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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Before July 28, 2020; or

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

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

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

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

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