

# HOUSE BILL REPORT

## EHB 2797

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### As Amended by the Senate

**Title:** An act relating to the sales and use tax for affordable and supportive housing.

**Brief Description:** Concerning the sales and use tax for affordable and supportive housing.

**Sponsors:** Representatives Robinson, Macri, Davis, Shewmake, Peterson, Ramel, Lekanoff and Pollet.

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/7/20 [DP].

##### **Floor Activity:**

Passed House: 2/16/20, 63-33.

Senate Amended.

Passed Senate: 3/12/20, 34-15.

#### **Brief Summary of Engrossed Bill**

- Modifies certain provisions of, and extends various deadlines related to, the local sales tax for affordable or supportive housing.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 9 members: Representatives Tarleton, Chair; Walen, Vice Chair; Chapman, Frame, Macri, Orwall, Springer, Stokesbary and Wylie.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Vick.

**Staff:** Nick Tucker (786-7383).

#### **Background:**

##### Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of

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the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Local Sales Tax for Affordable or Supportive Housing.

County and city legislative authorities are authorized to implement a local sales tax, credited against the state sales tax, to fund affordable or supportive housing. The maximum rate imposed may not exceed either 0.0146 percent or 0.0073 percent. To impose the tax, a county or city legislative authority must adopt a resolution of intent within six months of July 28, 2019, and impose the tax within one year.

Until July 28, 2020, the maximum rates are as follows:

- 0.0146 percent for: (1) a city levying a qualifying local tax; (2) a city located in a county that declares it will not levy the tax or that does not adopt a resolution of intent to impose the tax; or (3) a county within its unincorporated areas and within the limits of a city that declares it will not levy the tax or that does not adopt a resolution of intent to impose the tax; and
- 0.0073 percent for: (1) a city without a qualifying local tax; or (2) a county within the limits of a city that does not levy a qualifying local tax.

After July 28, 2020, the maximum rates are as follows:

- 0.0146 percent for: (1) a city levying a qualifying local tax; or (2) a county within its unincorporated areas and within the limits of a city that is not levying the tax; and
- 0.0073 percent for: (1) a city that is not levying a qualifying tax located in a county levying the tax; or (2) a county within the limits of a city that does not levy a qualifying local tax.

A city without a qualifying local tax may not levy the tax unless the county also levies the tax. A county may not levy the tax within the limits of a city imposing the tax at 0.0146 percent.

A "qualifying local tax" is defined as: (1) the affordable housing levy, the sales and use tax for housing and related services; (2) the sales and use tax for chemical dependency and mental health treatment services or therapeutic courts; or (3) a voter-approved property tax levy used solely for affordable housing.

The maximum annual amount of tax distributions to a jurisdiction is equal to the total taxable retail sales within the jurisdiction multiplied by the tax rate imposed. If a county levies the tax after a city located within that county, the taxable retail sales of that city are deducted from the county for the purposes of the calculation of such maximum.

A county or city may bond against the revenue for certain specified purposes related to affordable or supportive housing.

Housing and services may only be provided to persons whose income is at or below 60 percent of the county median income. A county or city may enter into an interlocal

agreement with one or more other counties, cities, or housing authorities to provide affordable or supportive housing.

### **Summary of Engrossed Bill:**

The bill amends the local sales tax for affordable or supportive housing (the tax) in several ways.

The deadline to adopt a qualifying local tax is extended to December 31, 2021. Cities that intend to adopt a qualifying local tax are required to adopt a notice of intent to do so by July 28, 2020. Cities that are not currently imposing a qualifying local tax that do not adopt a notice of intent to do so by July 28, 2020, are not eligible to adopt a qualifying local tax for purposes of the program.

The rate structure is not conditional on the date and is as follows:

- 0.0146 percent for: (1) a city with a qualifying local tax; (2) a city within a county that is not levying the tax; or (3) a county within its unincorporated areas and within the limits of a city that is not levying the tax; and
- 0.0073 percent for: (1) a city without a qualifying local tax; or (2) a county within the limits of a city levying the tax and within the limits of a city without a qualifying local tax.

The requirement to authorize the maximum capacity of the tax is removed. A county or city must send a copy of legislation to authorize the tax to the Department of Revenue within 45 days of its adoption.

The Department of Revenue is required to calculate a preliminary annual maximum amount of tax distributions for each county or city levying the tax by January 1, 2021. The Department of Revenue is required to calculate a final annual maximum amount of tax distributions by June 30, 2022. For a participating county, this amount includes the rate of the tax multiplied by the taxable retail sales for fiscal year 2019 within the unincorporated areas of the county, within cities not levying the tax, and within cities levying the tax without a qualifying local tax. The order in which a city or county authorized the tax does not factor into the calculation.

Cities and counties are authorized to use revenues collected from the tax on staffing related to the daily operations of permanent supportive housing. Certain small counties and cities are authorized to use up to 6 percent of the revenues collected from the tax on administration related to the tax.

A county may not pledge for repayment of bonds any revenues from the tax collected within cities levying the tax: (1) before July 28, 2020; or (2) before June 30, 2022 within cities that have adopted a notice of intent to authorize a qualifying local tax.

Cities and counties are authorized to enter into contracts or interlocal agreements with public entities or nonprofit organizations.

### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment:

- provides that a county or city may not fund operations and maintenance costs or rental assistance with bonds from the sales and use tax for affordable and supportive housing; and
- clarifies that a county may impose the local sales tax at a rate of 0.0073 percent within the limits of a participating city within the county only if that city does not levy a qualifying local tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill is a follow-up to House Bill 1406 from last session, and it clarifies some points of confusion. The bill also corrects a mistake in the underlying statute that unintentionally denied cities from using the option if their county did not opt-in.

The program is being utilized all across Washington State; 31 counties and 23 cities have chosen to opt-in. The program is another important tool for local governments to use in addressing housing and homelessness issues. The use of the program is driving conversations around the issue of affordable housing in the state. Affordable and supportive housing is urgently needed across the state.

One innovative part about the program is that it incentivizes local governments to pursue other voter approved housing levies. This incentive expires in July 2020, and so some cities are left out of taking advantage of it. A substitute bill could extend this.

(Opposed) None.

**Persons Testifying:** Michele Thomas, Washington Low Income Housing Alliance; Lorrie McKay, City of Kirkland; Doug Levy, City of Renton; and Juliana Roe, Washington State Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.