

EHB 2797 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/12/2020

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

3 "Sec. 1. RCW 82.14.540 and 2019 c 338 s 1 are each amended to
4 read as follows:

5 (1) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Nonparticipating city" is a city that does not impose a
8 sales and use tax in accordance with the terms of this section.

9 (b) "Nonparticipating county" is a county that does not impose a
10 sales and use tax in accordance with the terms of this section.

11 (c) "Participating city" is a city that imposes a sales and use
12 tax in accordance with the terms of this section.

13 (d) "Participating county" is a county that imposes a sales and
14 use tax in accordance with the terms of this section.

15 (e) "Qualifying local tax" means the following tax sources, if
16 the tax source is (~~instated no later than twelve months after July~~
17 ~~28, 2019~~) adopted by December 31, 2021:

18 (i) The affordable housing levy authorized under RCW 84.52.105;

19 (ii) The sales and use tax for housing and related services
20 authorized under RCW 82.14.530, provided the city has imposed the tax
21 at a minimum (~~or [off]~~) of at least half of the authorized rate;

22 (iii) The sales tax for chemical dependency and mental health
23 treatment services or therapeutic courts authorized under RCW
24 82.14.460 imposed by a city; and

25 (iv) The levy authorized under RCW 84.55.050, if used solely for
26 affordable housing.

27 (2) Starting on the effective date of this section, a city that
28 has not adopted a qualifying local tax but intends to before December
29 31, 2021, must adopt a notice of intent to adopt the qualifying local
30 tax and send a copy to the department, and to the county the city is
31 located within, by July 28, 2020. If a notice of intent has not been
32 adopted by July 28, 2020, the tax sources in subsection (1)(e)(i)

1 through (iv) of this section are not considered a qualifying local
2 tax for the purposes of this section, unless the tax was being
3 imposed before July 28, 2020.

4 (3)(a) A county or city legislative authority may authorize, fix,
5 and impose a sales and use tax in accordance with the terms of this
6 section.

7 (b) The tax under this section is assessed on the selling price
8 in the case of a sales tax, or value of the article used, in the case
9 of a use tax.

10 (c) ~~((The))~~ For taxes authorized under this section after the
11 effective date of this section, the rate of the tax under this
12 section for an individual participating city and an individual
13 participating county may not exceed:

14 (i) ~~((Beginning on July 28, 2019, until twelve months after July~~
15 ~~28, 2019:~~

16 ~~(A))~~ 0.0073 percent for a:

17 ~~((I))~~ (A) Participating city, ((unless the participating city
18 levies a qualifying local tax)) that does not levy a qualifying tax;
19 and

20 ~~((II))~~ (B) Participating county, within the limits of
21 ((nonparticipating cities)) participating cities within the county
22 ((and within participating cities)) that do not ((currently)) levy a
23 qualifying tax;

24 ~~((B))~~ (ii) 0.0146 percent for a:

25 ~~((I))~~ (A) Participating city that ((currently)) levies a
26 qualifying local tax;

27 ~~((II))~~ (B) Participating city ((if the county in which it is
28 located declares they will not levy the sales and use tax authorized
29 under this section or does not adopt a resolution in accordance with
30 this section)) within a nonparticipating county; and

31 ~~((III))~~ (C) Participating county within the unincorporated
32 areas of the county and within any nonparticipating city ((that
33 declares they will not levy the sales and use tax authorized under
34 this section or does not adopt a resolution in accordance with this
35 section;

36 ~~(ii) Beginning twelve months after July 28, 2019:~~

37 ~~(A) 0.0073 percent for a:~~

38 ~~(I) Participating city that is located within a participating~~
39 ~~county if the participating city is not levying a qualifying local~~
40 ~~tax; and~~

1 ~~(II) Participating county, within the limits of a participating~~
2 ~~city if the participating city is not levying a qualifying local tax;~~
3 ~~(B) 0.0146 percent within the limits of a:~~
4 ~~(I) Participating city that is levying a qualifying local tax;~~
5 ~~and~~
6 ~~(II) Participating county within the unincorporated area of the~~
7 ~~county and within the limits of any nonparticipating city that is~~
8 ~~located within the county.))~~

9 (d) A county may not levy the tax authorized under this section
10 within the limits of a participating city that levies a qualifying
11 local tax.

