

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2797

66th Legislature
2020 Regular Session

Passed by the House March 12, 2020
Yeas 61 Nays 35

**Speaker of the House of
Representatives**

Passed by the Senate March 12, 2020
Yeas 34 Nays 15

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2797** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2797

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2020 Regular Session

By Representatives Robinson, Macri, Davis, Shewmake, Peterson, Ramel, Lekanoff, and Pollet

Read first time 01/22/20. Referred to Committee on Finance.

1 AN ACT Relating to the sales and use tax for affordable and
2 supportive housing; and amending RCW 82.14.540.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

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

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

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

16 (e) "Qualifying local tax" means the following tax sources, if
17 the tax source is (~~instated no later than twelve months after July~~
18 ~~28, 2019~~) adopted by December 31, 2021:

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

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

4 (iii) The sales tax for chemical dependency and mental health
5 treatment services or therapeutic courts authorized under RCW
6 82.14.460 imposed by a city; and

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

9 (2) Starting on the effective date of this section, a city that
10 has not adopted a qualifying local tax but intends to before December
11 31, 2021, must adopt a notice of intent to adopt the qualifying local
12 tax and send a copy to the department, and to the county the city is
13 located within, by July 28, 2020. If a notice of intent has not been
14 adopted by July 28, 2020, the tax sources in subsection (1)(e)(i)
15 through (iv) of this section are not considered a qualifying local
16 tax for the purposes of this section, unless the tax was being
17 imposed before July 28, 2020.

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

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

24 (c) ~~((The))~~ For taxes authorized under this section after the
25 effective date of this section, the rate of the tax under this
26 section for an individual participating city and an individual
27 participating county may not exceed:

28 (i) ~~((Beginning on July 28, 2019, until twelve months after July~~
29 ~~28, 2019:~~

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

31 ~~((I))~~ (A) Participating city, ((unless the participating city
32 levies a qualifying local tax)) that does not levy a qualifying tax;
33 and

34 ~~((II))~~ (B) Participating county, within the limits of
35 ((nonparticipating cities)) participating cities within the county
36 ((and within participating cities)) that do not ((currently)) levy a
37 qualifying tax;

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

39 ~~((I))~~ (A) Participating city that ((currently)) levies a
40 qualifying local tax;

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

5 ~~((III))~~ (C) Participating county within the unincorporated areas
6 of the county and within any nonparticipating city ~~((that declares~~
7 ~~they will not levy the sales and use tax authorized under this~~
8 ~~section or does not adopt a resolution in accordance with this~~
9 ~~section;~~

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

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

12 ~~(I) Participating city that is located within a participating~~
13 ~~county if the participating city is not levying a qualifying local~~
14 ~~tax; and~~

15 ~~(II) Participating county, within the limits of a participating~~
16 ~~city if the participating city is not levying a qualifying local tax;~~

17 ~~(B) 0.0146 percent within the limits of a:~~

18 ~~(I) Participating city that is levying a qualifying local tax;~~
19 ~~and~~

20 ~~(II) Participating county within the unincorporated area of the~~
21 ~~county and within the limits of any nonparticipating city that is~~
22 ~~located within the county.))~~

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

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

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

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

34 (ii) Adoption of the resolution of intent and legislation to
35 authorize the tax requires simple majority approval of the enacting
36 legislative authority.

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

1 ~~(3)~~) (4) The tax imposed under this section must be deducted from
2 the amount of tax otherwise required to be collected or paid to the
3 department of revenue under chapter 82.08 or 82.12 RCW. The
4 department must perform the collection of such taxes on behalf of the
5 county or city at no cost to the county or city.

