

Lisa Clausen

Subject: FW: Local Government Legislative Finance Update

From: Hunter, Rep. Ross [Hunter.Ross@leg.wa.gov]
Sent: Monday, May 10, 2010 1:24 PM
To: Joan McGilton
Subject: Local Government Legislative Finance Update

Joan McGilton
City of Burien

Dear Joan;

One of my key goals over the last few years has been to help our local governments deal with their financial issues. My painful run for King County Executive last summer really helped me understand how difficult our financial system is for cities and counties and to try to find some ways to help.

In the last two years the Legislature has passed several bills relating to local government finance. They've had a variety of sponsors, but all are really the work of the entire Finance committee.

In addition, the final revenue package we passed in 2010 will have positive impacts for cities and counties, mostly through the sales tax base extensions for candy/gum and bottled water.

The rest of this note is a collection of details about specific bills and the flexibility they give you. Some of the text is lifted directly from bill reports, though I've tried to explain intent as well as the actual effect. I focus mostly on financial issues as that's the main area of responsibility I have on local government issues. I'm happy to help with other issues as well.

At the end I ask a set of questions about where you'd like us to go in the future. Maintaining the ability of our local governments to provide the services their citizens need is and should be one of the key responsibilities of the Legislature. Please help me understand how we should move forward.

Town Hall Meetings

If you have specific questions about this legislative session or about other legislative issues Rep. Eddy, Sen. Tom and I will host a public town hall meeting.

Tuesday, May 18, 2010 at 6 p.m. - Town Hall Senator Rodney Tom and State Reps. Ross Hunter and Deb Eddy will recap the recent legislative session. Town Hall will be at Bellevue City Hall (450 110th Ave NE).

Tax Flexibility

Reps. Larry Springer and Sharon Nelson should get a lot of credit for moving HB 3179 through the system this year, and for helping with the 2009 effort as well.

Our goal was to provide flexibility within existing tax sources and fix a collection of problems.

Public Safety 0.3% Sales Tax

A county public safety sales and use tax was authorized in 2003. Subject to voter approval, counties may impose a tax of up to 0.3 percent. At least one-third of the tax receipts must be devoted to criminal justice purposes, fire protection purposes, or both. A levying county retains 60 percent of the receipts and the remaining 40 percent is distributed to cities within the county on a per capita basis. The use of tax receipts must be stated in the ballot proposition that goes before the voters. Until calendar 2010, tax receipts could not supplant (replace) existing funds being used for the purpose of the sales and use tax as provided in the ballot proposition. In 2009 this non-supplant restriction was amended, allowing counties to partially supplant existing funds until January 1, 2015. The sales and use tax has been implemented in five counties: Kittitas, Walla Walla, Spokane, Whatcom, and Yakima.

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After this bill, cities (in addition to counties) may seek voter approval to impose the public safety sales and use tax at a rate not to exceed 0.1 percent. If a county imposes the public safety sales and use tax prior to a city within the county, the city tax rate may not exceed an amount that would cause the total tax rate for the county and city to exceed 0.3 percent. If a city imposes the tax prior to the county in which the city is located, the county must provide a credit against its tax for the city tax. Fifteen percent of the tax proceeds received by a city imposing the public safety sales and use tax must be distributed to the county.

In addition, the non-supplant restrictions for the public safety sales and use tax are completely eliminated. It was crazy to require counties to create new public safety jobs at a time when their current resources couldn't pay for the existing positions.

Fixing the Mental Health Sales Tax

A county mental health/chemical dependency sales and use tax of 0.1 percent was authorized in 2005. The proceeds of the tax must be devoted to county mental health treatment, chemical dependency, and therapeutic court programs and services. Until calendar 2010, tax receipts could not supplant (replace) existing funds being used for these programs and services. In 2009 this non-supplant restriction was amended, allowing counties to partially supplant existing funds until January 1, 2015. The sales and use tax has been imposed in 13 counties: Clallam, Clark, Island, Jefferson, King, Okanogan, San Juan, Skagit, Snohomish, Spokane, Thurston, Wahkiakum, and Whatcom.

Some legislators were concerned that Pierce County had gotten out of the mental health delivery business and wanted to give Tacoma the option of applying the tax (and providing the service) if Pierce County didn't want to do it.

Beginning January 1, 2011, a city with a population in excess of 30,000 and located in a county with a population over 800,000 (Tacoma) is authorized to impose the mental health/chemical dependency sales and use tax if the county has not imposed the tax. Once a city has imposed the tax, the county is required to provide a credit against its tax for any city tax.

