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## Local Government Committee

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### SSB 5444

**Brief Description:** Concerning the administration of taxes regarding publicly owned property.

**Sponsors:** Senate Committee on Governmental Operations (originally sponsored by Senators Hasegawa, Nelson, Kohl-Welles, Hobbs, Chase, Keiser and Kline).

#### Brief Summary of Substitute Bill

- Removes from statute a requirement that county assessors annually assess and send out real property valuation notices for publicly owned property that is exempt from taxation.
- Requires county assessors to value and list certain property that, as a result of a sale or change in use, is no longer exempt from taxation, beginning January 1 of the year in which the exempt status changes.
- Eliminates a leasehold excise tax credit for certain leasehold interests in publicly owned real or personal property.

**Hearing Date:** 3/26/13

**Staff:** Michaela Murdock (786-7289).

#### **Background:**

##### Notice of Valuation Changes in Real Property.

All real property in Washington is subject to property tax and must be listed and assessed every year based on its value, unless a specific exemption is provided in law. Assessed values of property are set as of January 1 and are used in determining the property's tax bill for the upcoming year. County assessors (assessors) establish new assessed values on regular revaluation cycles, which vary by county.

Property subject to property tax is assessed at 100 percent of its true and fair value in money, according to its highest and best use. "True and fair value" means market value and is the

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amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell.

Assessors must give notice of any change in the true and fair value of real property. Notice of the valuation change generally must be given no later than 30 days after the appraisal. Notice is not required for valuation changes in forest land.

The notice must state both the prior and the new true and fair value of the property, and it must state the land and improvement values separately. It must also set out the procedure for appealing the assessed value to the board of equalization and the time, date, and place of board meetings.

If any taxpayer holds only a security interest in real property pursuant to a mortgage, contract of sale, or deed of trust, the taxpayer must supply to the assessor the name and address of the person making payments under the mortgage, contract, or deed. The taxpayer must supply such information within 30 days of the assessor's written request.

#### Assessment of Tax-Exempt Property.

Statute requires an assessor to value and list all property that is statutorily exempt from property taxes at the time of assessing real property. Tax-exempt property must be valued and listed by the assessor in the same manner and subject to the same rules that apply to all other property.

Tax-exempt properties are identified in statute, and include public property, certain public-private property, and tribal property, which is:

- all property belonging exclusively to the federal government, the state, or any county or municipal corporation;
- all property used exclusively for essential government services that belongs exclusively to any federally recognized Indian tribe located in the state;
- all state route number 16 corridor transportation systems and facilities;
- all property under certain public financing contracts or recorded agreements;
- for 40 years from the date of acquisition, all property of a community center; and
- all property belonging exclusively to a foreign national government, if it is used exclusively as an office or residence for a consul or other official representative, and the consul or official representative is a citizen of that foreign nation.

With regard to tax-exempt public property, public-private property, and tribal property, statutory language suggests that an assessor is only required to value such property when it is leased to or occupied by a private person for a private purpose and valuation is requested by the Department of Revenue (DOR) or the lessee for use in determining taxable rent. However, the Washington Supreme Court (Court) has interpreted the statutory language differently, holding that the statute does not diminish or eliminate any duty to assess tax-exempt public property, but instead merely underscores the assessor's duty to assess public property leased to private persons. In short, the Court has noted that the statute creates a general mandate to assess tax-exempt property.

#### Changes in Exempt Status.

Property that loses its exempt status is subject to a pro rata portion of the property taxes allocable to the remaining portion of the year after the date that the status of the property changed. Real property must be assessed and taxed when it loses its exempt status. Property must be listed and assessed with reference to its value on the date the property lost its exempt status, unless it was previously listed and assessed. Specifically with regard to forest land, the Court has held that for property that was previously listed and assessed, no mid-year reassessment is required or authorized if it loses its exempt status.

### Leasehold Excise Taxes and Credits.

State leasehold excise taxes are levied and collected on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. A "leasehold interest" is an interest in publicly owned real or personal property which exists by virtue of any lease, permit, license, or other written or verbal agreement between a public owner and a person who would not be exempt from property taxes if that person owned the property. The leasehold excise tax is levied at a rate of 12.84 percent of taxable rent (*i.e.*, the contract rent).

The legislative body of any county or town may also levy and collect a leasehold excise tax on leasehold interests in publicly owned property within the territorial limits of the county or city. The tax levied by a county may not exceed 6 percent of taxable rent and, by a city, may not exceed 4 percent of taxable rent.

After a state leasehold excise tax has been computed a credit is allowed for any county or city leasehold excise tax. Additionally, in determining the amount of tax payable, other credits are allowed for the following:

- for certain leasehold interests where the tax exceeds the amount of property tax that would apply to the property if it were privately owned by the lessee or sub-lessee;
- for persons who have limited income, are 61 years or older or a disabled veteran of the armed forces, and would otherwise qualify for a residential property tax exemption if the property were privately owned; and
- for product leases, which are certain leases of property used in the production of agricultural or marine products.

### **Summary of Bill:**

Similar to the exemption for sending notice of changes in the value of forest land, assessors are not required to send notice of changes in the valuation of publicly owned property that is exempt from taxation.

At the time of making assessments of real property, assessors are no longer required to value and list public property, public-private property, and tribal property that are exempt from taxation. Additionally, assessors are no longer required to value public property leased to or occupied by a private person when a valuation is requested by the DOR or the lessee for use in determining the property's taxable rent. If the exempt status of property changes as a result of a sale or change in use, the assessor must value and list the property as of January 1 of the year in which the status changes.

In determining the amount of leasehold excise tax payable, certain lessees or sub-lessees, for whom the excise tax exceeds the amount of property tax that would apply to the property if it were privately owned, no longer receive a tax credit.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.