

# SENATE BILL REPORT

## E2SHB 1495

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As of April 5, 2017

**Title:** An act relating to incentivizing the development of commercial office space in cities with a population of greater than fifty thousand and located in a county with a population of less than one million five hundred thousand.

**Brief Description:** Incentivizing the development of commercial office space in cities with a population of greater than fifty thousand and located in a county with a population of less than one million five hundred thousand.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Fey, Muri, Sawyer, Sells, Jinkins and Doglio).

**Brief History:** Passed House: 3/08/17, 79-18.

**Committee Activity:** Local Government: 3/23/17, 3/28/17 [DPA-WM].

Ways & Means: 3/31/17.

### Brief Summary of Amended Bill

- Creates local sales and use and local property tax exemption programs in cities with a population greater than 35,000 that are located in a county with a population of less than 1.5 million to incentivize the development of commercial office space.
- Requires a study by the Joint Legislative Audit and Review Committee (JLARC) on the effectiveness of the programs.

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### SENATE COMMITTEE ON LOCAL GOVERNMENT

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Short, Chair; Angel, Vice Chair; Takko, Ranking Minority Member; Palumbo and Sheldon.

**Staff:** Bonnie Kim (786-7316)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dean Carlson (786-7305)

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*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.*

**Background:** Local 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 taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. Local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Twenty-five different types of local sales and use taxes are currently authorized. The most common is a two-part—0.5 percent basic plus 0.5 percent optional—city and county sales and use tax of up to 1 percent. The tax is used for general local purposes. Almost all cities and counties levy the full 1 percent rate. The county sales and use tax is credited against the city tax; however, cities are required to share 15 percent of their tax with the counties. Local sales and use taxes are deposited into the Local Sales and Use Tax account (Account). On a monthly basis, the State Treasurer distributes taxes in the Account to the jurisdictions imposing local sales and use taxes.

Property Tax. Property taxes are imposed by state and local governments. Unless a specific exemption applies, all real and personal property in the state is subject to property tax each year based on its value. The county assessor determines assessed value for each property and calculates property taxes. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located.

Generally, the aggregate of all tax levies upon real and personal property by the state and all taxing districts may not exceed one percent of the true and fair value of the property. Also, in general, the aggregate levies of junior taxing districts and senior taxing districts, other than the state, may not exceed \$5.90 per \$1,000 of assessed valuation.

**Summary of Amended Bill:** The governing authority of a city with a population greater than 35,000 that is located in a county with a population of less than 1.5 million may adopt a local sales and use tax exemption program and a local property tax exemption program to incentivize the development of commercial office space in urban centers with access to transit, transportation systems, and other amenities.

Local Sales and Use Tax Exemption Program. A commercial office space is among the most competitive and highest quality building or buildings in the local market, as determined by a city's governing authority. Commercial office space must have certain characteristics, including:

- be at least 50,000 square feet;
- be at least three stories tall;
- be centrally located in a city;
- provide close access to public transportation and freeways;
- be managed professionally; and
- offer amenities and advanced technology options to tenants.

To use the sales and use tax exemption a city must meet certain requirements, including:

- obtain a written agreement for the use of the exemption from a taxing authority that imposes a sales or use tax;
- hold a public hearing after notice is provided;
- establish criteria for a qualifying project exempt from local sales and use tax under this program, which must include certain considerations; and
- adopt an ordinance announcing the use of sales and use tax exemption, which must contain specific information about the qualifying project.

A project owner may claim an exemption from taxes imposed on:

- the sale of or charge made for labor and services rendered with respect to construction or rehabilitation of a qualifying project; and
- the sales or use of tangible personal property that will be incorporated as an ingredient or component of a qualifying project located in a city during the course of the constructing or rehabilitating.

The local sales and use tax exemptions provided are in the form of a remittance. The project owner claiming an exemption must first pay all applicable state and local sales and use taxes. A project owner who submits a building permit application prior to July 1, 2027, may apply for a remittance with the Department of Revenue (DOR) after four years of the qualifying project being operationally complete, but no later than five years after all local sales and use taxes have been paid.

