
HOUSE BILL 1797

State of Washington

65th Legislature

2017 Regular Session

By Representatives McBride, Kloba, Springer, Robinson, Macri, and Frame

1 AN ACT Relating to encouraging affordable housing development and
2 preservation by providing cities limited sales tax remittance for
3 qualifying investments, providing cities and counties authority to
4 use real estate excise taxes to support affordable housing, and
5 providing cities and counties with councilmanic authority to impose
6 the affordable housing sales tax; amending RCW 82.46.010, 82.46.035,
7 and 82.14.530; adding a new section to chapter 82.46 RCW; and adding
8 a new chapter to Title 82 RCW.

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

10 NEW SECTION. **Sec. 1.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires
12 otherwise.

13 (1) "Affordable housing" means residential housing units for
14 rental occupancy that are rented or owned by a person or household
15 whose monthly housing costs, including utilities other than
16 telephone, do not exceed thirty-percent of the person's or
17 household's monthly income.

18 (2) "City" means any first-class city as defined in RCW 35.01.010
19 or any second-class city as defined in RCW 35.01.020.

20 (3) "Department" means the department of commerce.

1 (4) "Local infrastructure" has the same meaning as provided for
2 "public improvements" under RCW 39.104.020(18).

3 (5) "Local sales and use tax" means the local revenue derived
4 from the imposition of taxes authorized in RCW 82.14.030.

5 (6) "Low-income housing" means residential housing units that are
6 available to persons with annual incomes at or below sixty percent of
7 the county's median income as determined by the office of financial
8 management.

9 NEW SECTION. **Sec. 2.** (1) Subject to the requirements of this
10 chapter, a city that acquires or builds affordable housing may
11 receive a one-time remittance from the department of revenue that is
12 the equivalent of 4.37 percent of the sales or use tax on the
13 construction or purchase of such affordable housing. The remittance
14 received by a city under this section must be credited against the
15 sales or use tax due to the state under chapter 82.08 RCW on the same
16 sales. The remittance under this section is subject to the city's
17 application and approval under section 4 of this act. The residential
18 units for which the city's remittance application was approved must
19 remain affordable housing for at least twenty-five years after the
20 date of the application approval.

21 (2) A city that builds approved local infrastructure to
22 facilitate the development of affordable housing may receive a one-
23 time remittance that is the equivalent of a 4.37 percent sales or use
24 tax on the construction of such local infrastructure. The remittance
25 received by the city under this section must be credited against the
26 sales tax due to the state under chapter 82.08 RCW on the same sales.
27 The remittance under this section is subject to application and
28 approval under section 4 of this act.

29 NEW SECTION. **Sec. 3.** If a city's application for a remittance
30 is approved under section 4 of this act:

31 (1) The city must create an affordable housing and local
32 infrastructure account to be used solely for the city's acquisition
33 or construction of affordable housing or local infrastructure; and

34 (2) The city must deposit into the affordable housing and local
35 infrastructure account created in subsection (1) of this section 0.85
36 percent of any local sales and use taxes collected by the city on
37 sales or uses related to the acquisition or construction of

1 affordable housing or local infrastructure by taxpayers within the
2 city's taxing jurisdiction.

3 NEW SECTION. **Sec. 4.** (1) Prior to applying to receive a
4 remittance under this chapter, a city must apply and be approved for
5 the city's project to acquire or construct affordable housing or
6 local infrastructure. The project may include affordable housing
7 only, local infrastructure only, or a combination of the two. The
8 application must be in the manner and form prescribed by the
9 department and must include, but not be limited to:

10 (a) In the case of the affordable housing program:

11 (i) Information establishing the need for affordable housing in
12 that city;

13 (ii) The anticipated cost of acquiring or building the affordable
14 housing;

15 (iii) The estimated annual operating costs for the affordable
16 housing for twenty-five years;

17 (iv) The amount of the remittance it is requesting; and

18 (v) The date of expected remittance; and

19 (b) In the case of the local infrastructure program:

20 (i) Information establishing that the local infrastructure is
21 needed for an approved private project that will provide affordable
22 residential development;

23 (ii) The anticipated cost of the project;

24 (iii) The amount of remittance it is requesting; and

25 (iv) The date of the expected remittance.