12 (e) (i) In order for a county or city legislative authority to
13 impose the tax under this section, the authority must adopt:

14 (A) A resolution of intent to adopt legislation to authorize
15 ~~((the maximum capacity of))~~ the tax in this section within six months
16 of July 28, 2019; and

17 (B) Legislation to authorize ~~((the maximum capacity of))~~ the tax
18 in this section within one year of July 28, 2019, and send a copy to
19 the department within forty-five days of adopting such legislation.

20 (ii) Adoption of the resolution of intent and legislation to
21 authorize the tax requires simple majority approval of the enacting
22 legislative authority.

23 ~~((iii) If a county or city has not adopted a resolution of~~
24 ~~intent in accordance with the terms of this section, the county or~~
25 ~~city may not authorize, fix, and impose the tax.~~

26 ~~(3))~~ (4) The tax imposed under this section must be deducted
27 from the amount of tax otherwise required to be collected or paid to
28 the department of revenue under chapter 82.08 or 82.12 RCW. The
29 department must perform the collection of such taxes on behalf of the
30 county or city at no cost to the county or city.

31 ~~((4))~~ (5) By ~~((December 31, 2019, or within thirty days of a))~~
32 January 1, 2021, for every county or city authorizing the tax under
33 this section, ~~((whichever is later))~~ including those counties and
34 cities currently imposing the tax authorized under this section, the
35 department must calculate ~~((the))~~ or recalculate a preliminary annual
36 maximum amount of tax distributions for each county and city
37 authorizing the tax under this section and assign the authorized tax
38 rate as provided in subsection (3)(c) of this section. The annual
39 maximum must be calculated as follows:

1 (a) The annual maximum amount for a participating county equals
2 the taxable retail sales within the unincorporated area of a county,
3 within the nonparticipating cities, and within the participating
4 cities without a qualifying local tax, in state fiscal year 2019
5 multiplied by the tax rate imposed under this section. (~~If a county~~
6 ~~imposes a tax authorized under this section after a city located in~~
7 ~~that county has imposed the tax, the taxable retail sales within the~~
8 ~~city in state fiscal year 2019 must be subtracted from the taxable~~
9 ~~retail sales within the county for the calculation of the maximum~~
10 ~~amount~~)) The annual maximum amount for a participating county does
11 not include the taxable retail sales within the participating cities
12 with a qualifying local tax within the county; and

13 (b) The annual maximum amount for a participating city equals the
14 taxable retail sales within the city in state fiscal year 2019
15 multiplied by the tax rate imposed under subsection ~~((1))~~ (3) of
16 this section.

17 ~~((5))~~ (6) By June 30, 2022, the department must calculate a
18 final annual maximum amount of tax distributions for each county and
19 city authorizing the tax under this section using the method in
20 subsection (5)(a) and (b) of this section. The department must also
21 assign the authorized tax rate as provided in subsection (3)(c) of
22 this section.

23 (7)(a) The tax must cease to be distributed to a county or city
24 for the remainder of any fiscal year in which the amount of tax
25 exceeds:

26 (i) Until June 30, 2022, the preliminary annual maximum amount
27 calculated in subsection ~~((4))~~ (5) of this section; and

28 (ii) Beginning July 1, 2022, the final annual maximum amount
29 calculated in subsection (6) of this section.

30 (b) The department must remit any annual tax revenues above the
31 annual maximum to the state treasurer for deposit in the general
32 fund. Distributions to a county or city meeting the annual maximum
33 amount must resume at the beginning of the next fiscal year.

34 ~~((6))~~ (8)(a) If, when the tax is first imposed, a county has a
35 population greater than four hundred thousand or a city has a
36 population greater than one hundred thousand, the moneys collected or
37 bonds issued under this section may only be used for the following
38 purposes:

39 (i) Acquiring, rehabilitating, or constructing affordable
40 housing, which may include new units of affordable housing within an

1 existing structure or facilities providing supportive housing
2 services under RCW 71.24.385; or

3 (ii) Funding the operations and maintenance costs (~~(of new~~
4 ~~units)~~) of affordable or supportive housing including, but not
5 limited to, staffing necessary for daily operations of permanent
6 supportive housing.

