HOUSE BILL REPORT
ESSB 5051

As Reported by House Committee On:
Local Government

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 located in a county with a population of less than one million five hundred thousand.

Sponsors: Senate Committee on Financial Institutions, Economic Development & Trade (originally sponsored by Senators O'Ban, Brown, Palumbo and Wagoner).

Brief History:
Committee Activity:
Local Government: 3/27/19, 3/28/19 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)

- Allows a governing authority of a city to adopt a local sales and use tax exemption or a local property tax exemption, or both, for the development of Class A commercial office space in certain designated urban centers.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 7 members: Representatives Pollet, Chair; Peterson, Vice Chair; Kraft, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Appleton, Goehner and Senn.

Staff: Robbi Kesler (786-7153).

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

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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.
All property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. 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. The aggregate of all regular tax levies upon real and personal property by the state and all taxing districts may not exceed 1 percent of the true and fair value of the property. In addition, the aggregate regular 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 in a county with a population of less than 1.5 million may establish a local sales and use tax exemption or a local property tax exemption, or both, for the development of Class A commercial office space in certain designated urban centers.

A "Class A commercial building" is defined as being the most competitive and highest quality on the local market, as determined by a city's governing authority. The qualifying commercial office space must also:

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

Local Sales and Use Tax Exemption.
Any city that decides to use the local sales and use tax exemption for the development of Class A commercial office space must:

- obtain written agreement from the taxing authority that imposes the sales and use tax;

- hold a public hearing on the proposed use of the exemption;
- provide public notice of the hearing and include a description of the project and the amount of revenue to be exempted;
- establish criteria for a project to qualify for exemption, which must include: (1) the minimum number of new family wage jobs created; (2) a definition of the features and characteristics of a Class A commercial office space project; and (3) other criteria indicated as necessary by the city; and
- adopt an ordinance that describes the project in certain detail, provide an estimate of local sales tax revenue that would be exempted, provide an approximate date that the sales tax will be remitted to the taxpayer, and when the project shall receive certification confirming eligibility.

Tax imposed on the sale of, or charge made, for labor and services in the construction or rehabilitation of a qualifying project and sales of tangible personal property incorporated into the qualifying project are eligible for exemption.

The amount of the exemption is 100 percent of the local sales tax paid for qualifying purchases. After the qualifying project has been operationally complete for four years, but no later than five years, the purchaser on the qualifying project may apply to the Department of Revenue (DOR) for a remittance of local sales taxes. The purchaser must obtain certification from the governing authority of a city verifying that the qualifying project has satisfied the criteria and specifying the amount of exempted tax claimed.

The local portion of the use tax does not apply to tangible personal property incorporated as a component of a qualifying project during construction or rehabilitation. The use tax exemption shall be in the form of a credit, remitted to the person after submitting certain information to the DOR specifying the amount claimed for exemption.

This exemption shall apply to local sales and use taxes made on or after October 1, 2019.

A "qualifying project" means new construction or rehabilitation of a building or group of buildings intended for use as Class A office space. Projects may include mixed use buildings, not solely intended to be used as office space, but does not include any portion of a project intended for residential use. A qualifying project may include new construction, or the rehabilitation of an existing building, which includes an area intended to be used for childcare facilities at or near the commercial office space.

<u>Regional Transit Authority Sales and Use Tax</u>.
If there is written agreement from the taxing authority, the tax exemptions for the development of Class A commercial office space shall extend to the sales and use tax imposed by a Regional Transit Authority (RTA). The tax exemption shall be in the form of a remittance.

<u>Local Property Tax Exemption</u>.
In order to use the property tax exemption, a city must establish the criteria for qualifying for the exemption, which must include:
- a minimum number of new family wage jobs created;

- the features and characteristics of the project defined as a Class A commercial office space; and
- location in a designated commercial office development targeted area.

A designated commercial office development targeted area must:
- be within an urban center;
- be currently lacking certain commercial office space; and
- not relocate a business within the city from outside of the commercial office development area, but within the state.

To qualify, the project must be within an urban center, meet criteria adopted by the governing authority, be completed within three years from the date of approval if it is new construction, and have entered into a contract with the city that has been approved by the governing authority.

The governing authority must adopt a resolution of intention to designate commercial office development targeted areas and provide a public hearing on the number of commercial office buildings that will be newly constructed or rehabilitated within the proposed targeted areas and other estimates on construction costs and jobs created.

