

SENATE BILL REPORT

SB 5585

As of February 19, 2015

Title: An act relating to granting counties and cities greater flexibility with real estate excise tax proceeds.

Brief Description: Granting counties and cities greater flexibility with real estate excise tax proceeds.

Sponsors: Senators Dansel, Mullet and Braun.

Brief History:

Committee Activity: Government Operations & Security: 2/17/15.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Staff: Karen Epps (786-7424)

Background: Real Estate Excise Tax (REET). County legislative authorities may impose an excise tax on each sale of real property in unincorporated areas of the county. Similarly, city and town legislative authorities also may impose an excise tax on each sale of real property within their corporate limits. The rate of this REET (REET I) may not exceed 0.25 percent of the selling price. Revenues generated from REET I must be used for financing qualifying capital projects and for housing relocation assistance. Revenue from REET I may not supplant other funds reasonably available for these capital projects.

Counties, cities, and towns that are required to fully plan under the Growth Management Act (GMA) may impose an additional REET on each sale of real property that may not exceed 0.25 percent of the selling price (REET II). Counties, cities, and towns that have opted, but are not required, to fully plan under GMA, may impose REET II with voter approval. With some exceptions, revenues generated from REET II may only be used for financing capital projects specified in the capital facilities element of a comprehensive plan adopted under GMA. Revenue from REET II is intended to be in addition to other funds that may be reasonably available for these capital projects.

Temporary Authorization for Expanded Use of REET I and REET II Proceeds. Until December 31, 2016, capital projects that may be funded by REET I and REET II revenues include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems, and parks. Additional

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eligible uses of REET I funds include recreational facilities, law enforcement facilities, fire protection facilities, trails, libraries, judicial facilities, and flood control projects. Until December 31, 2016, a city, town, and county may use the greater of \$100,000 or 35 percent of REET I revenues, but not exceeding \$1 million, to pay for the operations and maintenance expenditures of existing capital facilities. Until December 31, 2016, a city, town, and county may use the greater of \$100,000 or 35 percent of REET II revenues, but not exceeding \$1 million, to pay for the operations and maintenance expenditures of existing capital facilities. Additionally, counties may use REET II revenues for the payment of existing debt service on any capital project authorized under REET I. The use of revenues for payment of existing debt service is subject to the same fiscal limitations as REET revenues used for operations and maintenance.

Real Estate Disclosure. Generally a real estate seller must deliver a real property transfer disclosure statement to the buyer no later than five business days after mutual acceptance of a written purchase agreement. The disclosure statements are provided in statute for commercial, and unimproved and improved residential real property. Improved residential real property generally includes real property with one to four residential dwelling units, a condominium, a timeshare, or a mobile or manufactured home. The disclosure statement provides a number of specific questions requiring the seller to respond by checking yes, no, or don't know, and to provide some explanations.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): REET I. If a county, city, or town that imposes excise taxes on sales of real property within their jurisdiction under REET I has adequate funds available during the six-year period following the initial receipt of REET I funds for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of capital projects identified in a capital improvements plan or the capital facilities plan, the county, city, or town may use the greater of \$100,000 or 25 percent of available REET I, up to \$1 million annually for maintenance of capital projects.

A temporary authorization that allows a city or county to, until December 31, 2016, use the greater of either \$100,000 or 35 percent of available REET I and other specified excise tax proceeds from real estate sales, up to \$1 million annually, for the operation and maintenance of existing capital projects, is repealed.

REET II. Restrictions governing similar temporary authorizations for REET II proceeds are repealed. If a county, city, or town that imposes excise taxes on sales of real property within their jurisdiction under REET II has adequate funds available during the six-year period following the initial receipt of REET II funds for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of capital projects identified in the capital facilities plan, the county, city, or town may use the greater of \$100,000 or 25 percent of available REET II, up to \$1 million annually, for the planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of additional capital projects. The list of additional capital projects that may be financed with REET II proceeds includes the following:

- recreational facilities;
- law enforcement and fire protection facilities;
- trails;
- libraries;
- administrative and judicial facilities;
- river and waterway flood control projects; and
- parks, including expenditures for acquisition and replacement.

A city within a county that has adopted a resolution to remove the county and the cities located within the county from the obligation to fully plan under GMA may continue to impose and collect REET II.

Real Estate Disclosure. Any real estate seller disclosure requirement adopted by a local government is effective only after the seller disclosure requirement is posted electronically by the Municipal Research Service Center. Any local government seller disclosure requirement adopted prior to the effective date of this act must be posted electronically by the Municipal Research Service Center within 90 days of the effective date of this act. The Municipal Research Service Center's website must include a specific section listing, by jurisdiction, all real estate seller disclosure requirements adopted by local governments.

A county, city, town, or governmental entity may not regulate the terms or conditions or otherwise impose requirements on the listing or sale of real property, unless the local requirement is a seller disclosure requirement about the imposition of REET I, or unless the local government regulation is specifically authorized by state or federal law.

Appropriation: None.

Fiscal Note: Not requested.

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: Counties are struggling and their ability to be able to provide services and take care of roads, sidewalks, and street lights is suffering. This bill provides flexibility for counties to use these funds. This bill also addresses an issue around REET II for counties and cities that would like to opt out of fully planning under GMA. This bill is a fix to last year's bill that allows four counties to opt out of fully planning under GMA because one of the things holding counties and cities back is that struggling cities would lose some REET funds. Counties are looking for some flexibility with their existing revenue sources because that means some jurisdictions may not have to raise taxes. The vast majority of REET revenue goes to the state, into the state general fund, and it is unrestricted. It does not make sense to have revenue sitting in accounts when the counties cannot maintain the existing capital facilities that they have.

CON: The continuation of REET II for cities that are in counties that have opted out of fully planning under GMA should be removed from the bill. Allowing cities to continue to collect REET II may lead to more counties expressing interest in opting out of fully planning under

GMA. One of the reasons that REET II is collected was to encourage local jurisdictions to fully plan under GMA.

OTHER: Originally REET was created to pay for capital infrastructure. One of the concerns is the significant loss of capital money that is available to local governments. At the local level, the loss of infrastructure money has been very significant. Local REET funds are one of the only dedicated capital funding sources that local governments have, so the concern with the bill as introduced is that it allows those local REET funds to be used for operations. There are some ways where it might be possible to use existing REET funds better. The substitute would create a trigger so that if a local government can show that its basic infrastructure needs are adequately funded for the next six years, then the local government would have some flexibility with their REET to be able to use it for maintenance or for additional capital facilities. This bill also looks at having a local government maintain consistency with the seller disclosure law.

Persons Testifying: PRO: Senator Dansel, prime sponsor; Josh Weiss, WA State Assn. of Counties.

CON: Bryce Yadon, Futurewise.

OTHER: Bill Clarke, WA Realtors.