A project owner requesting a remittance must obtain a certification from the governing authority of the city verifying that the project satisfies the criteria established by the city to qualify for the exemption. The project owner must also specify the amount of exempted tax claimed and the qualifying purchases or uses for which the exemption is claimed, as well as retain adequate records and proof.

DOR determines a project owner's remittance eligibility based on the information provided. The amount of the exemption is 100 percent of the local sales and use tax paid. An eligible project owner who transfers project ownership may assign the rights to the remittance to the subsequent owner.

The sale and use taxes that apply under this program are the taxes levied on or after October 1, 2017.

Local Property Tax Exemption Program. For taxes levied in 2018 and after, a city may exempt its share of local property taxes under this program. To use the local property tax exemption, a city must:

- establish criteria under which property can qualify for the tax exemption; and
- designate an area as a commercial office development targeted area which meets specified requirements for designating such an area.

A "commercial office development targeted area" is an area within an urban center that has been designated by the governing authority as a commercial office development targeted area. When designating an area, the governing authority must adopt a resolution of its intent to designate an area, hold a hearing, and give notice.

Once a governing authority designates a commercial office development targeted area, it must adopt and implement standards and guidelines to be used in considering applications for new construction and rehabilitation including:

- the application process;
- building requirements; and
- guidelines regarding individual units that are part of a qualifying project that meets the requirements of the exemption.

The value of new construction and rehabilitation improvements of real property is exempt from the city share of ad valorem property taxation for ten successive years beginning January 1st the year after the certificate of exemption is filed with the county assessor. The exemption does not apply to any county share of property tax unless the legislative authority of the county adopts a resolution allowing the property to be exempt.

When the governing authority adopts guidelines and conditions that must be satisfied with respect to individual commercial units, rather than with respect to the qualifying project as a whole, the governing authority has the discretion to limit the exemption to the value of the improvements allocable to those individual commercial units that meet the local guidelines.

The local property tax exemption does not:

- include the value of improvements constructed prior to the submission of an application, in the case with rehabilitation of existing buildings; or
- apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land, or increases made by lawful order of a county board of equalization, the DOR, or a county to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

The property owner seeking tax incentives must meet the following requirements:

- locate the qualified project in an urban center;
- meet criteria established by the governing authority in order to use the property tax exemptions;
- complete new construction within three years of the approval date of an application; and
- enter into a contract with the governing authority establishing terms and conditions for the implementation of the development.

The property owner must comply with several procedures, including:

- securing verification of property noncompliance with building codes in the case of rehabilitation or where demolition or new construction is required;
- applying to the city using forms adopted by the governing authority that must contain certain information, in the case of new construction;
- verifying the application by oath or affirmation; and
- paying the application fee, if such a fee exists.

The authorized administrative official or committee of the city may approve an application if it finds:

- the qualifying project meets the criteria established by the city under which property can qualify for the tax exemption;
- the project is or will be in conformance with all local plans and regulations applicable at the time the application is approved;
- the owner complied with standards and guidelines adopted by the city; and
- the site is located in a commercial office development targeted area of an urban center.

A governing authority or authorized administrative official or commission must approve or deny an application within 90 days after receipt of the application. When the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of tax exemption. If the application is denied, the deciding entity must state in writing the reasons for denial and send the notice to the applicant within ten days of denial. The applicant may appeal the denial to the governing authority within 30 days after receipt of the denial.

The governing authority may establish an application fee, which may not exceed the amount required to cover the cost to be incurred by the governing authority and the assessor in administering this program. If the application is approved, the governing authority must pay the application fee to the county assessor after first deducting its own administrative costs. If the application is denied, the governing authority may keep the portion attributable to its administrative costs and refund the remainder to the applicant.

The property owner must file with the city upon the completion of rehabilitation or new construction and after issuance of the certificate of occupancy:

- a statement of expenditures;
- the estimated new family living wage jobs to be created;
- a description of the work completed and how it qualifies for a tax exemption; and
- a statement confirming that the project meets prescribed requirements and was completed within the required three-year time frame.