26 (2) Remittance awards must be determined based on:

27 (a) For affordable housing:

28 (i) The immediate need for affordable housing in the requesting
29 city;

30 (ii) The number of affordable housing units that will be created;

31 (iii) The city's rental vacancy rate for residential units; and

32 (iv) The speed with which the project can begin; and

33 (b) For local infrastructure projects:

34 (i) The speed with which the project can begin;

35 (ii) The type of residential development being attracted by the
36 infrastructure investment, prioritized as follows:

37 (A) Low-income rental residential units;

38 (B) Affordable rental residential units;

39 (C) Low-income homeownership projects; and

1 (D) Affordable homeownership projects; and

2 (iii) The extent the project will leverage the public funds with
3 private investment.

4 (3)(a) The department must notify the city of approval or denial
5 within sixty days of receipt of application. Determination by the
6 department is final.

7 (b) Upon approval by the department, the city may apply to the
8 department of revenue for a remittance under this chapter.

9 (4) The department must accept applications and begin approving
10 project awards as of January 1, 2018.

11 (5) No applications may be submitted under this chapter after
12 January 1, 2023.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.46
14 RCW to read as follows:

15 (1) The legislative authority of a city or county, as permitted
16 under subsection (2) of this section, may impose an additional excise
17 tax on the sale of real property in the city at the rate of up to
18 one-quarter of one percent of the selling price. The proceeds of the
19 tax must be used exclusively for the development of affordable
20 housing, including the acquisition, building, rehabilitation, and
21 maintenance of the housing, except up to three percent of the
22 proceeds may be used for the administration of affordable housing
23 programs by the affordable housing entity receiving the proceeds of
24 the tax. Any tax imposed by a city under this subsection must be
25 credited against the same tax imposed by a county.

26 (2) Any city or county with a population of less than one million
27 residents may impose the excise tax upon the enactment of this
28 chapter. Any county with a population greater than one million
29 residents may impose the excise tax after October 1, 2020.

30 (3)(a) Within three months after the tax has been authorized, the
31 affordable housing entity designated by the city or county must
32 establish a mechanism for receiving grant and loan applications, and
33 criteria by which the applications will be approved and funded.

34 (b) The city or county enacting the tax imposed under this
35 section must hold at least one public hearing in respect to the
36 mechanism and criteria to be established under (a) of this
37 subsection.

38 (4) Revenues generated from the tax imposed under this section
39 must be placed in an affordable housing account administered by the

1 affordable housing entity. Disbursements from the account must be in
2 accordance with criteria adopted under subsection (3) of this
3 section.

4 (5) The tax authorized under this section is imposed in the same
5 manner and on the same occurrences, and is subject to the same
6 conditions, as the tax under chapter 82.45 RCW for taxable events
7 occurring within the city or county imposing the tax. The imposition
8 of the tax is effective no sooner than sixty days after the ordinance
9 establishing the tax is authorized by the city or county legislative
10 body and the effective date must be on the first day of a calendar
11 quarter.

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

14 (a) "Affordable housing" means housing units in which rent levels
15 may not exceed thirty percent of the income limit for the low-income
16 housing unit.

17 (i) Rental housing units must be affordable to and occupied by
18 households with an income of sixty percent or less of the county
19 median family income, adjusted for family size.

20 (ii) Owner occupancy housing units must be affordable to and
21 occupied by households with an income of eighty percent or less of
22 the county median family income, adjusted for family size.

23 (b) "Affordable housing entity" means local governments, local
24 housing authorities, nonprofit community or neighborhood-based
25 organizations, federally recognized Indian tribes in the state of
26 Washington, and regional or statewide housing assistance nonprofit
27 organizations or cooperatives.

