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**SUBSTITUTE SENATE BILL 6631**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate Housing Stability & Affordability (originally sponsored by Senator Saldaña)

READ FIRST TIME 02/06/20.

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~~  
3 ~~tax at a minimum or [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 by July 28, 2020, and send a copy to the department and the  
13 county that the city is located within.

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

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

20 (c) The rate of the tax under this section for an individual  
21 participating city and an individual participating county may not  
22 exceed:

23 (i) (~~Beginning on July 28, 2019, until twelve months after July~~  
24 ~~28, 2019:~~

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

26 (~~(I))~~) (A) Participating city(~~(, unless the participating city~~  
27 ~~levies a qualifying local tax))~~ that does not levy a qualifying tax;  
28 and

29 (~~(II))~~) (B) Participating county, within the limits of  
30 (nonparticipating cities) a participating city within the county  
31 and within participating cities that do not (~~currently~~) levy a  
32 qualifying tax;

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

34 (~~(I))~~) (A) Participating city that (~~currently~~) levies a  
35 qualifying local tax;

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

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

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

7       ~~(A) 0.0073 percent for a:~~

8       ~~(I) Participating city that is located within a participating~~  
9 ~~county if the participating city is not levying a qualifying local~~  
10 ~~tax; and~~

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

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

14       ~~(I) Participating city that is levying a qualifying local tax;~~  
15 ~~and~~

16       ~~(II) Participating county within the unincorporated area of the~~  
17 ~~county and within the limits of any nonparticipating city that is~~  
18 ~~located within the county)).~~

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

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

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

27       (B) Legislation to authorize ~~((the maximum capacity of))~~ the tax  
28 in this section within one year of July 28, 2019.

29       (ii) Adoption of the resolution of intent and legislation to  
30 authorize the tax requires simple majority approval of the enacting  
31 legislative authority.

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

35       ~~(3))~~ If a county or city does not provide the department with  
36 copies of the adopted resolution of intent and copies of the  
37 legislation to authorize the qualifying local tax in this section by  
38 January 15, 2021, the county or city may not authorize, fix, or  
39 impose the tax.

1       (4) The tax imposed under this section must be deducted from the  
2 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) By December 31, 2019, or within thirty days of~~) (5) By  
7 October 1, 2020, for a county or city authorizing the tax under this  
8 section, (~~whichever is later,~~) the department must calculate  
9 (~~the~~) a preliminary annual maximum amount of tax distributions for  
10 each county and city authorizing the tax under this section as  
11 follows:

12       (a) The annual maximum amount for a participating county equals  
13 the taxable retail sales within the unincorporated area of a county,  
14 within the nonparticipating cities, and within the participating  
15 cities without a qualifying local tax, in state fiscal year 2019  
16 multiplied by the tax rate imposed under this section (~~(. If a county~~  
17 ~~imposes a tax authorized under this section after a city located in~~  
18 ~~that county has imposed the tax, the taxable retail sales within the~~  
19 ~~city in state fiscal year 2019 must be subtracted from the taxable~~  
20 ~~retail sales within the county for the calculation of the maximum~~  
21 ~~amount)); and~~

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

26       (~~(5)~~) (6) By June 30, 2022, the department must calculate a  
27 final annual maximum amount of tax distributions for each county and  
28 city authorizing the tax under this section using the method in  
29 subsection (5) (a) and (b) of this section.

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

33       (i) Until June 29, 2022, the preliminary annual maximum amount  
34 calculated in subsection (~~(4)~~) (5) of this section; and

35       (ii) Beginning June 30, 2022, the final annual maximum amount  
36 calculated in subsection (6) of this section.

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

1       ~~((6))~~ (8)(a) If, when the tax is first imposed, a county has a  
2 population greater than four hundred thousand or a city has a  
3 population greater than one hundred thousand, the moneys collected or  
4 bonds issued under this section may only be used for the following  
5 purposes:

6       (i) Acquiring, rehabilitating, or constructing affordable  
7 housing, which may include new units of affordable housing within an  
8 existing structure or facilities providing supportive housing  
9 services under RCW 71.24.385; or

10       (ii) Funding the operations and maintenance costs ~~((of new~~  
11 ~~units))~~ of affordable or supportive housing including, but not  
12 limited to, staffing necessary for daily operations of permanent  
13 supportive housing. Operations and maintenance costs under this  
14 section may not be funded with bonds.

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

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

23       (9) The housing and services provided pursuant to subsection  
24 ~~((6))~~ (8) of this section may only be provided to persons whose  
25 income, at each required income certification or recertification, is  
26 at or below sixty percent of the median household income of the  
27 ~~((county or city))~~ standard metropolitan statistical area within  
28 which the county, city, or town imposing the tax is located.

29       ~~((8))~~ (10) In determining the use of funds under subsection  
30 ~~((6))~~ (8) of this section, a county or city must consider the  
31 income of the individuals and families to be served, the leveraging  
32 of the resources made available under this section, and the housing  
33 needs within the jurisdiction of the taxing authority.

34       ~~((9))~~ (11)(a) To carry out the purposes of this section  
35 including, but not limited to, financing loans or grants to nonprofit  
36 organizations or public housing authorities, the legislative  
37 authority of the county or city imposing the tax has the authority to  
38 issue general obligation or revenue bonds within the limitations now  
39 or hereafter prescribed by the laws of this state, and may use, and

1 is authorized to pledge, the moneys collected under this section for  
2 repayment of such bonds.

3 ~~((10)A)~~ (b) A county may not pledge for repayment of such  
4 bonds any moneys collected from retail sales within the limits of a  
5 city:

6 (i) Before July 28, 2020; or

7 (ii) If the city has adopted a notice of intent under subsection  
8 (2) of this section.

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

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

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

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