

FINAL BILL REPORT

E2SHB 1069

PARTIAL VETO C 296 L 21 Synopsis as Enacted

Brief Description: Concerning local government fiscal flexibility.

Sponsors: House Committee on Finance (originally sponsored by Representatives Pollet, Duerr, Leavitt, Wylie, Tharinger, Kloba, Senn, Ryu, Callan and Fey).

House Committee on Local Government
House Committee on Finance
Senate Committee on Housing & Local Government

Background:

Cities and counties only possess the taxation power that is granted to them by the state Constitution or by the Legislature. The Legislature has granted taxation power to these local governments in a variety of ways. Some of the taxes authorized by the Legislature may be used without restriction for purposes determined by the cities and counties. Other taxes authorized by the Legislature may only be imposed for limited purposes, and local governments are often prohibited from using this revenue to supplant other revenue that is already used for the designated purpose.

Criminal Justice Sales Tax.

One subject for which the Legislature has authorized a local government to impose a tax is for criminal justice expenses. A county legislative authority may, subject to a referendum, impose a sales tax of 0.01 percent, with the resulting revenue to be used for criminal justice purposes. Ten percent of the revenue from this tax goes to the county, with the remainder distributed between the county and cities ratably based on population.

A county may submit a proposition to the voters to authorize an additional 0.03 percent sales tax. One-third of the revenue from this tax is required to be used for criminal justice purposes or for fire protection purposes. A city may also impose a 0.01 percent sales tax on the same basis, though the rate of this tax combined with the county tax cannot exceed 0.03

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percent; depending on whether the city or county first adopted the tax and what the rate adopted was, either the city or county may have its revenue reduced. Criminal justice purposes are activities that substantially assist the criminal justice system, including circumstances where there is ancillary benefit to the civil justice system, such as programs providing domestic violence services.

Criminal Justice Assistance Accounts.

Transfers from the state treasury represent another revenue source for local governments. With the County Criminal Justice Assistance Account and the Municipal Criminal Justice Assistance Account, the state directly provides funding for criminal justice purposes to local governments. The amount that a county or city receives from the account depends on various factors, including its crime rate, population, and whether it has imposed the criminal justice sales taxes. These funds must be used for criminal justice purposes and may not supplant existing funds.

Chemical Dependency and Mental Health Treatment Services Tax.

The Legislature has also authorized a sales tax to be used to fund the operation of chemical dependency or mental health treatment programs or for the operation of therapeutic court programs. This tax may be imposed by a county or by a city with more than 30,000 people in Pierce County at a rate of 0.01 percent. Revenue from the tax must be used solely for chemical dependency or mental health treatment programs and services and for the operation of therapeutic court programs and services.

Lodging Tax.

Another tax authorized by the Legislature for cities and counties to impose is a lodging tax. This tax applies to the furnishing of lodging, but not to the rental or lease of property, and a sale of lodging of one month or more is presumed to be a rental or lease.

Real Estate Excise Tax.

Cities and counties are also authorized to impose an excise tax on the sale of real property. Counties may impose this tax in unincorporated areas, while cities may impose the tax within the city. In either case, the tax may not exceed 0.0025 percent of the sale price. In cities and counties with 5,000 or more people that plan under the Growth Management Act, the revenue from this tax must be used solely to finance capital improvements. Cities and counties with fewer than 5,000 people or those that do not plan under the Growth Management Act may instead use the revenue for any capital purpose. A city or county that satisfies various criteria, including producing a written report demonstrating that its capital projects are fully funded, may use \$100,000 or 25 percent of this revenue, whichever is greater, for the maintenance of capital projects. The amount used for maintenance may not, however, exceed \$1 million. Cities and counties planning under the Growth Management Act may, with voter approval, impose an additional 0.0025 percent tax excise tax on the sale of real property for use on certain identified capital projects. Of this revenue, \$100,000 or 25 percent, whichever is greater, may be used for infrastructure maintenance or for other capital projects. This amount used in this way may not exceed \$1 million.

Property Tax Levies.

Aside from excise or sales taxes, the other primary funding source for local governments is property tax. The amount of property tax that may be imposed is limited. This limit, however, may be exceeded when authorized by voters for specified purposes. In King County, outside of revenue from levies approved in 2009-2011, this additional revenue may not supplant existing funding sources. In other counties, revenues from levies approved after 2009 may be used to supplant existing local government funds.

Utility Liens.

Another revenue source for local governments is the fees charged for the provision of water or electricity from a local government utility. A city or town may impose a lien on the property for four months of past due charges, but may not impose a lien for any charges more than four months past due. Similarly, a city or town that owns its own sewer system may charge a fee for sewer service. A lien of up to six months of delinquent charges may be imposed without any recording. A lien for a longer period must be filed with the county auditor.

Summary:

Criminal Justice Sales Tax.

Through December 31, 2023, the criminal justice purposes for which revenue from this tax may be used includes local government programs with a reasonable relationship to reducing interactions with the criminal justice system, including by reducing homelessness or improving behavioral health.

Criminal Justice Assistance Accounts.

Through December 31, 2023, revenue received from the Criminal Justice Assistance Accounts may be used to supplant existing funding.

Chemical Dependency and Mental Health Treatment Services Tax.

Revenue from the Chemical Dependency and Mental Health Treatment Services Tax imposed by a city may additionally be used for modifications to existing facilities to address health and safety needs necessary for the provision of chemical dependency or mental health services funded by the tax.

Lodging Tax.

Sales of lodging of less than one month are presumed to not be a rental or lease and thus subject to sales and use tax.

Real Estate Excise Tax.

Cities and counties imposing the first 0.0025 percent real estate tax may use the greater of \$100,000 or 35 percent of revenue received for the maintenance of capital projects through December 31, 2023. Cities and counties imposing the additional 0.0025 percent real estate

tax may similarly use the greater of \$100,000 or 35 percent of that revenue for the operation and maintenance of capital projects through December 31, 2023.

Property Tax Levies.

In King County, revenues from levies approved in 2015-2022 may be used to supplant existing revenue.

Utility Liens.

A lien for water or electricity may apply for charges more than four months past due if the city or town has been unable to pursue collection or a lien against the premises due to an emergency declaration by the Governor. After the expiration of the declaration, a lien for such past due charges may be imposed within the latter of three months of the expiration or within three months of the ratepayer's failure to abide by a payment plan that would have allowed the ratepayer to pay over a period of six months or more.

Similarly, a lien for past due sewage charges may be effective for more than six months of past due charges without recording of the lien if collection of the charges was impacted by a declaration of an emergency by the Governor. In such circumstances, a lien may be filed for all charges within the period covered by the declaration and may be effective for six months after the expiration of the emergency.

Votes on Final Passage:

House	56	42
Senate	26	22

Effective: May 13, 2021

Partial Veto Summary: The Governor vetoed the sections of the bill related to a definition of "retail sale" that would have gone into effect in 2022 but that was repealed by other legislation. The provisions of the bill related to the definition of "retail sale" currently in effect were not vetoed.