

HB 1797 - H AMD 687

By Representative Barkis

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (a) "Affordable housing" means residential housing units for
7 rental occupancy that are rented or owned by a person or household
8 who qualifies as a very low-income, low-income, or moderate-income
9 household or who is from a special needs population, and whose
10 monthly housing costs, including utilities other than telephone, do
11 not exceed thirty percent of the person's or household's monthly
12 income. For purposes of this chapter, "affordable housing" also may
13 include affordable workforce housing, which means affordable housing
14 that supports employment opportunities.

15 (b) "City" means any city or town, including a code city that:

16 (i) Is not located in a county with a population of one million
17 five hundred thousand or more; and

18 (ii) Has a population of forty-five thousand persons or less.

19 (c) "Department" means the department of commerce.

20 (d) "Local infrastructure" has the same meaning as provided for
21 "public improvements" under RCW 39.104.020(18).

22 (e) "Local sales and use tax" means the local revenue derived
23 from the imposition of taxes authorized in RCW 82.14.030.

24 (f) "Low-income household" means a single person, family, or
25 unrelated persons living together whose income is more than fifty
26 percent but is at or below eighty percent of the median income where
27 the affordable housing is located.

28 (g) "Moderate-income household" means a single person, family, or
29 unrelated persons living together whose income is more than eighty
30 percent but is at or below one hundred fifteen percent of the median
31 income where the affordable housing is located.

1 (h) "Very low-income household" means a single person, family, or
2 unrelated persons living together whose income is at or below fifty
3 percent of the median income, adjusted for household size, for the
4 county where the affordable housing is located.

5 (2) This section expires July 1, 2028.

6 NEW SECTION. **Sec. 2.** (1)(a) Subject to the requirements in
7 section 4 of this act, a city that builds affordable housing, or
8 enters into a development agreement as authorized under RCW
9 36.70B.170 with a private developer to build affordable housing, may
10 receive a remittance from the department of revenue that is the
11 equivalent of a 4.37 percent sales tax on the sale of or charge made
12 for labor and services rendered in respect to the construction of
13 such affordable housing. The remittance received by a city under this
14 section must be credited against the sales tax due to the state under
15 chapter 82.08 RCW on the same sales.

16 (b) The residential units for which the city's remittance
17 application was approved must remain affordable housing for at least
18 twenty-five years after the date the department of revenue approved
19 the city's application for a remittance.

20 (c) If the residential units do not meet the requirements in (b)
21 of this subsection, the city must notify the department of revenue
22 and repay any remittance received under (a) of this subsection on the
23 project. The department of revenue may not assess penalties and
24 interest as provided in chapter 82.32 RCW on the amount due if paid
25 within ninety days from the date when the residential units no longer
26 meet the requirements in (b) of this subsection.

27 (2) Subject to the requirements in section 4 of this act, a city
28 that coordinates with a housing authority or developer for building
29 approved local infrastructure to facilitate the development of
30 affordable housing may receive a remittance from the department of
31 revenue that is the equivalent of a 4.37 percent sales tax on the
32 sale of or charge made for labor and services rendered in respect to
33 the construction of such local infrastructure. The remittance
34 received by the city under this section must be credited against the
35 sales tax due to the state under chapter 82.08 RCW on the same sales,
36 and must be used to finance the approved infrastructure.

37 (3) A remittance under this chapter is only available on a first-
38 in-time basis. The department must keep a running total of all
39 approved remittances under this section during each fiscal year. The

1 department may not allow any remittance that would cause the total
2 remittance amount allowed under this chapter to exceed one million
3 two hundred fifty thousand dollars in any fiscal year. If all or part
4 of a claim for a remittance is disallowed under this subsection, the
5 disallowed portion is carried over to the next fiscal year. However,
6 the carryover into the next fiscal year is only permitted to the
7 extent that the cap for the next fiscal year is not exceeded.
8 Priority must be given to credits carried over from a previous fiscal
9 year.

10 (4) This section expires July 1, 2028.

11 NEW SECTION. **Sec. 3.** (1) If a city's application for a
12 remittance is approved under section 4 of this act:

13 (a) The city must create an affordable housing and local
14 infrastructure account to be used solely for the city's acquisition
15 or construction of affordable housing or local infrastructure; and

16 (b) The city must deposit into the affordable housing and local
17 infrastructure account created in (a) of this subsection the
18 equivalent of the 0.85 percent local sales and use tax the city
19 estimates will be collected on the construction of the affordable
20 housing or local infrastructure project.

21 (2) This section expires July 1, 2028.

