SENATE BILL REPORT
SB 6521

As of February 6, 2012

Title: An act relating to increasing flexibility and diversity of local government revenue.

Brief Description: Increasing flexibility and diversity of local government revenue.

Sponsors: Senator Regala.

Brief History:
Committee Activity: Ways & Means: 2/06/12.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dianne Criswell (786-7433)

Background: Transportation Benefit Districts. A transportation benefit district (TBD) is a quasi-municipal corporation and independent taxing district created for the sole purpose of acquiring, constructing, providing, and funding transportation improvements within the district. The legislative authority of a county or city may create TBD by ordinance following the procedures set forth in law. The county or city proposing to create TBD may include other counties, cities, port districts, or transit districts through inter-local agreements. There are currently 25 TBDs.

The legislative authority (county or city) proposing to establish TBD serves as the governing body of TBD. The legislative authority is acting ex officio and independently as TBD governing body. If TBD includes additional jurisdictions through inter-local agreements, then the governing body must have at least five members, including at least one elected official from each of the participating jurisdictions, or may be the governing body of a metropolitan planning organization if TBD boundaries are identical to the boundaries of the metropolitan planning organization serving the district. The boundaries of TBD may be less than the boundaries of those jurisdictions participating in TBD. For example, a county or city may choose to have TBD boundaries identical with the county or city, or it may choose just to include a portion of the county or city. However, if TBD chooses to exercise the revenue authority, described below, that does not require a public vote (e.g. vehicle and impact fees), the boundaries of TBD must be countywide, citywide, or unincorporated countywide.

TBDs have several revenue options subject to voter approval:
- up to $100 for an annual vehicle fee for each vehicle registered in the district;

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- a one-year excess property tax levy or an excess levy for capital purposes;
- up to 0.2 percent sales and use tax;
- vehicle tolls; and
- transportation impact fees on commercial and industrial buildings.

In 2007 the Legislature amended TBD law to authorize $20 of the annual vehicle fee to be imposed without voter approval. As part of the 2007 legislation, the Legislature also allowed impact fees to be imposed without voter approval.

County and City Public Safety Sales and Use Tax. A county public safety sales and use tax was authorized in 2003. Subject to voter approval, counties may impose a tax of up to 0.3 percent. At least one-third of the tax receipts must be devoted to criminal justice purposes, fire protection purposes, or both. A levying county retains 60 percent of the receipts, and the remaining 40 percent is distributed to cities within the county on a per capita basis. The use of tax receipts must be stated in the ballot proposition that goes before the voters. The sales and use tax has been implemented in six counties: Jefferson, Kittitas, Walla Walla, Spokane, Whatcom, and Yakima.

Cities are also authorized to seek voter approval to impose the public safety sales and use tax at a rate not to exceed 0.1 percent. If a county imposes the public safety sales and use tax prior to a city within the county, the city tax rate may not exceed an amount that would cause the total tax rate for the county and city to exceed 0.3 percent. If a city imposes the tax prior to the county in which the city is located, the county must provide a credit against its tax for the city tax. Fifteen percent of the tax proceeds received by a city imposing the public safety sales and use tax must be distributed to the county. No cities are currently imposing the tax.

Local Utility Taxes. Cities may impose utility taxes on the gross operating revenues earned by private utilities from operations within the boundaries of a city and by a city's own municipal utilities. Utility services subject to utility tax typically include electric, water, sewer, storm-water, gas, telephone, and cable television. While utilities provide the amount of the tax on the utility bill, the tax is legally levied on the utility, not the customer, and must be paid from utility revenues. The tax rate that a city legislative body may impose on electric, gas, steam, and telephone utility services is generally limited to 6 percent. A city may ask the voters to approve a rate of higher than 6 percent on these utilities. Counties are not authorized to impose utility taxes.

