

# SENATE BILL REPORT

## SSB 5768

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As Passed Senate, April 10, 2017

**Title:** An act relating to a leasehold excise tax credit for properties of market value in excess of ten million dollars and for certain major international airport leases.

**Brief Description:** Concerning a leasehold excise tax credit for properties of market value in excess of ten million dollars and for certain major international airport leases.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Rossi and Frockt).

**Brief History:**

**Committee Activity:** Ways & Means: 2/15/17, 3/30/17 [DPS, DNP, w/oRec].

**Floor Activity:**

Passed Senate: 4/10/17, 34-14.

**Brief Summary of First Substitute Bill**

- Creates a leasehold excise tax credit for the amount of leasehold excise tax exceeding the property tax that would apply if the taxpayer owned the real property.
- Applies only to leasehold interests on parcels with a market value of more than \$10 million owned by a state university or a major international airport.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5768 be substituted therefor, and the substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Carlyle, Darneille, Fain, Miloscia, Padden, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

**Minority Report:** Do not pass.

Signed by Senators Rolfes, Assistant Ranking Minority Member, Operating Budget; Hasegawa and Keiser.

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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.*

**Minority Report:** That it be referred without recommendation.

Signed by Senators Billig and Conway.

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

**Background:** 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. If imposed, the local leasehold taxes are credited against the state tax so the maximum total rate is 12.84 percent.

In 2013, the Legislature passed SSB 5444 which removed the requirement of county assessors to determine the value of publicly owned property not subject to property tax. In that same legislation, a leasehold excise tax credit for certain lessees or sub-lessees for whom the excise tax exceeds the amount of the property tax that would otherwise be due was eliminated.

**Summary of First Substitute Bill:** A leasehold excise tax credit for the amount of leasehold excise tax exceeding the property tax would apply if the taxpayer owned the property. The credit only applies to leasehold interests on parcels with a market value of more than \$10 million owned by a state university or a major international airport. If the leasehold interest attaches to two or more parcels, the credit is available if at least one of the parcels has a market value of more than \$10 million.

If the tax parcel does not have a current assessed value, a Washington State-certified general real estate appraiser must perform a market value appraisal. If the leasehold interest applies to less than the entire parcel, the appraisal must include the market value of the portion of the parcel to which the leasehold interest applies.

To calculate the property tax that would apply, the existing consolidated levy rate for the property's tax code area is used.

The amount of the credit is not confidential tax information and can be disclosed.

The act takes effect January 1, 2022, and expires January 1, 2032.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill takes effect on January 1, 2022.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: We are not looking for a tax break but for equity. The point is to allow public entities who own high value properties to pay no more than what the property tax would be. This will help us put more back into the buildings. The metropolitan tract in downtown Seattle has been hurt by what we believe was unintended. We try to create a competitive environment in the airport. In the airport, we paid \$3.62 a square foot and since the legislation we pay \$11.16 a square foot. This is to find a balance between what the property tax would be and what the leasehold excise tax is.

**Persons Testifying:** PRO: Senator Dino Rossi, Prime Sponsor; Joe Dacca, Director of State Relations, University of Washington; Tom Schappacher, UW Real Estate Office; Bill Stauffacher, HMSHost.

**Persons Signed In To Testify But Not Testifying:** No one.