22 NEW SECTION. **Sec. 4.** (1) Prior to applying to receive a
23 remittance under this chapter, a city must apply and be approved for
24 the city's project to construct affordable housing or local
25 infrastructure. The project may include affordable housing only,
26 local infrastructure only, or a combination of the two. The
27 application must be in the manner and form prescribed by the
28 department and must include, but not be limited to:

29 (a) In the case of the affordable housing program:

30 (i) Information establishing the need for affordable housing in
31 that city;

32 (ii) The anticipated cost of building the affordable housing;

33 (iii) The estimated annual operating costs for the affordable
34 housing for twenty-five years;

35 (iv) The amount of the remittance it is requesting; and

36 (v) The date of expected remittance; and

37 (b) In the case of the local infrastructure program:

1 (i) Information establishing that the local infrastructure is
2 needed for an approved private project that will provide affordable
3 residential development;

4 (ii) The anticipated cost of the project;

5 (iii) The amount of remittance it is requesting; and

6 (iv) The date of the expected remittance.

7 (2) Remittance awards must be determined based on:

8 (a) For affordable housing:

9 (i) The immediate need for affordable housing in the requesting
10 city;

11 (ii) The number of affordable housing units that will be created;

12 (iii) The city's rental vacancy rate for residential units; and

13 (iv) The speed with which the project can begin; and

14 (b) For local infrastructure projects:

15 (i) The speed with which the project can begin;

16 (ii) The type of residential development being attracted by the
17 infrastructure investment, prioritized as follows:

18 (A) Very low-income rental residential units;

19 (B) Low-income rental residential units;

20 (C) Moderate-income rental residential units;

21 (D) Very low-income homeownership projects;

22 (E) Low-income homeownership projects;

23 (F) Moderate-income homeownership projects; and

24 (G) Special needs populations; and

25 (iii) The extent the project will leverage the public funds with
26 private investment.

27 (3)(a) The department must notify the city of approval or denial
28 within sixty days of receipt of application. Determination by the
29 department is final.

30 (b) The department may only approve one affordable housing
31 project per city and one local infrastructure project per city. If
32 the city is approved for a combination project that includes both
33 local infrastructure and affordable housing, the city cannot be
34 approved for any additional projects under this chapter.

35 (c) Upon approval by the department and after the project has
36 been issued final inspection approval by the local permit issuing
37 authority, the city may apply to the department of revenue for a
38 remittance under this chapter. The remittance application must be
39 submitted in a form and manner as required by the department of
40 revenue.

1 (4) The department must accept applications and begin approving
2 project awards no later than January 1, 2023.

3 (5) This section expires July 1, 2028.

4 **Sec. 5.** RCW 82.46.037 and 2017 3rd sp.s. c 16 s 6 are each
5 amended to read as follows:

6 (1) A city or county that meets the requirements of subsection
7 (2) of this section may use the greater of one hundred thousand
8 dollars or twenty-five percent of available funds, but not to exceed
9 one million dollars per year, from revenues collected under RCW
10 82.46.035 for:

11 (a) The maintenance of capital projects, as defined in RCW
12 82.46.035(5);

13 (b) From July 1, 2017, until June 30, (~~2019~~) 2022, the
14 acquisition, construction, improvement, or rehabilitation of
15 facilities to provide housing for the homeless; or

16 (c) The planning, acquisition, construction, reconstruction,
17 repair, replacement, rehabilitation, improvement, or maintenance of
18 capital projects as defined in RCW 82.46.010(6)(b) that are not also
19 included within the definition of capital projects in RCW
20 82.46.035(5).

21 (2) A city or county may use revenues pursuant to subsection (1)
22 of this section if:

23 (a) The city or county prepares a written report demonstrating
24 that it has or will have adequate funding from all sources of public
25 funding to pay for all capital projects, as defined in RCW
26 82.46.035(5), identified in its capital facilities plan for the
27 succeeding two-year period; and

28 (b)(i) The city or county has not enacted, after June 9, 2016,
29 any requirement on the listing or sale of real property; or any
30 requirement on landlords, at the time of executing a lease, to
31 perform or provide physical improvements or modifications to real
32 property or fixtures, except if necessary to address an immediate
33 threat to health or safety;

34 (ii) Any local requirement adopted by the city or county under
35 (b)(i) of this subsection is: Specifically authorized by RCW
36 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
37 specifically authorized by other state or federal law; or a seller or
38 landlord disclosure requirement pursuant to RCW 64.06.080; or

1 (iii) For a city or county using funds under subsection (1)(b) of
2 this section, the requirements of this subsection apply, except that
3 the date for such enactment under (b)(i) of this subsection is ninety
4 days after October 19, 2017.