Criminal Justice Sales Tax

Counties may impose a local sales and use tax of 0.1 percent for criminal justice programs. This tax may be levied only by counties; however, the receipts are shared with cities: 10 percent goes to the county and the remaining 90 percent is apportioned to the county and all cities within the county on the basis of population. The initial imposition of the tax is subject to potential referendum by the voters. There are 32 counties levying the tax. In 2010 the non-supplant restrictions for the criminal justice sales and use tax are completely eliminated.

Brokered Natural Gas

Washington imposes a separate and distinct use tax on the use of natural gas or manufactured gas. This tax is referred to as the brokered natural gas (BNG) use tax. Cities may impose a local version of the BNG use tax. The purpose of BNG use taxes is to eliminate differential tax treatment for natural gas purchased from gas companies, which is subject to state and local utility taxes, and gas purchased directly from producers by large, commercial users, which is not subject to utility taxes. The BNG use tax rates are identical to state and local utility tax rates.

On May 20, 2008, Division II of the Washington Court of Appeals rendered a decision addressing the location where natural gas is first used for the purposes of imposing BNG use taxes. They allowed these large commercial customers to pretend that they used the gas where it entered the state outside Sumas instead of where it was burned. This allowed them to avoid paying all local BNG use taxes.

After HB 3179 the brokered natural gas use tax is imposed at the location where the gas is burned by the taxpayer or stored in a facility of the taxpayer for later consumption. This restores the condition that prevailed for many, many years.

Local Gambling Tax

In HB 3179 the permitted uses of local gambling taxes are expanded to include any public safety purpose, instead of just gambling-related enforcement. This should be helpful to Kirkland when it annexes Kingsgate.

Annexation Support

One of the key financial issues for King County is working out the final annexations of areas in the planned annexation areas (PAAs) inside the urban growth boundary. These areas have typically gotten short-shrift from the county in terms of infrastructure investment. They are also urban areas, and the county tax base is not adequate to provide urban levels of service - it's designed to manage more rural areas which are less expensive to serve.

A few years ago we created a tax credit for cities to use to pay the additional costs incurred in annexing these areas and in the past two years we've fiddled with it, most notably allowing Seattle and Burien to work out how they are going to annex North Highline. I hope this moves forward one way or another - the area deserves being managed by a city government that is closer to them than King County is.

In particular, SB 5321 extended the credit to 2015 and added Seattle as an eligible jurisdiction.

I want to urge the cities with potential annexations to take advantage of this credit now. I am not sure we will be able to extend it in the future. The Governor's office and other key legislators have concerns about spending money on local issues when the state has such pressing financial needs.

Problems

The dramatic decline in state revenues and concomitant increase in service responsibilities put huge pressure on the state budget and we "transferred funds" from several accounts. The Public Works Trust Fund won't be healthy for years as a result.

There are lots of budget problems, and there will be for the next several years.

Over the next few years we all need to work out some way to pay for:

- Stormwater issues. The legislature took a run at it this year, but I don't believe the appetite for an additional tax vote was there. It probably won't be in a bad budget year - this will most likely need to run in a better fiscal environment.

- Public Health. This is largely a responsibility of counties, but the state has not provided an adequate funding source. We are going to have to figure this out. I'm concerned that if we use local funding places like King County will be able to do it but Grant County won't.

- Transit. We are overly dependent on sales taxes to fund our transit infrastructure and as a result we are hurting badly right now. This will need to get worked out next year. I believe a strong package can be put together and we will need support from all our local elected officials to make it work.

The Future

We fund local government with a dizzying array of local tax options and budget items. We never, ever pull these together in a coherent way and ask if this is the right set of tools. Our discussions this year about a street utility tax are an example of this. Without some clarity about what the entire set of tools are we will have difficulty moving forward. The Finance committee will be taking up a few issues of interest to local governments over the next year and I'd value your feedback about the questions we should ask and possible ideas.

- Local infrastructure funding. It seems clear that there is value in some kind of public works trust fund, plus it would be good if cities had a way to use tax-increment financing tools.

- Clarifying the financial tools for local government. Is the current collection of funding options adequate? Could we do something more flexible? Do we need additional tools?

• Transit funding. This is largely the responsibility of the Transportation committee, but Rep. Clibborn and I will work together to make sure that the tools we provide fit into the overall portfolio of tools.

• Centralized collection of B&O taxes. There are 11 cities in King County that assess a B&O tax in addition to the one the state imposes. I expect this number to grow over the years. As more and more cities have done this it has become painful for businesses to comply. I'm interested in finding a way to centralize collection of this tax while preserving the independence of the cities.

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