SENATE BILL REPORT
ESHB 2003

As of February 13, 2024

Title: An act relating to an exemption to the leasehold excise tax for leases on public lands.

Brief Description: Concerning an exemption to the leasehold excise tax for leases on public lands.

Sponsors: House Committee on Finance (originally sponsored by Representatives Connors, Leavitt, Klicker, Couture, Schmidt, Chapman, Graham, Peterson, Sandlin, Reeves and Shavers; by request of Department of Natural Resources).

Brief History: Passed House: 2/12/24, 95-2.
Committee Activity: Housing: 2/14/24.

Brief Summary of Bill

- Creates a leasehold excise tax exemption when public lands administered by the Department of Natural Resources are used for the placement of affordable housing.

SENATE COMMITTEE ON HOUSING

Staff: Melissa Van Gorkom (786-7491)

Background: Leasehold Excise Tax. 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 that 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. There are several leasehold excise tax exemptions, including certain military housing and facilities owned or used by a school, college or university which provide housing for students.

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

Public Lands. The Department of Natural Resources manages more than 5 million acres of land, including but not limited to state lands, state forestlands, lands included in a state forestland pool, and aquatic lands.

Tax Preference Performance Statement. State law provides a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempted from expiration.

Summary of Bill: All leasehold interests for placement of affordable housing on public lands are exempt from leasehold excise tax for the duration of the lease when the lessee commits to renting or selling 100 percent of housing units as affordable to low- and moderate-income households and the term of the lease is at least 20 years. DNR and the lessee must prioritize affordable housing for low-income households when receiving this exemption.

The following definitions apply:
- affordable housing means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income;
- low-income household means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States Department of Housing and Urban Development (US HUD); and
- moderate-income household means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent but is at or below 115 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the US HUD.

A TPPS is included stating the public policy objective is to incentivize the placement of affordable housing on public lands and the Legislature intends to continue the preference if a JLARC review finds that the number of affordable housing units placed on public lands increased following the enactment of this tax preference. The bill is not subject to automatic expiration for tax preferences.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 12, 2024.

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

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