7 (b) If, when the tax is first imposed, a county has a population
8 of four hundred thousand or less or a city has a population of one
9 hundred thousand or less, the moneys collected under this section may
10 only be used for the purposes provided in (a) of this subsection or
11 for providing rental assistance to tenants.

12 (~~(7)~~) (c) Administrative costs of the county or city associated
13 with administering this section may not exceed six percent of the
14 annual tax distributed to the jurisdiction under this section.

15 (d) Operations and maintenance costs or rental assistance under
16 this section may not be funded with bonds.

17 (9) The housing and services provided pursuant to subsection
18 (~~(6)~~) (8) of this section may only be provided to persons whose
19 income, at each required income certification or recertification, is
20 at or below sixty percent of the median household income of the
21 (~~county or city~~) standard metropolitan statistical area within
22 which the county, city, or town imposing the tax is located.

23 (~~(8)~~) (10) In determining the use of funds under subsection
24 (~~(6)~~) (8) of this section, a county or city must consider the
25 income of the individuals and families to be served, the leveraging
26 of the resources made available under this section, and the housing
27 needs within the jurisdiction of the taxing authority.

28 (~~(9)~~) (11)(a) To carry out the purposes of this section
29 including, but not limited to, financing loans or grants to nonprofit
30 organizations or public housing authorities, the legislative
31 authority of the county or city imposing the tax has the authority to
32 issue general obligation or revenue bonds within the limitations now
33 or hereafter prescribed by the laws of this state, and may use, and
34 is authorized to pledge, the moneys collected under this section for
35 repayment of such bonds.

36 (b) However, a county may not pledge for repayment of such bonds
37 any moneys collected from retail sales within the limits of a
38 participating city:

39 (i) Before July 28, 2020; or

1 (ii) Before June 30, 2022, within the limits of a participating
2 city that has adopted a notice of intent under subsection (2) of this
3 section.

4 ~~((10) A)~~ (12) To carry out the purposes of this section, a
5 county or city may enter into a contract or an interlocal agreement,
6 or utilize an existing contract or interlocal agreement, in
7 accordance with chapter 39.34 RCW with one or more (~~counties,~~
8 ~~ities, or public housing authorities in accordance with chapter~~
9 ~~39.34 RCW)~~ public entities or nonprofit organizations. The contract
10 or interlocal agreement may include, but is not limited to, pooling
11 the tax receipts received under this section, pledging those taxes to
12 bonds issued by one or more parties to the agreement, and allocating
13 the proceeds of the taxes levied or the bonds issued in accordance
14 with such contract or interlocal agreement and this section. The
15 contract or interlocal agreement must include a requirement, or
16 otherwise ensure through contractual obligations, that the housing or
17 services provided with moneys collected under this section comply
18 with the use restrictions in subsection (8) of this section and the
19 income restrictions in subsection (9) of this section.

20 ~~((11))~~ (13) Counties and cities imposing the tax under this
21 section must report annually to the department of commerce on the
22 collection and use of the revenue. Counties and cities that have
23 pooled funds may submit joint reports on their collective activities.
24 The department of commerce must adopt rules prescribing content of
25 such reports. By December 1, 2019, and annually thereafter, and in
26 compliance with RCW 43.01.036, the department of commerce must submit
27 a report annually to the appropriate legislative committees with
28 regard to such uses.

29 ~~((12))~~ (14) The tax imposed by a county or city under this
30 section expires twenty years after the date on which the tax is first
31 imposed."

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32 On page 1, line 2 of the title, after "housing;" strike the
33 remainder of the title and insert "and amending RCW 82.14.540."

EFFECT: Prevents the use of bonds from the sales and use tax for affordable and supportive housing to pay for operations and maintenance costs or rental assistance. Clarifies that a county may impose a local sales tax of 0.0073 percent within the limits of participating cities within the county that do not levy a qualifying local tax.

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