
Finance Committee

HB 2442

Brief Description: Providing local governments tax resources and fund flexibility.

Sponsors: Representatives Berg, Duerr, Parshley, Tharinger, Ryu, Zahn, Wylie, Scott, Peterson, Simmons, Ramel, Bergquist, Ormsby, Pollet and Macri.

Brief Summary of Bill

- Expands the use of local real estate excise tax revenues.
- Authorizes a new county imposed public utility tax.
- Authorizes a new local sales and use tax of 0.01 percent to fund services for children and families.
- Expands the authorized uses of the local sales and use tax revenues for housing and related services.
- Makes changes to the veterans' assistance levy and the levy for developmental disabilities and mental health.
- Extends the maximum length of the excess property tax levy.
- Expands the authorized use of funds generated by the county sales tax on rental cars.

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Staff: Tracey Taylor (786-7152).

Background:

Retail Sales & Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property,

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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 are not collected when the user acquires the property, digital product, or service, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary, depending on the location.

Local Sales and Use Taxes.

Counties, cities, and towns were first granted the authority to impose a local sales and use tax in 1970. There is a basic 0.5 percent sales and use tax and an optional 0.5 percent sales and use tax. The revenues from these two sales and use taxes are unrestricted and may be used for any lawful government purpose.

When both the city and the county impose the basic sales and use tax, the county must credit back the full amount of the city's basic sales and use tax so that the combined rate does not exceed 0.5 percent. However, the first 15 percent of the basic sales and use tax collected within the city must be distributed to the county. This is also the case with the optional sales and use tax.

There are other optional sales and use taxes that may be imposed; however, the revenues from these sales and use taxes are restricted to specific purposes. For example, the cultural access program sales and use tax of 0.1 percent must be used to benefit or expand access to nonprofit cultural organizations. Many of the optional local sales and use taxes require voter approval.

State Public Utility Tax.

The gross income derived from the operation of publicly and privately owned utilities is subject to the state public utility tax (PUT), unless otherwise exempt. The tax is imposed in lieu of the state business and occupation (B&O) tax and is applied only on sales to consumers. Other income of the utility, such as retail sale of tangible personal property, is subject to the B&O tax. There are six different PUT rates, depending on the specific utility activity. The rates are:

- 3.852 percent on telegraph companies, distribution of natural gas, and the collection of sewage;
- 3.8734 percent on the generation or distribution of electrical power;
- 0.642 percent on urban transportation and watercraft vessels under 65 feet in length;
- 1.926 percent on motor transportation, railroads, railroad car companies, and all other public service businesses;
- 5.029 percent on the distribution of water; and
- 1.3696 percent on log transportation.

Municipal Business and Utility Taxes.

Any city or town may impose a B&O tax upon the income of public and private utilities providing services within the boundaries of a city as well as upon the city's own municipal utilities.

Cities and towns are also authorized to impose taxes upon public utility districts that operate works, plants, or facilities within the city or town for the sale of electricity.

There are no statutory restrictions on the tax rates for water, sewer, solid waste, and stormwater utilities. The tax rate for electric, gas, steam, and telephone utilities may not exceed 6 percent without voter approval.

Real Estate Excise Tax.

Real Estate Excise Tax (REET) applies to real estate transactions including the sale of property and the transfer of controlling interest in property. The rate applies to the selling price and is usually paid by the seller. The REET is due and payable to the county treasurer in which the property is located on the date of the sale, regardless of the date of recording, except in a controlling interest transfer. The REET is imposed at the following rates:

- 1.1 percent if the selling price is equal to or less than \$525,000;
- 1.28 percent on the portion of the selling price that is greater than \$525,000 but equal to or less than \$1.525 million;
- 2.75 percent on the portion of the selling price that is greater than \$1.525 million but equal to or less than \$3.025 million; and
- 3 percent on the portion of the selling price that is greater than \$3.025 million.