5 (3) The report prepared under subsection (2)(a) of this section
6 must: (a) Include information necessary to determine compliance with
7 the requirements of subsection (2)(a) of this section; (b) identify
8 how revenues collected under RCW 82.46.035 were used by the city or
9 county during the prior two-year period; (c) identify how funds
10 authorized under subsection (1) of this section will be used during
11 the succeeding two-year period; and (d) identify what percentage of
12 funding for capital projects within the city or county is
13 attributable to revenues under RCW 82.46.035 compared to all other
14 sources of capital project funding. The city or county must prepare
15 and adopt the report as part of its regular, public budget process.

16 (4) For purposes of this section, "maintenance" means the use of
17 funds for labor and materials that will preserve, prevent the decline
18 of, or extend the useful life of a capital project. "Maintenance"
19 does not include labor or material costs for routine operations of a
20 capital project.

21 **Sec. 6.** RCW 82.14.530 and 2015 3rd sp.s. c 24 s 701 are each
22 amended to read as follows:

23 (1)(a) (~~(A county)~~) The legislative authority of a county with a
24 population of one million five hundred thousand or less may submit an
25 authorizing proposition to the county voters at a special or general
26 election and, if the proposition is approved by a majority of persons
27 voting, impose a sales and use tax in accordance with the terms of
28 this chapter. The legislative authority of a county with a population
29 over one million five hundred thousand may impose a sales and use tax
30 in accordance with the terms of this chapter. If such a tax is
31 imposed by a county with a population over one million five hundred
32 thousand, that county must distribute funds in an equitable manner
33 throughout the county in furtherance of a regional implementation
34 plan, approved by a regional committee of city and county officials,
35 to address affordable housing and behavioral health services and
36 facilities. The county must produce an annual report on the
37 geographic distribution of funds across the county, including the
38 location of facilities and the number of individuals served from
39 programs and services, by jurisdiction, and identify barriers, if

1 any, to distributing funds in certain communities. If such a tax is
2 imposed by any other county, that county must, in consultation with
3 the cities within the county, fairly distribute the funds and make
4 equitable investments from the imposed tax throughout the
5 geographical areas of the county. The title of each ballot measure
6 must clearly state the purposes for which the proposed sales and use
7 tax will be used. The rate of tax under this section may not exceed
8 one-tenth of one percent of the selling price in the case of a sales
9 tax, or value of the article used, in the case of a use tax.

10 (b)(i) If a county with a population of one million five hundred
11 thousand or less has not imposed the full tax rate authorized under
12 (a) of this subsection within two years of October 9, 2015, any city
13 legislative authority located in that county may submit an
14 authorizing proposition to the city voters at a special or general
15 election and, if the proposition is approved by a majority of persons
16 voting, impose the whole or remainder of the sales and use tax rate
17 in accordance with the terms of this chapter. The title of each
18 ballot measure must clearly state the purposes for which the proposed
19 sales and use tax will be used. The rate of tax under this section
20 may not exceed one-tenth of one percent of the selling price in the
21 case of a sales tax, or value of the article used, in the case of a
22 use tax.

23 (ii) If a county with a population of greater than one million
24 five hundred thousand has not imposed the full tax authorized under
25 (a) of this subsection within three years of October 9, 2015, any
26 city legislative authority located in that county may (~~submit an~~
27 ~~authorizing proposition to the city voters at a special or general~~
28 ~~election and, if the proposition is approved by a majority of persons~~
29 ~~voting,~~) impose the whole or remainder of the sales and use tax rate
30 in accordance with the terms of this chapter. (~~The title of each~~
31 ~~ballot measure must clearly state the purposes for which the proposed~~
32 ~~sales and use tax will be used.~~) The rate of tax under this section
33 may not exceed one-tenth of one percent of the selling price in the
34 case of a sales tax, or value of the article used, in the case of a
35 use tax.

36 (c) If a county imposes a tax authorized under (a) of this
37 subsection after a city located in that county has imposed the tax
38 authorized under (b) of this subsection, the county must provide a
39 credit against its tax for the full amount of tax imposed by a city.

1 (d) The taxes authorized in this subsection are in addition to
2 any other taxes authorized by law and must be collected from persons
3 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
4 the occurrence of any taxable event within the county for a county's
5 tax and within a city for a city's tax.

6 (2)(a) Notwithstanding subsection (4) of this section, a minimum
7 of sixty percent of the moneys collected under this section must be
8 used for the following purposes:

9 (i) Constructing affordable housing, which may include new units
10 of affordable housing within an existing structure, and facilities
11 providing housing-related services; or

12 (ii) Constructing mental and behavioral health-related
13 facilities; or

14 (iii) Funding the operations and maintenance costs of new units
15 of affordable housing and facilities where housing-related programs
16 are provided, or newly constructed evaluation and treatment centers.

