SENATE BILL REPORT
SB 5604

As of February 12, 2025

Title: An act relating to promoting transit-oriented development.

Brief Description: Promoting transit-oriented development.

Sponsors: Senators Liias, Gildon, Chapman, Cortes, Nobles, Salomon, Shewmake and Wilson, C..

Brief History:
Committee Activity: Housing: 2/12/25.

Brief Summary of Bill

- Establishes a new 20-year Multi-Family Property Tax Exemption (MFTE) Program for projects located within a station area.
- Requires a local government to reduce certain impact fees by 50 percent if the project is within a transit-oriented development (TOD) area and claiming the 20-year MFTE Program in a station area.
- Makes the sale of real property receiving the 20-year MFTE in a station area subject to a real estate excise tax rate of 1.1 percent of the overall selling price.
- Allows a city to establish a retail sale and use tax deferral for the construction of new multifamily housing in a TOD area.

SENATE COMMITTEE ON HOUSING

Staff: Melissa Van Gorkom (786-7491)

Background: Multi-Family Property Tax Exemption. The Multi-Family Property Tax Exemption (MFTE) exempts real property associated with the construction, conversion, or

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rehabilitation of qualified, multiple-unit residential structures. Property owners must submit an application for the tax exemption to the designated city or county. The city or county may include additional eligibility requirements for the tax exemptions. Tax exemptions available under the statute include:

- eight-year exemption;
- 12-year exemption if the applicant commits to renting or selling at least 20 percent of the multiple-family housing units as affordable housing to low and moderate-income households;
- 20-year exemption if the applicant commits to renting at least 20 percent of the dwelling units to low-income households for a term of 99 years, subject to certain population, high capacity transit, and zoning requirements; and
- 20-year exemption if the applicant commits to selling at least 25 percent of the units to a qualified nonprofit organization or local government that will assure permanent affordable homeownership.

The MFTE does not include the value of land or nonhousing-related improvements. At the conclusion of the exemption period, the value of the new housing, construction, conversion, or rehabilitation improvements must be considered as new construction for property tax purposes as though the property was not exempt under the MFTE Program. No new MFTE applications may be approved on or after January 1, 2032, or any extensions of existing tax exemptions on or after January 1, 2046.

<u>Impact Fees.</u> Impact fees are one-time charges assessed by a local government on new development activities to help pay for the increased services that will be required because of new growth and development. Development activity includes any construction or expansion of a building or use, any change in use of a building, or any change in the use of land, that creates an additional need for public facilities. Approval of a new development may be conditioned on the payment of impact fees.

Local governments planning under the Growth Management Act are authorized to impose impact fees for public streets and roads, publicly owned parks and recreation facilities, school facilities, and fire protection facilities. Impact fees may only be used on public facilities included in the capital facilities element of the comprehensive plan. The public facilities must be reasonably related to the new development, must reasonably benefit it, and must be designed to provide service areas to the community at large.

<u>Real Estate Excise Tax.</u> 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 for by the seller. 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.

Prior to 2020, the state REET rate was a flat 1.28 percent regardless of the selling price. Beginning on January 1, 2020, the REET transitioned to a graduated rate structure with rates of 1.1 percent, 1.28 percent, 2.75 percent, and 3 percent applied at various portions of the overall selling price of the property. Land classified as timberland or agricultural land remained subject to the flat rate of 1.28 percent.

Retail 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 tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent.

Sales and Use Tax Deferral Program for Affordable Housing. A city governing authority may establish by resolution a sales and use tax deferral for a conversion of a commercial building to provide affordable housing. An authorized administrative official or committee of the city may approve an application and grant a conditional certificate of Sales and Use Tax Deferral Program approval if:

- the investment project is set aside primarily for multifamily housing units and the applicant commits to renting or selling at least 10 percent of the units as affordable housing to low-income households;
- at least 50 percent of the investment project set aside primarily for multifamily housing units will be rented at a price at or below fair market rent or sold at a price at or below county median price;
- the project will occur on underutilized commercial property and is, or will be at the time of completion, in conformance with all local plans and regulations;
- the area is located within an area zoned for residential or mixed uses and was not acquired through a condemnation proceeding; and
- all other requirements of the city are met.

