HOUSE BILL REPORT
HB 1690

As Reported by House Committee On:
Technology & Economic Development

Title: An act relating to providing a tax deferral for the expansion of certain existing public facilities district convention centers.

Brief Description: Providing a tax deferral for the expansion of certain existing public facilities district convention centers.

Sponsors: Representatives Walkinshaw, Rodne, Tarleton, Magendanz, Fitzgibbon, Stokesbary, Farrell and Morris.

Brief History:
Committee Activity:
Technology & Economic Development: 2/4/15, 2/19/15 [DPS].

Brief Summary of Substitute Bill

- Extends a state and local retail sales and use tax deferral program, currently applicable only to construction by a Public Facilities District (PFD) of a certain baseball stadium, to apply also to new expansion by a PFD of an existing PFD convention center in King County.

HOUSE COMMITTEE ON TECHNOLOGY & ECONOMIC DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Morris, Chair; Tarleton, Vice Chair; Smith, Ranking Minority Member; Fey, Hudgins, Magendanz, Nealey, Ryu, Santos and Wylie.

Minority Report: Without recommendation. Signed by 2 members: Representatives DeBolt, Assistant Ranking Minority Member; Harmsworth.

Minority Report: Do not pass. Signed by 1 member: Representative Young.

Staff: Jasmine Vasavada (786-7301).

Background:

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

Public Facilities Districts.
Public facilities districts (PFDs) are corporate municipal bodies, established by statute as independent taxing authorities. A county legislative authority may adopt a resolution creating one or more PFDs, each with boundaries that are the same as the boundaries of the county. Such county PFDs are authorized to acquire, build, own and operate sports facilities, entertainment facilities, or convention facilities, or any combination of such facilities, together with contiguous parking facilities.

Washington State Convention and Trade Center.
The Washington State Convention and Trade Center (Center) in Seattle was established by the Legislature in 1982 as a public nonprofit corporation, financed through state-issued general obligation bonds. Expansion of the Center, authorized by the Legislature in the 1995-1997 biennium, was financed through the use of Certificates of Participation.

In 2010 the Legislature authorized King County to adopt an ordinance creating a PFD to acquire, own, and operate the Center. The Center was transferred to the PFD in 2010 after provisions were made for all assets and liabilities of the nonprofit corporation to be assumed by the PFD. The Center PFD is governed by a nine-member board of directors. Three members are appointed by the Governor, three by King County, and three by the City of Seattle. At least one of the Governor's appointments and one of the county appointments must be a representative of the lodging industry.

Convention Center Tax.
For the purposes of acquiring, owning, and operating a convention and trade center, the Center PFD is authorized to impose an excise tax on lodging sales or charges made by hotels, motels, and similar facilities with at least 60 units (convention center tax). The convention center tax rate is 7 percent in Seattle and 2.8 percent in the rest of King County. The revenues from this tax allowed the PFD to issue revenue bonds in 2010 to defease the state's debt, and also provided additional funding for future improvement and expansion of the Center.

Local Convention Center Tax.
In Seattle only, the Center PFD may impose an additional 2 percent excise tax (local tax). The local tax is imposed on the same sales or charges subject to the convention center tax, but does not have the effect of increasing the cost of room rentals to customers, because the state issues a tax credit against the retail sales tax in an amount equal to the local tax. The local tax may be imposed only for: (1) paying the principal and interest on the debt of the PFD; and (2) paying an annual payment amount to the state. The annual payment amount is equal to the revenues received by the PFD from the local tax, plus an interest charge. The local tax ends on July 1, 2029, or the date the debt is issued to redeem, prepay, or defease the state's obligations related to the Center, whichever comes first. If the Center PFD is not able to make the annual payment because it needs to use a portion of the additional tax revenues to pay the principal and interest on its debt, then any deficiency in the annual payment made to the state is deemed a loan from the state, and principal and interest must be paid on the loan.

Retail Sales and Use Taxes.

The state sales tax is imposed on each retail sale of most articles of tangible personal property and certain services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms. The state retail sales and use tax rate is 6.5 percent. Local retail sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on location.

State and Local Sales and Use Tax Deferral for a New Baseball Stadium.
Sales and use tax deferral is a mechanism that has been utilized to help fund major capital projects, helping lower up-front construction costs and allowing later payment of taxes at a time when the completed facility is producing revenues. In 1995 the Legislature established a sales tax deferral applicable only for construction by a PFD of a new baseball stadium with a retractable roof or canopy and natural turf. Pursuant to this authority, sales tax was deferred on costs of construction, including site preparation and the acquisition of related machinery and equipment, of the professional baseball stadium in King County (Safeco Field).

Independent Financial Feasibility Review.
In 2012 the Legislature established a new independent financial feasibility review requirement for certain PFD activities. An independent financial review of a PFD is required prior to any of the following three events: (1) formation of a new PFD; (2) a PFD's issuance of any indebtedness, excluding debt issuances for the sole purpose of refinancing existing debt; and (3) the long-term lease, purchase, or development of a facility. The Department of Commerce conducts the review through a contract with the Municipal Research and Services Center or another independent party. The review is financed by the PFD or, in the case of a new PFD, by the local government proposing to form the new PFD. The review must examine the potential costs to be incurred by the PFD and the adequacy of anticipated revenues.

