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HOUSE BILL 2797

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Robinson and Macri

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 by July 28, 2020, the tax source is instated (~~(no later than twelve~~  
18 ~~months after July 28, 2019)) or a simple majority of a city  
19 legislative authority adopts a resolution of intent to implement the  
20 tax source:~~

21 (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) (a) A county or city legislative authority may authorize, fix,  
10 and impose a sales and use tax in accordance with the terms of this  
11 section.

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

15 (c) The rate of the tax under this section for an individual  
16 participating city and an individual participating county may not  
17 exceed:

18 (i) Beginning on July 28, 2019, until twelve months after July  
19 28, 2019:

20 (A) 0.0073 percent for a:

21 (I) Participating city, unless the participating city levies a  
22 qualifying local tax; and

23 (II) Participating county, within the limits of nonparticipating  
24 cities within the county and within participating cities that do not  
25 currently levy a qualifying tax;

26 (B) 0.0146 percent for a:

27 (I) Participating city that currently levies a qualifying local  
28 tax;

29 (II) Participating city if the county in which it is located  
30 declares they will not levy the sales and use tax authorized under  
31 this section or does not adopt a resolution in accordance with (~~this~~  
32 ~~section~~) (e) (i) (A) of this subsection (2); and

33 (III) Participating county within the unincorporated areas of the  
34 county and any city that declares they will not levy the sales and  
35 use tax authorized under this section or does not adopt a resolution  
36 in accordance with (~~this section~~) (e) (i) (A) of this subsection (2);

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

38 (A) 0.0073 percent for a:

1 (I) Participating city that is (~~located within a participating~~  
2 ~~county if the participating city is~~) not levying a qualifying local  
3 tax; and

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

6 (B) 0.0146 percent within the limits of a:

7 (I) Participating city that is levying a qualifying local tax;  
8 and

9 (II) Participating county within the unincorporated area of the  
10 county and within the limits of any nonparticipating city that is  
11 located within the county.

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

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

17 (A) A resolution of intent to adopt legislation to authorize the  
18 maximum capacity of the tax in this section (~~within six months of~~  
19 ~~July 28, 2019~~) by July 28, 2020; and

20 (B) Legislation to authorize the maximum capacity of the tax in  
21 this section (~~within one year of July 28, 2019~~) by December 1,  
22 2020.

23 (ii) Adoption of the resolution of intent and legislation to  
24 authorize the maximum capacity of the tax requires simple majority  
25 approval of the enacting legislative authority.

26 (iii) If a county or city has not adopted a resolution of intent  
27 to authorize the maximum capacity of the tax in accordance with the  
28 terms of (~~this section~~) (e)(i)(A) of this subsection (2), the  
29 county or city may not authorize, fix, and impose the tax.

30 (iv) If a county or city does not provide the department with  
31 copies of the adopted resolution of intent to authorize the maximum  
32 capacity of the tax in this section and copies of the legislation to  
33 authorize the maximum capacity of the tax in this section by December  
34 1, 2020, the county or city may not authorize, fix, or impose the  
35 tax.

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

1 (4) By December 31, 2019, or within thirty days of a county or  
2 city authorizing the tax under this section, whichever is later, the  
3 department must calculate (~~(the)~~) a preliminary maximum amount of tax  
4 distributions for each county and city authorizing the tax under this  
5 section as follows:

6 (a) The maximum amount for a participating county equals the  
7 taxable retail sales within the county in state fiscal year 2019  
8 multiplied by the tax rate imposed under this section. If a county  
9 imposes a tax authorized under this section after a city located in  
10 that county has imposed the tax, the taxable retail sales within the  
11 city in state fiscal year 2019 must be subtracted from the taxable  
12 retail sales within the county for the calculation of the maximum  
13 amount; and

14 (b) The maximum amount for a participating city equals the  
15 taxable retail sales within the city in state fiscal year 2019  
16 multiplied by the tax rate imposed under subsection (~~((1))~~) (2) of  
17 this section.