Within 30 days after the city receives the information listed above, the city must determine whether the work completed is qualified for a limited tax exemption. The city must also determine which specific improvements completed meet the requirements and required findings. If the project is completed within three years of the filing date of the application, the city must file the certificate of tax exemption with the county assessor within ten days of the expiration of the 30-day determination period. A city may extend the three-year time frame under certain circumstances.

If the city determines that the project does not qualify for the tax exemption, the city must notify the applicant. The governing authority may provide, by ordinance, for an appeal of a decision that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city or county officer authorized to hear the appeal. The owner may, within 30 days of notification of denial, appeal a decision that is not subject to local appeal or a decision by the local appeal authority in superior court.

The property owner must file an annual report with the city or county containing:

- a statement of the estimated family living wage jobs at the qualifying project;

- a certification that the property has not changed use;
- a description of changes or improvements made after issuance of the certificate of tax exemption; and
- any additional information as requested by the city.

Cities that issue certificates of tax exemption for multi-unit housing must publish specified information on the city's website or another format that is easily available to the public beginning on December 31, 2018.

An owner who intends to convert the project to another use, or discontinue compliance with criteria established by the city, must notify the assessor within 60 days of the change or intended discontinuance. If the property or portion of the property no longer qualifies for the exemption, the exemption must be canceled and an additional real property tax must be imposed on the value of the non-qualifying improvements, plus a penalty of 20 percent. The additional tax owed together with interest and penalty must become a lien on the land and attach at the time that the property or portion of the property no longer qualifies for the exemption. The governing authority must provide notice to the record owner upon determination that the tax exemption will be canceled. The owner may appeal within 30 days.

County officials must, upon determination to terminate an exemption, correct the tax rolls pursuant to statute. The owner may appeal the valuation to the county board of equalization.

A change in ownership of a property exempted under this program does not disqualify the property from the tax exemption, provided that the new owner complies with all application procedures, terms, conditions, and reporting requirements, and meets all criteria established by a city. However, the exemption continues to be limited to ten successive years, beginning on January 1st of the year after the certificate of tax exemption is filed by the original owner.

Study. JLARC must conduct a study and report to the Legislature by October 1, 2025, on the effectiveness of the local sales and use tax exemption program and local property tax exemption program.

**EFFECT OF LOCAL GOVERNMENT COMMITTEE AMENDMENT(S):**

- Reduces the population threshold for cities from 50,000 to 35,000.
- Removes references to high capacity transportation systems.
- Adds an optional local property tax exemption program.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Local Government):** *The committee recommended a different version of the bill than what was heard.* PRO: New modern commercial office buildings have not been built anywhere but in King County for 20 years. Economic development should be happening statewide. The original bill also had a ten-year property tax deferral. Over the last year, the City of Tacoma studied why commercial office space is not regularly built in urban centers outside of King County. The city found that costs do not vary between cities but that average lease rates are much higher in King County than in other counties. This bill incentivizes the development of commercial office spaces so that people can live closer to where they work. It would be great to have Class A building development in Tacoma. The ten-year property tax deferral provision should be added back into the bill because it will attract the developers.

**Persons Testifying (Local Government):** PRO: Representative Jake Fey, Prime Sponsor; Michael Transue, Tacoma Pierce County Chamber; Briahna Murray, City of Tacoma.

**Persons Signed In To Testify But Not Testifying (Local Government):** No one.

**Staff Summary of Public Testimony on Bill as Amended by Local Government (Ways & Means):** PRO: The genesis for this bill came from some work done by the Tacoma Economic Development Department. Since 2001, no government class A commercial office space has been developed outside of King County. Similar provisions are in current law for housing incentives. We feel it will be the property tax piece that will draw the most development of commercial office space outside of King County.

**Persons Testifying (Ways & Means):** PRO: Michael Transue, Tacoma Pierce County Chamber; Briahna Murray, City of Tacoma.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.