LEED Certification.
The Department of Enterprise Services, formerly General Administration, has been a member of the United States Green Building Council since 1998. The primary product of the United States Green Building Council is the Leadership in Energy and Environmental Design (LEED) Rating System, which provides national design guidelines and a third-party certification tool. The LEED Rating System for green buildings focuses on six major areas: sustainable sites; water efficiency; energy and atmosphere; materials and resources; indoor environmental quality; and innovation and design process. The LEED certification has four ranks: (1) certified; (2) silver; (3) gold; and (4) platinum. State law requires LEED Silver Certification for most major facility projects of public agencies and any other entity receiving any funding in a state capital budget, to the extent appropriate LEED Silver standards exist for that type of building or facility.

Summary of Substitute Bill:

Authority to Defer State Retail Sales and Use Taxes.

The Center PFD's governing board may apply to the Department of Revenue (DOR) for authority to defer state retail sales and use taxes on construction, for an expansion of the Washington State Convention Center, of buildings, site preparation, and the acquisition of related machinery and equipment. The retail sales and use tax deferral lasts for 5 years. Beginning on December 31, of the fifth calendar year after the facility is operationally complete, the Center PFD must make an annual payment each year, in an amount equal to 10 percent of the deferred tax, for each of 10 years. Payments must be made in 10 equal installments, unless the DOR authorizes an accelerated repayment schedule.

Interest may not be charged on any taxes deferred during the period of deferral, but if the Center does not make a payment on time, interests and penalties apply. Any debt of the Center for unpaid deferred taxes is not extinguished by insolvency or other failure of the PFD.

LEED Silver Standard Certification.
The Center PFD must provide to the DOR, as part of the application to receive the sales and use tax deferral certificate, a signed affidavit stating that the PFD is designed and shall be constructed to at least the LEED Silver standard. Before the first payment is due (December 31, in the fifth calendar year after the facility is operationally complete), the Center PFD must provide to the DOR certification from the Department of Enterprise Services that the facility has been constructed to at least the LEED Silver standard. Failure to provide this certification will result in a $5 million penalty, due in equal payments with each annual payment of deferred taxes.

Tax Preference Performance Statement.
The purpose of the sales and use tax deferral is to provide tax relief for certain businesses or individuals and to insure plans to expand the Center PFD may proceed on schedule to take advantage of attractive financing and construction costs. In reviewing the success of the tax preference, the Joint Legislative Audit and Review Committee (JLARC) must assess whether the loan interest rates and construction costs for the Center expansion are lower than they would have been, if the project had been delayed for two years. The JLARC must also consider whether the expanded Center generated increased revenues, as measured three years after completion of an expanded facility, and as compared to the Center's average revenues over the two-year period prior to completion.

Substitute Bill Compared to Original Bill:

The substitute house bill makes the following changes as compared to the bill as introduced:

- requires the expanded Washington State Convention and Trade Center to be designed and built to LEED Silver standards, and establishes a $5 million penalty if, at the time repayment of deferred taxes begins, the Center PFD fails certification from the Department of Enterprise Services to DOR, documenting that the LEED Silver standard has been achieved;
- narrows the deferral to apply only to state, not local, retail sales and use taxes;
- clarifies that the sales and use tax deferral authority does not apply to expansion of an existing baseball stadium;
- includes the Tax Preference Performance Statement; and
- removes the emergency clause.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This came about after a lawsuit contended that millions of dollars had been transferred from the Center to the State General Fund. In order to settle the lawsuit, a PFD was authorized and the Center was transferred to the PFD. The effect on local taxes and the emergency clause should be removed.

There are two kinds of PFDs; county PFDs and city PFDs. County PFDs have access to a 0.33 percent sales tax credit to use as a funding source, but the Center PFD does not have access to this. In the PFD statute there is a definition of the public facilities eligible for a sales tax deferral, and currently the only eligible public facility is a baseball stadium.

Large city-wide convention centers are major sources of economic activity in a downtown or regional corridor, driving revenues of hotels, restaurants, arts, and culture. The Center signs long-term contracts, including hotel contracts, and makes these commitments years or decades in advance. Convention center business can account for 12 to 15 percent of hotel occupancy at any given time. The Center is the smallest on the west coast of those with which it directly competes, and professional associations are very strict about date guidelines for when an association will meet. The Center is losing or unable to compete for business due to dates not being available.

The Center is negotiating in King County to acquire the King County Metro Center, a stand-alone site one block away from the existing convention center, which would yield an additional building to support customers who have outgrown existing space or to allow scheduling of multiple shows at once. This can help level out the occupancy issues posed to local businesses, stabilizing for example gaps in restaurant visits between shows. It would create 6,500 construction jobs. There are also retail and co-development possibilities.

(Opposed) None.

Persons Testifying: Representative Walkinshaw, prime sponsor; Becky Bogard and Jeff Blosser, Washington State Convention Center Public Facilities District; Tom Norwalk, Visit Seattle; and Lee Newgent.

Persons Signed In To Testify But Not Testifying: None.