6 ~~((4))~~ (5) By ~~((December 31, 2019, or within thirty days of~~
7 ~~a))~~ January 1, 2021, for every county or city authorizing the tax
8 under this section, ((whichever is later)) including those counties
9 and cities currently imposing the tax authorized under this section,
10 the department must calculate ((the)) or recalculate a preliminary
11 annual maximum amount of tax distributions for each county and city
12 authorizing the tax under this section and assign the authorized tax
13 rate as provided in subsection (3)(c) of this section. The annual
14 maximum must be calculated as follows:

15 (a) The annual maximum amount for a participating county equals
16 the taxable retail sales within the unincorporated area of a county,
17 within the nonparticipating cities, and within the participating
18 cities without a qualifying local tax, in state fiscal year 2019
19 multiplied by the tax rate imposed under this section. ((If a county
20 imposes a tax authorized under this section after a city located in
21 that county has imposed the tax, the taxable retail sales within the
22 city in state fiscal year 2019 must be subtracted from the taxable
23 retail sales within the county for the calculation of the maximum
24 amount)) The annual maximum amount for a participating county does not
25 include the taxable retail sales within the participating cities with
26 a qualifying local tax within the county; and

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

31 ~~((5))~~ (6) By June 30, 2022, the department must calculate a
32 final annual maximum amount of tax distributions for each county and
33 city authorizing the tax under this section using the method in
34 subsection (5)(a) and (b) of this section. The department must also
35 assign the authorized tax rate as provided in subsection (3)(c) of
36 this section.

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

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

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

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

9 ((6)) (8) (a) If, when the tax is first imposed, a county has a
10 population greater than four hundred thousand or a city has a
11 population greater than one hundred thousand, the moneys collected or
12 bonds issued under this section may only be used for the following
13 purposes:

14 (i) Acquiring, rehabilitating, or constructing affordable
15 housing, which may include new units of affordable housing within an
16 existing structure or facilities providing supportive housing
17 services under RCW 71.24.385; or

18 (ii) Funding the operations and maintenance costs ((of new
19 units)) of affordable or supportive housing including, but not
20 limited to, staffing necessary for daily operations of permanent
21 supportive housing.

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

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

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

32 (9) The housing and services provided pursuant to subsection
33 ((6)) (8) of this section may only be provided to persons whose
34 income, at each required income certification or recertification, is
35 at or below sixty percent of the median household income of the
36 ((county or city)) standard metropolitan statistical area within which
37 the county, city, or town imposing the tax is located.

38 ((8)) (10) In determining the use of funds under subsection
39 ((6)) (8) of this section, a county or city must consider the income
40 of the individuals and families to be served, the leveraging of the

1 resources made available under this section, and the housing needs
2 within the jurisdiction of the taxing authority.

3 ~~((9))~~ (11)(a) To carry out the purposes of this section
4 including, but not limited to, financing loans or grants to nonprofit
5 organizations or public housing authorities, the legislative
6 authority of the county or city imposing the tax has the authority to
7 issue general obligation or revenue bonds within the limitations now
8 or hereafter prescribed by the laws of this state, and may use, and
9 is authorized to pledge, the moneys collected under this section for
10 repayment of such bonds.

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

14 (i) Before July 28, 2020; or

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

18 ~~((10)A)~~ (12) To carry out the purposes of this section, a
19 county or city may enter into a contract or an interlocal agreement,
20 or utilize an existing contract or interlocal agreement, in
21 accordance with chapter 39.34 RCW with one or more ~~((counties,~~
22 ~~ities, or public housing authorities in accordance with chapter~~
23 ~~39.34 RCW))~~ public entities or nonprofit organizations. The contract
24 or interlocal agreement may include, but is not limited to, pooling
25 the tax receipts received under this section, pledging those taxes to
26 bonds issued by one or more parties to the agreement, and allocating
27 the proceeds of the taxes levied or the bonds issued in accordance
28 with such contract or interlocal agreement and this section. The
29 contract or interlocal agreement must include a requirement, or
30 otherwise ensure through contractual obligations, that the housing or
31 services provided with moneys collected under this section comply
32 with the use restrictions in subsection (8) of this section and the
33 income restrictions in subsection (9) of this section.

34 ~~((11))~~ (13) Counties and cities imposing the tax under this
35 section must report annually to the department of commerce on the
36 collection and use of the revenue. Counties and cities that have
37 pooled funds may submit joint reports on their collective activities.
38 The department of commerce must adopt rules prescribing content of
39 such reports. By December 1, 2019, and annually thereafter, and in
40 compliance with RCW 43.01.036, the department of commerce must submit

1 a report annually to the appropriate legislative committees with
2 regard to such uses.

3 ~~((12))~~(14) The tax imposed by a county or city under this
4 section expires twenty years after the date on which the tax is first
5 imposed.

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