with populations of 5,000 or less or that do not plan under the GMA, revenues from REET 1 must be used for any capital purpose identified in a capital improvement plan and local capital improvements.

For cities and counties with populations greater than 5,000 that do plan under the GMA, revenues from REET 1 must be used for financing capital projects specified in a comprehensive plan as well as for housing relocation assistance.

Local REET 1 and 2 for Maintenance of Capital Projects.

Legislation enacted in 2021 allowed temporary flexibility in the use of REET revenues. Cities and counties were allowed to use the greater of $100,000 or 35 percent of REET 1 or REET 2 revenues for the maintenance of existing capital projects between May 13, 2021 and December 31, 2023, including maintenance of facilities for those experiencing homelessness and for affordable housing projects.

Since December 31, 2023, cities and counties can use the greater of $100,000 or 25percent of available REET 1 and 2 funds, with a limit of $1 million per year, for maintenance of capital projects. This allowable use is subject to certain reporting requirements that demonstrate adequate funding for the capital projects as well as plans for and history of revenue use.

REET 2 for Affordable Housing and Homelessness.
REET 2 revenues are allowed to be used for facilities for those experiencing homelessness and for affordable housing projects through January 1, 2026.

Revenues generated under REET 2 must be deposited in a separate account after December 31, 2023.

REET Exemptions.
Some transfers of property are exempted from being considered a sale. Because these transfers are not considered sales, they are exempt from REET. These exemptions include, among other things, property transfers made by gift or through inheritance, transfers made pursuant to a dissolution of marriage, or the transfer of a mortgage interest in property.

Tax Preference Performance Statement.
Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. There are over 700 tax preferences. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

REET Flexibility.
Restrictions on the use of REET revenues based on population size and GMA planning are removed, allowing any county or city to use any revenues raised via REET 1 for eligible uses under REET 2, and vice versa.

Revenues from REET 1 can be used for any capital project that REET 2 can be used for, including for facilities for those experiencing homelessness and affordable housing projects. The January 1, 2026 date restriction on maintenance of facilities for those experiencing homelessness and for affordable housing projects is removed.

Local governments can use the greater of 35 percent or $100,000 of revenues from REET 1 and 2 for operation and maintenance of existing capital projects beyond December 31, 2023. The $1 million cap on capital projects and the related reporting requirements are removed.

Various date-restricted allowable uses that have already passed are removed.

REET Exemption for Affordable Housing.
The sale of any portion of an affordable housing development by a qualified entity to an organization that meets the requirements for a property tax exemption as a nonprofit organization, housing authority, or public corporation for use for a community purpose is exempt from REET. A community purpose includes, but is not limited to, the provision of services to affordable housing development tenants, health clinics, senior day cares, food banks, community centers, and early learning facilities.

The requirements for a TPPS do not apply, and the exemption is permanent.

Appropriation: None.

Fiscal Note: Requested on February 5, 2025.

Effective Date: The bill contains multiple effective dates. Please see the bill.