

SENATE BILL REPORT

SB 5725

As Reported by Senate Committee On:
Housing, February 21, 2025

Title: An act relating to expanding affordable housing opportunities on community and technical college lands.

Brief Description: Expanding affordable housing opportunities on community and technical college lands.

Sponsors: Senators Slatter, Hasegawa, Trudeau and Valdez.

Brief History:

Committee Activity: Housing: 2/19/25, 2/21/25 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Authorizes the State Board for Community and Technical Colleges to enter into long-term leases for at least 50 years for development of affordable housing on underutilized community and technical college (CTC) land.
- Creates a leasehold excise tax exemption when underutilized CTC lands are used for the placement of affordable housing.

SENATE COMMITTEE ON HOUSING

Majority Report: That Substitute Senate Bill No. 5725 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Bateman, Chair; Alvarado, Vice Chair; Orwall, Salomon and Trudeau.

Minority Report: Do not pass.

Signed by Senators Goehner, Ranking Member; Gildon.

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.

Staff: Melissa Van Gorkom (786-7491)

Background: State Board for Community and Technical Colleges. The State Board for Community and Technical Colleges (college board) provides general supervision and sets policy direction for the community and technical college (CTC) system. Among its specific responsibilities, the college board may sell or exchange and convey any or all interest in any CTC real and personal property, except such property as is received by a college district, when it determines that such property is surplus or that such a sale or exchange is in the best interests of the CTC system.

State Surplus Property. Any state or local agency with authority to dispose of surplus property may transfer property to any public, private, or nongovernmental body on any terms agreeable to the parties, including a no-cost transfer, if the property is used for a public benefit and the governing body or legislative authority has enacted rules to regulate the disposition of property for public benefit purposes.

Before any state agency, except the Department of Transportation, may dispose of surplus state-owned real property to a private or any nongovernmental party, the agency must provide written notice to all other state agencies, each federal agency operating within the state, and the governing authority of each county, city, town, special purposed district and federally recognized Indian tribe in which the land is located. Notice must be provided at least 60 days before entering into any agreement. The state agency providing notice must dispose of the property for continued public benefit to any governmental entity responding to the notice—with state agencies receiving priority—on any terms agreeable to the parties, except where the law requires the sale for fair market value.

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 facilities owned or used by:

- a school, college or university which provide housing for students; and
- a CTC, which leasehold interest provides: food services for students, faculty, and staff; the operation of a bookstore on campus; or maintenance, operational, or administrative services to the CTC.

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: The bill as referred to committee not considered.

Summary of Bill (First Substitute): State Board for Community and Technical Colleges. The responsibilities of the college board are updated to authorize them to lease, transfer, assign, pledge, grant or dispose of CTC real or personal property at less than fair market value to a governmental entity for a public purpose such as affordable housing or to a nonprofit corporation using the property for the provision of affordable housing, or another community purpose for at least 50 years.

The college board is authorized to enter into long-term leases for at least 50 years for the development of underutilized CTC land and may pledge or grant land used for affordable housing as security for loans to support additional affordable housing projects on underutilized CTC land. Any land leased for affordable housing must include restrictive covenants to prevent conversion to uses other than affordable housing for the duration of the lease, including remedies if the lessor fails or ceases to use the property for the designated purpose. If a project fails to secure financing or does not commence construction within four years of lease approval, or if the recipient fails or ceases to use it for the designated public purpose during the lease period, the lease shall terminate and the property shall revert back to the college board. A CTC may allow affordable housing projects on leased land to:

- share parking unless code required for minimum parking requirements are no longer achieved by the college;
- utilize college roads to access affordable housing facilities; and
- connect to utilities.

A CTC may charge the affordable housing project and tenants reasonable fees for use of college facilities and services.

If the college board sells underutilized CTC land for affordable housing and finds during the term of any affordable housing covenant that the property is not compliant or no longer used for its restricted purpose, the college board can proceed to:

- enforce the covenant provision; or
- declare the property in default and shall have the right of first refusal to repurchase the property for the original sale price, minus any costs of enforcing the covenant.