28 (7) Affordable housing units funded by the tax authorized under
29 this section must constitute affordable housing for a minimum of
30 fifty years.

31 **Sec. 6.** RCW 82.46.010 and 2015 2nd sp.s. c 10 s 1 are each
32 amended to read as follows:

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

38 (2)(a) The legislative authority of any county or any city may
39 impose an excise tax on each sale of real property in the

1 unincorporated areas of the county for the county tax and in the
2 corporate limits of the city for the city tax at a rate not exceeding
3 one-quarter of one percent of the selling price. The revenues from
4 this tax must be used by any city or county with a population of five
5 thousand or less and any city or county that does not plan under RCW
6 36.70A.040 for:

7 (i) Any capital purpose identified in a capital improvements plan
8 and local capital improvements, including those listed in RCW
9 35.43.040; or

10 (ii) The development of affordable housing including acquisition,
11 building, rehabilitation, and maintenance and operation of housing
12 for very low, low, and moderate-income persons and those with special
13 needs.

14 (b) After April 30, 1992, revenues generated from the tax imposed
15 under this subsection (2) in counties over five thousand population
16 and cities over five thousand population that are required or choose
17 to plan under RCW 36.70A.040 must be used solely for financing
18 capital projects specified in a capital facilities plan element of a
19 comprehensive plan and housing relocation assistance under RCW
20 59.18.440 and 59.18.450. However, revenues (i) pledged by such
21 counties and cities to debt retirement prior to April 30, 1992, may
22 continue to be used for that purpose until the original debt for
23 which the revenues were pledged is retired, or (ii) committed prior
24 to April 30, 1992, by such counties or cities to a project may
25 continue to be used for that purpose until the project is completed.

26 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2),
27 the legislative authority of any county or any city may impose an
28 additional excise tax on each sale of real property in the
29 unincorporated areas of the county for the county tax and in the
30 corporate limits of the city for the city tax at a rate not exceeding
31 one-half of one percent of the selling price.

32 (4) Taxes imposed under this section must be collected from
33 persons who are taxable by the state under chapter 82.45 RCW upon the
34 occurrence of any taxable event within the unincorporated areas of
35 the county or within the corporate limits of the city, as the case
36 may be.

37 (5) Taxes imposed under this section must comply with all
38 applicable rules, regulations, laws, and court decisions regarding
39 real estate excise taxes as imposed by the state under chapter 82.45
40 RCW.

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

3 (a) "City" means any city or town.

4 (b) "Capital project" means those public works projects of a
5 local government for planning, acquisition, construction,
6 reconstruction, repair, replacement, rehabilitation, or improvement
7 of streets; roads; highways; sidewalks; street and road lighting
8 systems; traffic signals; bridges; domestic water systems; storm and
9 sanitary sewer systems; parks; recreational facilities; law
10 enforcement facilities; fire protection facilities; trails;
11 libraries; administrative facilities; judicial facilities; river
12 flood control projects; waterway flood control projects by those
13 jurisdictions that, prior to June 11, 1992, have expended funds
14 derived from the tax authorized by this section for such purposes;
15 until December 31, 1995, housing projects for those jurisdictions
16 that, prior to June 11, 1992, have expended or committed to expend
17 funds derived from the tax authorized by this section or the tax
18 authorized by RCW 82.46.035 for such purposes; and technology
19 infrastructure that is integral to the capital project.

20 (7) From July 22, 2011, until December 31, 2016, a city or county
21 may use the greater of one hundred thousand dollars or thirty-five
22 percent of available funds under this section, but not to exceed one
23 million dollars per year, for the operations and maintenance of
24 existing capital projects as defined in subsection (6) of this
25 section.