The sale of any portion of an affordable housing development by a qualified entity to an organization that meets the requirements for a property tax exemption as a nonprofit organization, housing authority, or public corporation for use for a community purpose is exempt from REET. A community purpose includes, but is not limited to, the provision of services to affordable housing development tenants, health clinics, senior day cares, food banks, community centers, and early learning facilities.

Local governments are authorized to impose a local REET in addition to the state rate. The two main local REET options are:

- REET 1: A local government may levy a 0.25 percent REET.
- REET 2: An additional 0.25 percent REET may be imposed by cities and counties.

Local REET 1 and 2 capital projects are local government public works projects for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of:

- streets, roads, highways, and sidewalks;
- street and road lighting systems and traffic signals;
- bridges, domestic water systems, storm and sanitary sewer systems;
- judicial, parks and recreational, administrative, law enforcement, and fire protection facilities;
- trails and libraries;
- river flood control projects and certain other waterway flood control projects;
- facilities for those experiencing homelessness and certain affordable housing projects;
- certain small airports; and
- technology infrastructure that is integral to the capital project.

Additionally, there are several other local REET options for local governments:

- A local government not levying the optional 0.5 percent sales tax under Revised Code of Washington 82.14.030 may levy an additional local REET of up to 0.5 percent.
- A county may impose an additional local REET of up to 1 percent for the acquisition and maintenance of conservation areas,
- A county that imposed the full 1 percent for conservation areas prior to January 1, 2003, may also impose a local REET of up to 0.5 percent for affordable housing.

Property Tax - Regular Levies.

All real and personal property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. The annual growth of all regular property tax levy revenue is limited as follows:

- For jurisdictions with a population of less than 10,000, revenue growth is limited to 1 percent.
- For jurisdictions with a population of 10,000 or more, revenue growth is limited to the lesser of inflation or 1 percent plus the value of new construction.

An additional amount is added on based on the increase in assessed value in a district from:

- new construction;
- construction of wind turbine, solar, biomass, and geothermal facilities;
- improvements to property;
- state-assessed property; and
- real property within a local tax increment finance area designated by a local government (excluding the state school levies, or ports and public utility district bond levies).

The state collects two regular property tax levies for common schools. The revenue growth limit applies to both levies. Participants in the senior citizens, individuals with disabilities, and qualifying veterans property tax exemption program receive a partial exemption from the original state levy and a full exemption from the additional state levy.

The Washington Constitution also limits regular levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value). There are individual district rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. For example:

- The state levy rate is limited to \$3.60 per \$1,000 of assessed value.
- County general levies are limited to \$1.80 per \$1,000 of assessed value.
- County road levies are limited to \$2.25 per \$1,000 of assessed value.
- City levies are limited to \$3.375 per \$1,000 of assessed value.

For property tax purposes, the state, counties, and cities are collectively referred to as senior taxing districts. Junior taxing districts—a term that includes fire, hospital, flood control zone, and most other special purpose districts—each have specific rate limits as well.

Prorating and "the Gap".

The tax rates for senior and junior taxing districts, excluding the state, must fit within an overall rate limit of \$5.90 per \$1,000 of assessed value. If the statutory \$5.90 or constitutional \$10 limit are exceeded, statute establishes the sequential order in which the levies must be proportionally reduced or eliminated, a process referred to as prorationing, to conform to the statutory and constitutional limits.

Some regular property tax levies—including levies for criminal justice purposes, port districts, and emergency medical services—are subject to the \$10 constitutional limit but not the \$5.90 aggregate rate limit. These levies have protections from general prorationing requirements and exist within the "gap" that remains after subtracting the state levy and the \$5.90 in local regular levies from the constitutional \$10 limit per \$1,000 of assessed value.

Property Tax - Excess Levies.

Excess levies are imposed in addition to regular levies and are not subject to the constitutional \$10 limit. Taxing jurisdictions with excess levy authority include local school districts, public facilities districts, and transportation benefit districts. Most excess levies require a 60-percent voter approval. Local school district levies for operation, transportation, and capital projects require simple majority voter approval.