State Surplus Property. A CTC providing affordable housing is not required to provide written notice to all other state agencies, each federal agency operating within the state, and the governing authority of each county, city, town, special purposed district and federally recognized Indian tribe in which the land is located before disposing of the land to a private or nongovernmental party.

Leasehold Excise Tax. The college board may enter into leaseback agreements with nonprofit developers. All leasehold interests for placement of affordable housing on underutilized CTC land are exempt from leasehold excise tax if the lessee commits to renting or selling at least 100 percent of housing units as affordable to low- and moderate-income households for 99 years.

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

EFFECT OF CHANGES MADE BY HOUSING COMMITTEE (First Substitute):

- Authorizes the college board to sell, exchange, lease, transfer, assign, pledge, grant or dispose of property at less than fair market value to a government entity for a public purpose or nonprofit providing affordable housing or another community purpose for at least 50 years.
- Allows the board to enter into long term leases for at least 50 years, rather than up to 99 years.
- Clarifies that Community and Technical Colleges (CTC) may pledge or grant land used for affordable housing as security for loans to support additional affordable housing on CTC land.
- Provides that a lease will terminate and the college board may reclaim property without limitation if a lessee fails to use it for the designated public purpose during the lease period.
- Clarifies that the college may share general parking, road access and connection to utilities for affordable housing on leased property and may charge reasonable fees for use of facilities and services.
- Authorizes the college board to enforce the covenant provision on land sold for affordable housing or declare the property in default and have the right of first refusal to repurchase the property at the original cost, minus the cost of covenant enforcement, if it is no longer used for affordable housing.

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 Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: Workforce and housing for public employees is an important issue because teachers and faculty members are having a hard time finding a place to live. Every college seeks to provide education and help their communities. This bill would ease the way CTCs can convey surplus land for affordable housing. Support negotiations to ensure that it doesn't limit the authority of the state board to manage its properties.

Due to a variety of factors cost of development continues to rise and these increased costs have led to a lot of housing insecurity. Discounting cost of land and repurposing underutilized state owned land are a way to address housing and there are colleges that have unused acreage that can be used. Sound transit is required to dedicate surplus property for affordable housing and it made a difference, this is another opportunity to mobilize affordable housing across the state.

Prioritize two things, allow college land to be conveyed to below market value which is key to success of the sound transit program by providing subsidies and expressly allow conveyances not just through long term leases but through below market fee transfers because some financing structures don't accommodate long term ground leases. North Seattle College has done this but there were some barriers that they faced. This bill goes a long way to clear up the years of legal work that we went through to make the housing in North Seattle possible by reducing barriers and repurposing land that could be marketed to staff, faculty, other public employees and students who meet the income thresholds.

OTHER: Appreciate the permissiveness of the bill to increase affordable housing. Housing near CTCs supports its mission to provide education and training and housing is an issue for many colleges. The process is complex, the Seattle project took ten years and spanned three presidents.

We initially plan to lease the property so that affordable housing could be built on land that was owned by the college system; however, the financing model proposed is a challenge because it required public property to be used as collateral for financing, so we ultimately had to sell a portion of the campus to proceed with the project. Also ran into IRS code restrictions regarding affordable housing and tax credits as it relates to student housing because under bond and tax credit rules if all occupants are students they don't qualify which makes it hard to finance. Learned a lot of lessons through the recent North Seattle College project and are in a better situation to move forward with future transactions.

The board already has broad authority to transfer and convey land as it is but some of this language could tie our hands in some situations. Many of the colleges have needs to house students but this doesn't directly address that. We are currently doing a study on low income student housing that will be submitted in June to the Legislature for consideration.

Persons Testifying: PRO: Senator Vandana Slatter, Prime Sponsor; Susan Boyd,

Bellwether Housing; Lincoln Ferris, Seattle Central College.

OTHER: Darrell Jennings, State Board for Community and Technical Colleges; Rosie Rimando-Chareunsap, Chancellor, Seattle Colleges.

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