26 **Sec. 7.** RCW 82.46.035 and 2011 c 354 s 3 are each amended to
27 read as follows:

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

33 (2) The legislative authority of any county or any city that
34 plans under RCW 36.70A.040(1) may impose an additional excise tax on
35 each sale of real property in the unincorporated areas of the county
36 for the county tax and in the corporate limits of the city for the
37 city tax at a rate not exceeding one-quarter of one percent of the
38 selling price. Any county choosing to plan under RCW 36.70A.040(2)
39 and any city within such a county may only adopt an ordinance

1 imposing the excise tax authorized by this section if the ordinance
2 is first authorized by a proposition approved by a majority of the
3 voters of the taxing district voting on the proposition at a general
4 election held within the district or at a special election within the
5 taxing district called by the district for the purpose of submitting
6 such proposition to the voters.

7 (3) Revenues generated from the tax imposed under subsection (2)
8 of this section must be used by such counties and cities (~~solely~~)
9 for financing capital projects specified in a capital facilities plan
10 element of a comprehensive plan or for the development of affordable
11 housing including acquisition, building, rehabilitation, and
12 maintenance and operation of housing for very low, low, and moderate-
13 income persons and those with special needs. However, revenues (a)
14 pledged by such counties and cities to debt retirement prior to March
15 1, 1992, may continue to be used for that purpose until the original
16 debt for which the revenues were pledged is retired, or (b) committed
17 prior to March 1, 1992, by such counties or cities to a project may
18 continue to be used for that purpose until the project is completed.

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

21 (5) As used in this section, "city" means any city or town and
22 "capital project" means those public works projects of a local
23 government for planning, acquisition, construction, reconstruction,
24 repair, replacement, rehabilitation, or improvement of streets,
25 roads, highways, sidewalks, street and road lighting systems, traffic
26 signals, bridges, domestic water systems, storm and sanitary sewer
27 systems, and planning, construction, reconstruction, repair,
28 rehabilitation, or improvement of parks.

29 (6) When the governor files a notice of noncompliance under RCW
30 36.70A.340 with the secretary of state and the appropriate county or
31 city, the county or city's authority to impose the additional excise
32 tax under this section is temporarily rescinded until the governor
33 files a subsequent notice rescinding the notice of noncompliance.

34 (7) From June 30, 2012, until December 31, 2016, a city or county
35 may use the greater of one hundred thousand dollars or thirty-five
36 percent of available funds under this section, but not to exceed one
37 million dollars per year, for operations and maintenance of existing
38 capital projects as defined in subsection (5) of this section, and
39 counties may use available funds under this section for the payment
40 of existing debt service incurred for capital projects as defined in

1 RCW 82.46.010. If a county uses available funds for payment of
2 existing debt service under RCW 82.46.010, the total amount used for
3 payment of debt service and any amounts used for operations and
4 maintenance is subject to the limits in this subsection.

5 **Sec. 8.** RCW 82.14.530 and 2015 3rd sp.s. c 24 s 701 are each
6 amended to read as follows:

7 (1)(a) A county legislative authority may (~~submit an authorizing~~
8 ~~proposition to the county voters at a special or general election~~
9 ~~and, if the proposition is approved by a majority of persons~~
10 ~~voting,~~) impose a sales and use tax in accordance with the terms of
11 this chapter. (~~The title of each ballot measure must clearly state~~
12 ~~the purposes for which the proposed sales and use tax will be used.~~)
13 The rate of tax under this section may not exceed one-tenth of one
14 percent of the selling price in the case of a sales tax, or value of
15 the article used, in the case of a use tax.

16 (b)(i) If a county with a population of one million five hundred
17 thousand or less has not imposed the full tax rate authorized under
18 (a) of this subsection within two years of October 9, 2015, any city
19 legislative authority located in that county may (~~submit an~~
20 ~~authorizing proposition to the city voters at a special or general~~
21 ~~election and, if the proposition is approved by a majority of persons~~
22 ~~voting,~~) impose the whole or remainder of the sales and use tax rate
23 in accordance with the terms of this chapter. (~~The title of each~~
24 ~~ballot measure must clearly state the purposes for which the proposed~~
25 ~~sales and use tax will be used.~~) The rate of tax under this section
26 may not exceed one-tenth of one percent of the selling price in the
27 case of a sales tax, or value of the article used, in the case of a
28 use tax.