18 (5) After December 1, 2020, and by December 31, 2020, the  
19 department must calculate a final maximum amount of tax distributions  
20 for each county and city authorizing the tax under this section using  
21 the method in subsection (4) of this section.

22 (6)(a) The tax must cease to be distributed to a county or city  
23 for the remainder of any fiscal year in which the amount of tax  
24 exceeds:

25 (i) Until December 31, 2020, the preliminary maximum amount  
26 calculated in subsection (4) of this section; and

27 (ii) Beginning January 1, 2021, the final maximum amount  
28 calculated in subsection (5) of this section.

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

33 (~~((6))~~) (7)(a) If, when the tax is first imposed, a county has a  
34 population greater than four hundred thousand or a city has a  
35 population greater than one hundred thousand, the moneys collected or  
36 bonds issued under this section may only be used for the following  
37 purposes:

38 (i) Acquiring, rehabilitating, or constructing affordable  
39 housing, which may include new units of affordable housing within an

1 existing structure or facilities providing supportive housing  
2 services under RCW 71.24.385; or

3 (ii) Funding the operations and maintenance costs (~~(of new~~  
4 ~~units))~~) of affordable or supportive housing including, but not  
5 limited to, staffing necessary for daily operations of permanent  
6 supportive housing.

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

12 (~~(7))~~) (c) Administrative costs of the county or city associated  
13 with administering this section may not exceed three percent of the  
14 annual tax distributed to the jurisdiction under this section.

15 (8) The housing and services provided pursuant to subsection  
16 (~~(6))~~) (7) of this section may only be provided to persons whose  
17 income is at or below sixty percent of the median income of the  
18 county or city imposing the tax at the time of initial occupancy for  
19 each renter household, at the time of each purchase for owner-  
20 occupied units, or, in the case of rental assistance, at each  
21 required income certification or recertification of the renter  
22 household.

23 (~~(8))~~) (9) In determining the use of funds under subsection  
24 (~~(6))~~) (7) of this section, a county or city must consider the  
25 income of the individuals and families to be served, the leveraging  
26 of the resources made available under this section, and the housing  
27 needs within the jurisdiction of the taxing authority.

28 (~~(9))~~) (10) To carry out the purposes of this section including,  
29 but not limited to, financing loans or grants to nonprofit  
30 organizations or public housing authorities, the legislative  
31 authority of the county or city imposing the tax has the authority to  
32 issue general obligation or revenue bonds within the limitations now  
33 or hereafter prescribed by the laws of this state, and may use, and  
34 is authorized to pledge, the moneys collected under this section for  
35 repayment of such bonds. A county may not pledge for repayment of  
36 such bonds any moneys collected from retail sales within the limits  
37 of a city until January 1, 2021.

38 (~~(10) A)~~) (11) To carry out the purposes of this section, a  
39 county or city may enter into a contract or an interlocal agreement  
40 in accordance with chapter 39.34 RCW with one or more (~~counties,~~

1 ~~ities, or public housing authorities in accordance with chapter~~  
2 ~~39.34 RCW))~~ public agencies or private entities. The contract or  
3 interlocal agreement may include, but is not limited to, pooling the  
4 tax receipts received under this section, pledging those taxes to  
5 bonds issued by one or more parties to the agreement, and allocating  
6 the proceeds of the taxes levied or the bonds issued in accordance  
7 with such contract or interlocal agreement and this section. The  
8 contract or interlocal agreement must include a requirement that the  
9 housing or services provided with moneys collected under this section  
10 comply with the use restrictions in subsection (7) of this section  
11 and the income restrictions in subsection (8) of this section.

12 ~~((11))~~ (12) Counties and cities imposing the tax under this  
13 section must report annually to the department of commerce on the  
14 collection and use of the revenue. The department of commerce must  
15 adopt rules prescribing content of such reports. By December 1, 2019,  
16 and annually thereafter, and in compliance with RCW 43.01.036, the  
17 department of commerce must submit a report annually to the  
18 appropriate legislative committees with regard to such uses.

19 ~~((12))~~ (13) The tax imposed by a county or city under this  
20 section expires twenty years after the date on which the tax is first  
21 imposed.

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