If a conditional recipient maintains the property for qualifying purposes for at least ten years, deferred sales and use taxes need not be repaid. If the city discovers that a portion of the property no longer meets the requirements, the city must notify the Department of Revenue (DOR) and all deferred sales and use taxes are immediately due and payable. DOR must assess interest at the rate provided for delinquent taxes retroactively to the date of deferral.

Beginning in 2025, any city issuing a certificate of Sales and Use Tax Deferral Program approval must report annually by December 31st to the Department of Commerce (Commerce) on the:

- number of Sales and Use Tax Deferral Program approval certificates granted;
- number and type of buildings converted and affordable housing units resulting from the conversion; and
- the estimated value of the sales and use tax deferral for each investment project and total estimated value of sales and use tax deferrals granted.

Summary of Bill: Multi-Family Property Tax Exemption. A city or county with a major transit station—which includes a site within an Urban Growth Area (UGA) that has been funded for high capacity transit, commuter rail stop or fixed guideway system—must adopt a 20-year MFTE Program within a station area. Cities with a major transit stop—a site within a UGA that includes a major transit station or stop on certain bus or other transit routes—may also establish a 20-year MFTE Program within a station area. The MFTE includes the value of the newly created housing and that portion of the land value determined by multiplying the overall land value by the percentage of square footage of affordable newly created housing in comparison to the total square footage of housing for a qualifying project.

Any adopted MFTE Program must apply to the full station area designated by the governing authority. The station area must:

- be fully within the UGA and fully or partially within one-half mile radius of a major transit stop, with limited exceptions; and
- located in an unincorporated area of the county if the station area is designated by a county.

To qualify for the exemption the applicant must provide at least:

- 20 percent of the units as affordable to low-income households for at least 50 years; or
- 20 percent of the units as affordable to low- or moderate-income households for at least 50 years if at least 10 percent of the units are family sized units with two or more bedrooms.

The applicant must record a covenant or deed restriction that ensures the continuing rental or sale of units subject to the affordability requirements for a period of no less than 50 years and include policies to maintain public benefit if the property is converted to a use other than permanently affordable housing.

A local jurisdiction may adopt and revise affordability and income eligibility conditions and assign and collect a reasonable fee to cover administrative costs and oversight.

Beginning in 2027, Commerce must review on a biennial basis the number of applications filed in a local jurisdiction. If the local jurisdiction reports two consecutive years without any participation in the MFTE Program the local jurisdiction must increase income eligibility requirements by 10 percent each calendar year until:

- the local jurisdiction issues a conditional certificate for the tax exemption; or
- the income eligibility requirement reaches the maximum household income allowed.

Any adjustments must begin on January 1st and remain in place for the entire calendar year. A claimant must commit to meeting the household income eligibility requirements as determined by the local jurisdiction for the calendar year in which they submit an application. Subsequent adjustments to the income eligibility requirements may not be applied retroactively.

Impact Fees. The local ordinance by which impact fees are imposed must provide a 50 percent reduction of impact fees for system improvements of public streets, roads, and certain bicycle and pedestrian facilities if the project is within a TOD area and claiming the 20-year MFTE Program in a station area.

Real Estate Excise Tax. The REET on the sale of real property receiving the 20-year MFTE Program in a station area is 1.1 percent of the overall selling price.

Sales and Use Tax Deferral Program for Affordable Housing. The Sales and Use Tax Deferral Program for affordable housing is expanded to include construction of new multifamily housing in a TOD area.

A property owner may apply for both the sales and use tax deferral and the 20-year MFTE in a station area. Applicants receiving a tax deferral and a 20-year MFTE in a station area must meet the affordable housing unit requirements of both programs.

Definition. TOD means dense, walkable and mixed-use spaces fully or partially within one-half mile of a major transit stop for the purpose of the impact fees, and Sales and Use Tax Deferral Program for affordable housing.

Appropriation: None.

Fiscal Note: Requested on January 30, 2025.

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

Effective Date: The bill contains several effective dates. Please refer to the bill.