17 (b) The affordable housing and facilities providing housing-
18 related programs in (a)(i) of this subsection may only be provided to
19 persons within any of the following population groups whose income is
20 at or below sixty percent of the median income of the county imposing
21 the tax:

22 (i) Persons with mental illness;

23 (ii) Veterans;

24 (iii) Senior citizens;

25 (iv) Homeless, or at-risk of being homeless, families with
26 children;

27 (v) Unaccompanied homeless youth or young adults;

28 (vi) Persons with disabilities; or

29 (vii) Domestic violence survivors.

30 (c) The remainder of the moneys collected under this section must
31 be used for the operation, delivery, or evaluation of mental and
32 behavioral health treatment programs and services or housing-related
33 services.

34 (3) A county that imposes the tax under this section must consult
35 with a city before the county may construct any of the facilities
36 authorized under subsection (2)(a) of this section within the city
37 limits.

38 (4) A county that has not imposed the tax authorized under RCW
39 82.14.460 prior to October 9, 2015, but imposes the tax authorized
40 under this section after a city in that county has imposed the tax

1 authorized under RCW 82.14.460 prior to October 9, 2015, must enter
2 into an interlocal agreement with that city to determine how the
3 services and provisions described in subsection (2) of this section
4 will be allocated and funded in the city.

5 (5) To carry out the purposes of subsection (2)(a) and (b) of
6 this section, the legislative authority of the county or city
7 imposing the tax has the authority to issue general obligation or
8 revenue bonds within the limitations now or hereafter prescribed by
9 the laws of this state, and may use, and is authorized to pledge, up
10 to fifty percent of the moneys collected under this section for
11 repayment of such bonds, in order to finance the provision or
12 construction of affordable housing, facilities where housing-related
13 programs are provided, or evaluation and treatment centers described
14 in subsection (2)(a)(iii) of this section.

15 (6)(a) Moneys collected under this section may be used to offset
16 reductions in state or federal funds for the purposes described in
17 subsection (2) of this section.

18 (b) No more than ten percent of the moneys collected under this
19 section may be used to supplant existing local funds.

20 NEW SECTION. **Sec. 7.** (1) This section is the tax preference
21 performance statement for the tax preference contained in sections 1
22 through 4, chapter . . . , Laws of 2018 (sections 1 through 4 of this
23 act). This preference statement is only intended to be used for
24 subsequent evaluation of the tax preference. It is not intended to
25 create a private right of action by any party or be used to determine
26 eligibility for the preferential tax treatment.

27 (2) The legislature categorizes this tax preference as one
28 intended to provide tax relief as indicated in RCW 82.32.808(2)(e),
29 thereby lowering the cost of constructing affordable housing.

30 (3) It is the legislature's specific public policy objective to
31 encourage cities to support the development of affordable housing in
32 their community. It is the legislature's intent to provide a sales
33 and use tax remittance to cities that invest in the construction of
34 new affordable housing units and infrastructure to support the
35 development of new affordable housing.

36 (4) If a review finds that the affordable units supported by this
37 program are built and maintained at the same cost as the affordable
38 housing programs funded through the housing trust fund or multifamily

1 tax exemption, then the legislature intends to extend the expiration
2 date of the tax preference.

3 (5) In order to obtain the data necessary to perform the review
4 in subsection (4) of this section, the joint legislative audit and
5 review committee may refer to data sources including:

6 (a) The information provided by the city on their application as
7 developed by the department of commerce in consultation with staff
8 from the joint legislative audit and review committee; and

9 (b) Data from the housing trust fund and data from programs
10 funded by the multifamily tax exemption.

11 NEW SECTION. **Sec. 8.** Sections 1 through 4 of this act
12 constitute a new chapter in Title 82 RCW."

13 Correct the title.

EFFECT: (1) Modifies the definition of "affordable housing" for
the city sales tax remittance program to include that the housing is
rented or owned by persons who qualify as very low-income, low-
income, or moderate-income households or who are from a special needs
population.

(2) Modifies evaluation criteria for a city's sales tax
remittance application for a local infrastructure project to include
consideration whether project prioritizes very low-income, low-
income, and moderate-income rental and homeownership projects, as
well as special needs populations.

(3) Provides that cities within King county are not eligible for
the sales tax remittance created in this bill.

(4) Limits the availability of the tax remittance to cities with
a population of 45,000 persons or less.

(5) Places a \$1.25 million annual cap on the total state sales
tax incentive.

(6) Requires any county over 1.5 million imposing the 0.1 percent
sales tax to equitably distribute and invest the funds from the tax
in furtherance of a regional implementation plan and to report on the
geographic distribution of funds across the county.

(7) Requires other counties to fairly distribute the funds and
make equitable investments from the imposed tax.

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