Levy Lid Lift.

Voters may approve regular property tax increases above the revenue growth limit. This voter-approved increase is referred to as a levy lid lift. A levy lid lift may be authorized for a single year or for multiple years, not to exceed six years. A multi-year lid lift must be for a specific purpose.

Summary of Bill:

Part I - Use of Local Real Estate Excise Tax Revenues.

Local REET revenues may be used for the abatement of nuisance properties.

Part II - City or County Imposed REET for the Development of Affordable Housing.

The rate for the local affordable housing REET is changed to up to 0.5 percent.

The requirement that a county must have imposed a 1 percent tax for conservation areas in order to establish a local affordable housing REET is eliminated. All counties are given the ability to impose a local affordable housing REET option. Cities may also impose a local affordable housing REET, if the county in which the city is located has either adopted a resolution of intent stating that they do not intend to impose the local affordable housing REET, or if the county has not imposed the REET by January 1, 2027. If a county imposes the local affordable housing REET after a city has done so, the county must provide a credit against its tax for the full amount of the tax imposed by the city.

Part III - County Public Utility Tax.

The legislative authority of a county may impose a tax on a utility providing service to customers

within the unincorporated portion of the county. The county PUT may be up to 3 percent of the gross income of the utility derived from providing services to customers within the county. A utility means an electrical power utility, gas utility, telephone utility, water utility, sewer utility, solid waste utility, or cable service utility. At least 0.2 percent of the tax revenues from the county PUT must be used for utility assistance for low-income residents.

The utility's billing must include the county PUT with the rates and charges for utility services as well as separately stating the county PUT being charged. The state PUT does not apply to the PUT imposed by a county.

The imposition of this county PUT may only begin on the first day of a quarter that is at least 75 days from the date the county adopts the ordinance or resolution imposing the county PUT.

A county may authorize county PUT exemptions for business customers; however, a county may not authorize a general county PUT exemption for residential customers only. A county may authorize a credit against the county PUT for the amount of any similar utility tax imposed by a city or town on the same taxable event.

Part IV - Local Sales and Use Tax to Fund Services for Children and Families.

The legislative authority of a county may by resolution or ordinance impose a local sales and use tax. The rate of the tax is 0.1 percent of the selling price or value of the article used. This tax is in addition to all other taxes.

The revenues from this tax must be used solely for the purpose of providing additional services that assist children and their families. This can include: child care; perinatal support services; before-school and after-school services that address mental, social, and physical health; workforce capacity building; shelter and rental assistance; and client transportation.

Part V - Local Sales and Use Tax for Housing and Related Services.

The use of the tax revenues is expanded to include funding the rehabilitation, operations, and maintenance of existing units of affordable housing and facilities. In addition, a portion of the revenues may be used for rental assistance.

Part VI - Veterans' Assistance Property Tax Levy and the Mental Health and Developmental Disabilities Assistance Property Tax Levy.

Counties have the option to separate the developmental disabilities or mental health services (DDMHS) levy and the veterans' assistance levy from the county's regular property tax levy. In addition, the DDMHS levy rate will no longer be modified based on an increase or decrease of the county's regular levy amount in the prior year.

The veteran's assistance levy is excluded from the \$5.90 aggregate levy limit. It is included in the 1 percent constitutional levy limit.

Part VII - Exceeding Regular Property Tax Levy Limitations.

The time periods for an excess levy are extended from one year to up to two consecutive years and from 6 to 10 years for parallel construction.

Part VIII - Sales Tax on Rental Cars.

The use of funds generated by a county from the imposition of a sales tax on rental cars is extended to criminal justice purposes. Criminal justice purposes means activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, such as:

- domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates;
- staffing adequate public defenders to provide appropriate defense for individuals;
- diversion programs;
- reentry work for inmates;
- local government programs that have reasonable relationship to reducing the numbers of people interacting with the criminal justice system;
- community placements for juveniles; and
- community outreach and assistance programs, alternative response programs, and mental health crisis response.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.