29 (ii) If a county with a population of greater than one million
30 five hundred thousand has not imposed the full tax authorized under
31 (a) of this subsection within three years of October 9, 2015, any
32 city legislative authority located in that county may (~~submit an~~
33 ~~authorizing proposition to the city voters at a special or general~~
34 ~~election and, if the proposition is approved by a majority of persons~~
35 ~~voting,~~) impose the whole or remainder of the sales and use tax rate
36 in accordance with the terms of this chapter. (~~The title of each~~
37 ~~ballot measure must clearly state the purposes for which the proposed~~
38 ~~sales and use tax will be used.~~) The rate of tax under this section
39 may not exceed one-tenth of one percent of the selling price in the

1 case of a sales tax, or value of the article used, in the case of a
2 use tax.

3 (c) If a county imposes a tax authorized under (a) of this
4 subsection after a city located in that county has imposed the tax
5 authorized under (b) of this subsection, the county must provide a
6 credit against its tax for the full amount of tax imposed by a city.

7 (d) The taxes authorized in this subsection are in addition to
8 any other taxes authorized by law and must be collected from persons
9 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
10 the occurrence of any taxable event within the county for a county's
11 tax and within a city for a city's tax.

12 (2)(a) Notwithstanding subsection (4) of this section, a minimum
13 of sixty percent of the moneys collected under this section must be
14 used for the following purposes:

15 (i) Constructing affordable housing, which may include new units
16 of affordable housing within an existing structure, and facilities
17 providing housing-related services; or

18 (ii) Constructing mental and behavioral health-related
19 facilities; or

20 (iii) Funding the operations and maintenance costs of new units
21 of affordable housing and facilities where housing-related programs
22 are provided, or newly constructed evaluation and treatment centers.

23 (b) The affordable housing and facilities providing housing-
24 related programs in (a)(i) of this subsection may only be provided to
25 persons within any of the following population groups whose income is
26 at or below sixty percent of the median income of the county imposing
27 the tax:

28 (i) Persons with mental illness;

29 (ii) Veterans;

30 (iii) Senior citizens;

31 (iv) Homeless, or at-risk of being homeless, families with
32 children;

33 (v) Unaccompanied homeless youth or young adults;

34 (vi) Persons with disabilities; or

35 (vii) Domestic violence survivors.

36 (c) The remainder of the moneys collected under this section must
37 be used for the operation, delivery, or evaluation of mental and
38 behavioral health treatment programs and services or housing-related
39 services.

1 (3) A county that imposes the tax under this section must consult
2 with a city before the county may construct any of the facilities
3 authorized under subsection (2)(a) of this section within the city
4 limits.

5 (4) A county that has not imposed the tax authorized under RCW
6 82.14.460 prior to October 9, 2015, but imposes the tax authorized
7 under this section after a city in that county has imposed the tax
8 authorized under RCW 82.14.460 prior to October 9, 2015, must enter
9 into an interlocal agreement with that city to determine how the
10 services and provisions described in subsection (2) of this section
11 will be allocated and funded in the city.

12 (5) To carry out the purposes of subsection (2)(a) and (b) of
13 this section, the legislative authority of the county or city
14 imposing the tax has the authority to issue general obligation or
15 revenue bonds within the limitations now or hereafter prescribed by
16 the laws of this state, and may use, and is authorized to pledge, up
17 to fifty percent of the moneys collected under this section for
18 repayment of such bonds, in order to finance the provision or
19 construction of affordable housing, facilities where housing-related
20 programs are provided, or evaluation and treatment centers described
21 in subsection (2)(a)(iii) of this section.

22 (6)(a) Moneys collected under this section may be used to offset
23 reductions in state or federal funds for the purposes described in
24 subsection (2) of this section.

25 (b) No more than ten percent of the moneys collected under this
26 section may be used to supplant existing local funds.

27 NEW SECTION. **Sec. 9.** Sections 1 through 4 of this act
28 constitute a new chapter in Title 82 RCW.

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