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ENGROSSED HOUSE BILL 2797

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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 [of])~~) 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) a participating city 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  
6 areas of the county and within any nonparticipating city ~~((that~~  
7 ~~declares they will not levy the sales and use tax authorized under~~  
8 ~~this 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  
2 from the amount of tax otherwise required to be collected or paid to  
3 the 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 a))~~  
7 January 1, 2021, for every county or city authorizing the tax under  
8 this section, ~~((whichever is later))~~ including those counties and  
9 cities currently imposing the tax authorized under this section, the  
10 department must calculate ~~((the))~~ or recalculate a preliminary annual  
11 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  
25 not include the taxable retail sales within the participating cities  
26 with 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 (9) The housing and services provided pursuant to subsection  
31 ~~((6))~~ (8) of this section may only be provided to persons whose  
32 income, at each required income certification or recertification, is  
33 at or below sixty percent of the median household income of the  
34 ~~(county or city)) standard metropolitan statistical area within~~  
35 which the county, city, or town imposing the tax is located.

36 ~~((8))~~ (10) In determining the use of funds under subsection  
37 ~~((6))~~ (8) of this section, a county or city must consider the  
38 income of the individuals and families to be served, the leveraging  
39 of the resources made available under this section, and the housing  
40 needs within the jurisdiction of the taxing authority.

1        ~~((9))~~ (11)(a) To carry out the purposes of this section  
2 including, but not limited to, financing loans or grants to nonprofit  
3 organizations or public housing authorities, the legislative  
4 authority of the county or city imposing the tax has the authority to  
5 issue general obligation or revenue bonds within the limitations now  
6 or hereafter prescribed by the laws of this state, and may use, and  
7 is authorized to pledge, the moneys collected under this section for  
8 repayment of such bonds.

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

12        (i) Before July 28, 2020; or

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

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

32        ~~((11))~~ (13) Counties and cities imposing the tax under this  
33 section must report annually to the department of commerce on the  
34 collection and use of the revenue. Counties and cities that have  
35 pooled funds may submit joint reports on their collective activities.  
36 The department of commerce must adopt rules prescribing content of  
37 such reports. By December 1, 2019, and annually thereafter, and in  
38 compliance with RCW 43.01.036, the department of commerce must submit  
39 a report annually to the appropriate legislative committees with  
40 regard to such uses.

1        (~~(12)~~) (14) The tax imposed by a county or city under this  
2 section expires twenty years after the date on which the tax is first  
3 imposed.

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