

SB 5195 - S AMD 166
By Senator Kuderer

NOT CONSIDERED 12/23/2019

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that homelessness
4 has reached a crisis level across Washington state. Every community
5 has felt the impact as affordable housing continues to be out of
6 reach for many residents of the state. Therefore, the legislature
7 intends to help provide cities and counties with the flexibility and
8 tools to take on this crisis by investing in facilities and projects
9 that keep people in homes, provide the services that can help prevent
10 people from entering homelessness, and ensure affordable housing in
11 every community.

12 **Sec. 2.** RCW 82.46.035 and 2011 c 354 s 3 are each amended to
13 read as follows:

14 (1) The legislative authority of any county or city must identify
15 in the adopted budget the capital projects funded in whole or in part
16 from the proceeds of the tax authorized in this section, and must
17 indicate that such tax is intended to be in addition to other funds
18 that may be reasonably available for such capital projects.

19 (2) The legislative authority of any county or any city that
20 plans under RCW 36.70A.040(1) may impose an additional excise tax on
21 each sale of real property in the unincorporated areas of the county
22 for the county tax and in the corporate limits of the city for the
23 city tax at a rate not exceeding one-quarter of one percent of the
24 selling price. Any county choosing to plan under RCW 36.70A.040(2)
25 and any city within such a county may only adopt an ordinance
26 imposing the excise tax authorized by this section if the ordinance
27 is first authorized by a proposition approved by a majority of the
28 voters of the taxing district voting on the proposition at a general
29 election held within the district or at a special election within the
30 taxing district called by the district for the purpose of submitting
31 such proposition to the voters.

1 (3) Revenues generated from the tax imposed under subsection (2)
2 of this section must be used by such counties and cities solely for
3 financing capital projects specified in a capital facilities plan
4 element of a comprehensive plan. However, revenues (a) pledged by
5 such counties and cities to debt retirement prior to March 1, 1992,
6 may continue to be used for that purpose until the original debt for
7 which the revenues were pledged is retired, or (b) committed prior to
8 March 1, 1992, by such counties or cities to a project may continue
9 to be used for that purpose until the project is completed.

10 (4) Revenues generated by the tax imposed by this section must be
11 deposited in a separate account.

12 (5) As used in this section, "city" means any city or town and
13 "capital project" means those public works projects of a local
14 government for:

15 (a) Planning, acquisition, construction, reconstruction, repair,
16 replacement, rehabilitation, or improvement of streets, roads,
17 highways, sidewalks, street and road lighting systems, traffic
18 signals, bridges, domestic water systems, storm and sanitary sewer
19 systems (~~, and~~);

20 (b) Planning, construction, reconstruction, repair,
21 rehabilitation, or improvement of parks; and

22 (c) Until January 1, 2026, planning, acquisition, construction,
23 reconstruction, repair, replacement, rehabilitation, or improvement
24 of facilities for those experiencing homelessness and affordable
25 housing projects.

26 (6) A county or city may use the greater of one hundred thousand
27 dollars or twenty-five percent of available funds, but not to exceed
28 one million dollars, for capital projects as defined in subsection
29 (5)(c) of this section. The limits in this subsection do not apply to
30 any county or city that used revenue under this section for the
31 acquisition, construction, improvement, or rehabilitation of
32 facilities to provide housing for the homeless prior to June 30,
33 2019.

34 (7) A county or city using funds for uses in subsection (5)(c) of
35 this section must document in its plan under RCW 36.70A.070(3) that
36 it has funds during the next two years for capital projects in
37 subsection (5)(a) of this section.

38 (8) When the governor files a notice of noncompliance under RCW
39 36.70A.340 with the secretary of state and the appropriate county or
40 city, the county or city's authority to impose the additional excise

1 tax under this section is temporarily rescinded until the governor
2 files a subsequent notice rescinding the notice of noncompliance.

3 ~~((7) From June 30, 2012, until December 31, 2016, a city or
4 county may use the greater of one hundred thousand dollars or
5 thirty-five percent of available funds under this section, but not to
6 exceed one million dollars per year, for operations and maintenance
7 of existing capital projects as defined in subsection (5) of this
8 section, and counties may use available funds under this section for
9 the payment of existing debt service incurred for capital projects as
10 defined in RCW 82.46.010. If a county uses available funds for
11 payment of existing debt service under RCW 82.46.010, the total
12 amount used for payment of debt service and any amounts used for
13 operations and maintenance is subject to the limits in this
14 subsection.))~~

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

17 (1) A city or county that meets the requirements of subsection
18 (2) of this section may use the greater of one hundred thousand
19 dollars or twenty-five percent of available funds, but not to exceed
20 one million dollars per year, from revenues collected under RCW
21 82.46.035 for:

22 (a) The maintenance of capital projects, as defined in RCW
23 82.46.035(5); and

24 ~~((From July 1, 2017, until June 30, 2019, the acquisition,
25 construction, improvement, or rehabilitation of facilities to provide
26 housing for the homeless; or~~

27 ~~(e))~~ The planning, acquisition, construction, reconstruction,
28 repair, replacement, rehabilitation, improvement, or maintenance of
29 capital projects as defined in RCW 82.46.010(6)(b) that are not also
30 included within the definition of capital projects in RCW
31 82.46.035(5).

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

34 (a) The city or county prepares a written report demonstrating
35 that it has or will have adequate funding from all sources of public
36 funding to pay for all capital projects, as defined in RCW
37 82.46.035(5), identified in its capital facilities plan for the
38 succeeding two-year period; and

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

7 (ii) Any local requirement adopted by the city or county under
8 (b) (i) of this subsection is: Specifically authorized by RCW
9 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;
10 specifically authorized by other state or federal law; or a seller or
11 landlord disclosure requirement pursuant to RCW 64.06.080; or

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

16 (3) The report prepared under subsection (2) (a) of this section
17 must: (a) Include information necessary to determine compliance with
18 the requirements of subsection (2) (a) of this section; (b) identify
19 how revenues collected under RCW 82.46.035 were used by the city or
20 county during the prior two-year period; (c) identify how funds
21 authorized under subsection (1) of this section will be used during
22 the succeeding two-year period; and (d) identify what percentage of
23 funding for capital projects within the city or county is
24 attributable to revenues under RCW 82.46.035 compared to all other
25 sources of capital project funding. The city or county must prepare
26 and adopt the report as part of its regular, public budget process.

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

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32 On page 1, line 3 of the title, after "projects;" strike the
33 remainder of the title and insert "amending RCW 82.46.035 and
34 82.46.037; and creating a new section."

EFFECT: Allows a county or city to fund affordable housing and homelessness projects with real estate excise tax (REET II) revenue until January 1, 2026, so long as it documents funds for certain capital projects in its capital facilities plan. Limits the annual amount of REET II revenue a county or city may use for affordable housing and homelessness projects to the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars, unless the county or city used REET II revenue to provide housing for the homeless prior to June 30, 2019.

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