For a period of 10 successive years, beginning January 1 of the calendar year following the exemption filing with the county assessor, the following is exempt:
- new construction and rehabilitation improvements of qualifying property from the city share of ad valorem property taxation; and
- the value of new construction, conversion, and rehabilitation improvements of real property upon approval by a county legislative authority.

This exemption does not apply to:
- increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land; or
- increases made by the 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.

If the property changes ownership, it must continue to qualify for the exemption as long as the new owner complies with all conditions on the approved application.

At the conclusion of the exemption period, the new or rehabilitated property must be considered as new construction for the purpose of collecting property tax.

This exemption is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

This exemption shall apply to taxes levied for collection in 2020 and thereafter.

<u>Application Procedures for Property Tax Exemption</u>.
The owner must secure authorization from the governing authority before starting rehabilitation improvements or new construction.

Procedures relating to project application and approval by the governing authority may differ depending on if the project is a series of rehabilitation improvements or new construction. An application fee may be implemented by the governing authority but cannot exceed the total amount required to cover the cost of administering the exemption.

The governing authority has 90 days after receipt of the application to approve or deny it. Once approved, the city must issue the property owner a conditional certificate of acceptance of the tax exemption. The certificate must contain a statement by an authorized administrative official of the governing authority that the property has complied with the standards and guidelines developed by the city or county.

If the application for the exemption is denied, the deciding administrative official or commission must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within 10 days.

Project Completion.
Upon completion of the approved project, and after the certificate of occupancy is issued, the owner must file with the city:
- a statement of the amount of rehabilitation or construction expenditures made;
- a statement of the number of new family living wage jobs created with the qualifying project;
- a description of the work completed with a statement regarding the qualification of the property for the tax exemption; and
- statements that the project meets local requirements and that the project was completed within three years of when the tax exemption was issued.

Within 30 days after receipt of the statements, the authorized representative of the city must determine whether the project is complete and consistent with its contract and is qualified for a tax exemption.

If the city determines that everything is consistent for approval, the city must file the certificate of tax exemption with the county assessor within 10 days of the expiration of the 30-day period.

Cities must publish on their website certain information regarding the number of tax exemptions granted and other specific information relating to the approved projects.

Disqualification of Property Tax Exemption and Penalties.
If the owner intends to convert the qualifying project to another use, or to discontinue compliance, then the owner must notify the assessor within 60 days. If the governing authority discovers that the property, or a portion of the property, no longer qualifies for the tax exemption then the exemption will be canceled and an additional real property tax will be imposed plus a 20 percent penalty. The additional tax will be calculated based on the difference between the property tax paid and the property tax that would have been paid, starting on the date that the improvements were converted to a use that no longer qualifies them for the exemption. The tax paid must include interest at the same statutory rate charged on delinquent property taxes. This additional tax shall become a lien on the land at the time

the property no longer qualifies for the exemption. Interest may be charged and any additional tax unpaid on its due date is delinquent. A lien may be foreclosed upon for delinquent property taxes.

The owner may appeal the determination within 30 days by filing a notice of appeal with the clerk of the governing authority. The appeal hearing shall affirm, modify, or repeal the cancellation of the exemption based on the evidence. After that decision, the aggrieved party may appeal the decision to the superior court.

Joint Legislative Audit and Review Committee Study.
The Joint Legislative Audit and Review Committee (JLARC) must study the effectiveness of the local sales and use tax exemption or the local property tax exemption programs and submit a report to the appropriate committees of the Legislature by October 1, 2028. The report must include an assessment of the local sales and use tax exemption and the property tax exemption programs and an evaluation of the degree to which the preferences led to:
- the development of Class A commercial office space;
- family wage job creation; and
- lowered traffic congestion.

Amended Bill Compared to Engrossed Substitute Bill:

The striking amendment adds a provision that requires the JLARC to study the effect the exemptions provided by the act will have on the development of Class A commercial office space, job creation, and lowered traffic congestion. In addition, the striking amendment adds the construction or rehabilitation of a building for childcare to the definition of a qualifying project.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) It is important to offer incentives for Class A office space to attract economic development. This bill would apply across the state and outside of King County. Office space near where people are living will help cut down on traffic congestion. Although this bill does not include a JLARC study, there is support for it. A tax preference performance statement is not needed since these exemptions are related to a local tax. There is support for adding childcare facilities to the definition of a qualifying project.

(Opposed) None.

Persons Testifying: Senator O'Ban, prime sponsor; Michael Transue, Tacoma Pierce County Chamber of Commerce; and Briahna Murray, City of Tacoma.

Persons Signed In To Testify But Not Testifying: None.