Local 1 Percent Property Tax Revenue Limit. A city, county, or other local taxing district's regular property tax levy is limited by a statutory maximum growth rate in the amount of tax revenue that may be collected annually; this growth rate is known as the limit factor. For districts of 10,000 persons or more, the limit factor is equal to the lesser of 101 percent or the amount approved by the jurisdiction upon a finding of substantial need. For smaller districts, the limit factor is 101 percent. (The state's limit factor is the lesser of 101 percent or inflation.) For purposes of the limit factor calculation, inflation is defined as the percent change in the implicit price deflator for personal consumption expenditures for the United States as published by the federal Department of Commerce.

Fees to Process Applications Under the State Environmental Policy Act. Cities, counties, and other municipal corporations may collect reasonable fees from an applicant to cover the cost to the jurisdiction of processing applications, inspecting and reviewing plans, and preparing detailed statements required under the State Environmental Policy Act. This would include fees for activities such as reviewing the environmental checklist that is submitted as part of a development proposal or the preparation of environmental impact statements.

Acceptance of Credit Cards by Cities and Counties. Some counties and cities accept credit cards in the payment of fees, taxes, assessments, penalties, and other monies due the jurisdiction. State law provides an explicit authorization for the acceptance of credit cards by counties, but no similar statute exists for cities.

Summary of Bill: Transportation Benefit Districts – Vehicle Fee. The portion of the $100 vehicle fee that may be imposed by a transportation benefit district without voter approval is increased from $20 to $40.

County and City Public Safety Sales and Use Tax. The voter-approval requirement is removed for the county and city public safety sales and use tax.

One Percent Property Tax Revenue Limit. For cities, counties, and all other local taxing districts, the limit factor is changed to the greater of 101 percent or inflation.

County Utility Tax. Counties are authorized to impose a tax on utility companies. Generally, this would include electric, gas, telephone, water, sewer, solid waste, and cable businesses; however, counties with a population of 1.5 million or less may not impose a utility tax on gas companies. A county may not impose a rate that exceeds 6 percent. Counties must provide a credit for any city utility tax imposed on the same service.

Fees to Process Applications Under the State Environmental Policy Act. A city, county, or other jurisdiction may charge reasonable fees necessary to cover proportionate staffing, administrative, and facility costs associated with the processing of applications, plans, or statements required under the State Environmental Policy Act.

Acceptance of Credit Cards by Cities. Cities are explicitly authorized to accept credit cards, charge cards, debit cards, smart cards, and other forms of electronic payment.

Appropriation: None.

Fiscal Note: Requested on February 6, 2012.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: These are difficult budget situations for state and local governments. The utility tax proposal would provide counties with parity. There is a public process. Large industrial users may be exempted. There should be few impacts on water and electrical utilities. Most cable customers are located in cities, and these services are already subject to city utility taxes. The Legislature should move this forward. This bill provides local governments with tools to mitigate existing cuts, as well as those cuts to local governments in the current state budget proposals.

CON: We understand the utility tax would be a county option tax, but there are concerns about the impact on industrial users. A 6 percent tax on electricity would be an onerous cost. A credit against a city utility tax could be an increase of a combined city/county rate in incorporated areas where the city imposes the tax at a rate less than 6 percent. This sends a bad signal to large employers. Last year there were 12 paper mills in Washington; now, there are ten mills. County governments increased our utility costs in an increase that's difficult to swallow. We need your help because we cannot afford this increase. Inexpensive power used to give Washington an advantage. But, after the passage of I-937, electricity costs have increased. Industrial users of electricity have located facilities in unincorporated areas to avoid the land use, permitting, and tax burdens of incorporated areas. For cellular telephone service providers, a county utility tax could increase overall taxes to 22 percent. Utility taxes are an antiquated approach, remnants from services that have now been deregulated. A county utility tax would be regressive, as phones are used by all income levels. City utility taxes are already unfair.

Persons Testifying: PRO: Scott Merriman, WA State County Assn.; Dave Williams, Assn. of WA Cities.

CON: Tim Boyd, Industrial Customers of the NW; Bill Stauffacher, NW Pulp and Paper Assn., American Forest & Paper Assn.; Steve Gano, Aviation and Tech Services; Mike Woodin, AT&T; Milt Doumit, Verizon.