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**HOUSE BILL 2898**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representative Walen

AN ACT Relating to housing benefit districts; amending RCW 36.70A.600, 84.52.010, and 29A.36.210; and adding a new chapter to Title 36 RCW.

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

NEW SECTION. **Sec.**  (1) The legislature finds the following:

(a) Housing for middle-income and workforce households with incomes up to two hundred percent of the area median income is a public purpose;

(b) Providing local governments with more options to increase residential capacity, especially in urban areas, consistent with chapter 348, Laws of 2019 is essential to fulfill this public purpose;

(c) Publicly funded salaried professionals and paraprofessionals, such as teachers, firefighters, public servants, law enforcement, nurses, social workers, and transit operators, especially professions historically underrepresented by persons and communities of color, cannot afford to live in the districts in which they serve due to increasing housing costs;

(d) Employees of nonprofit organizations who help deliver essential public services on contract, as well as those who help provide essential services to the poor and infirm as part of their organizational mission, are similarly housing cost constrained;

(e) With the median home value in Washington over four hundred thousand dollars, the median rent price at two thousand dollars, and the average incomes of such publicly funded professional households ranging from fifty thousand to eighty thousand dollars, Washington public employee households are particularly cost burdened when paying their mortgage or rent;

(f) The failure to make adequate provision for low-income and middle-income housing pushes many households to seek housing further away from work, which leads to increased greenhouse gas emissions from transportation, as well as congestion on state managed transportation infrastructure, so providing for more low-income and middle-income housing would enable the state to better meet established goals for greenhouse gas emission reduction and commute trip reduction;

(g) Better public policy outcomes, including improvements and benefits to transportation infrastructure and business, will occur if public servants and nonprofit employees can afford to live in the districts they serve;

(h) Communities across the state are facing an affordable housing crisis and there is a particularly acute need for affordable housing in the Puget Sound region. With historic investments in transit in the Puget Sound region, communities have the unprecedented and urgent opportunity to plan for, invest in, and build additional affordable housing, ensuring the region gets the most out of these investments in transit while meeting critical economic, environmental, and equity goals; and

(i) Housing can drive economic growth within neighborhoods if developed with a focus on services, jobs, infrastructure improvements, open spaces, and other elements that make housing vital and economically additive to nearby residents and the region as a whole.

(2) The legislature intends with this act to authorize the creation of housing benefit districts in order to produce more affordable low-income and middle-income housing to enable all members of the workforce to live in the district in which they serve.

NEW SECTION. **Sec.**  (1) Subject to the requirements of subsection (5) of this section, the legislative authority of a county or city may establish a housing benefit district within the county or city area or within the areas specified in subsection (2) of this section for the purpose of acquiring, land banking, predevelopment contracting, selling, improving, funding, and leasing land for the creation of affordable low-income and middle-income housing and community development projects within the district consistent with any existing state, regional, or county housing plans and the Washington housing policy act, chapter 43.185B RCW.

(2) The housing benefit district may include areas within two or more cities or counties, or combination of both, if the legislative authority of each participating jurisdiction has agreed to the inclusion as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW.

(3) The members of the legislative authority proposing to establish the district, acting ex officio and independently, constitute the governing body of the district. However, where a district includes areas within more than one jurisdiction under subsection (2) of this section, the district must be governed under an interlocal agreement adopted pursuant to chapter 39.34 RCW, with the governing body being composed of:

(a) At least five members including at least one elected official from the legislative authority of each participating jurisdiction and the remaining members appointed by the governing bodies of the participating jurisdictions in a manner determined in the interlocal agreement and who are members having expertise in the areas described in section 4(2) of this act; or

(b) The governing body of the metropolitan planning organization serving the district, but only if the district boundaries are identical to the boundaries of the metropolitan planning organization serving the district.

(4) The treasurer of the jurisdiction proposing to establish the district shall act as the ex officio treasurer of the district, unless an interlocal agreement states otherwise.

(5) Prior to the formation of any housing benefit district, the participating jurisdictions must meet the following criteria:

(a) Adopt a housing action plan as described in RCW 36.70A.600(2) that includes at least two of the actions listed under RCW 36.70A.600(1); and

(b) Participating jurisdictions within a county with a population of at least eight hundred thousand, develop station area plans that are consistent with accommodating sixty-five percent of future population growth. Station area plans must be approved for consistency by the advisory board established in section 4 of this act.

(6) A housing benefit district is a quasi-municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

NEW SECTION. **Sec.**  (1) A housing benefit district may submit an authorizing proposition to the voters within the district at a special or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used and the time period for the sales tax. Except as provided in subsection (2) of this section, the rate of tax under this section may not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the district.

(2) For housing benefit districts consisting of a single participating jurisdiction with a population greater than seven hundred fifty thousand or consisting of at least two participating jurisdictions with a combined population greater than two hundred fifty thousand, the rate of tax authorized under subsection (1) of this section may not exceed one-half of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Beginning with taxes levied for collection in calendar year 2021, a housing benefit district may impose an additional regular property tax levy, not to exceed one dollar per thousand dollars of the assessed value of property in the district, for the exclusive purpose of providing funding for the purposes described in subsections (9) and (10) of this section. The tax proposition may be submitted at a general or special election. The tax may be imposed for each year for six consecutive years when specifically authorized by a majority of the registered voters in the district voting on a proposition under this subsection. Ballot propositions must conform with RCW 29A.36.210. For purposes of this section, "regular property tax levy" means a levy subject to the limitations provided for in Article VII, section 2 of the state Constitution or by statute. The limitation in RCW 84.55.010 does not apply to the first tax levy imposed pursuant to this section following the approval of the levy by the voters pursuant to this subsection.

(4) A housing benefit district may provide for the retirement of voter-approved general obligation bonds, issued for capital purposes only, by levying bond retirement ad valorem property tax levies in excess of the one percent limitation whenever authorized by the voters of the housing benefit district pursuant to Article VII, section 2(b) of the state Constitution and RCW 84.52.056.

(5) To carry out the purposes of this chapter and notwithstanding RCW 39.36.020(1), a housing benefit district may issue general obligation bonds, not to exceed an amount, together with any other outstanding nonvoter-approved general obligation indebtedness of the district, equal to one and one-half percent of the value of taxable property within the housing benefit district, as the term "value of the taxable property" is defined in RCW 39.36.015. A housing benefit district may additionally issue general obligation bonds for capital purposes only, together with any outstanding general obligation indebtedness, not to exceed an amount equal to five percent of the value of the taxable property within the housing benefit district, as the term "value of the taxable property" is defined in RCW 39.36.015, when authorized by the voters of the housing benefit district pursuant to Article VIII, section 6 of the state Constitution, and may also provide for the retirement thereof by excess property tax levies as provided in subsection (4) of this section. The housing benefit district may, if applicable, submit a single proposition to the voters that, if approved, authorizes both the issuance of the bonds and the bond retirement property tax levies.

(6) General obligation bonds with a maturity in excess of forty years shall not be issued and shall conform to the requirements of chapter 39.46 RCW.

(7) Whenever general obligation bonds are issued to fund specific projects or enterprises that generate revenues, the housing benefit district may specifically pledge all or a portion of the revenues to pay the principal of and interest on the general obligation bonds. The housing benefit district may also pledge any other revenues that may be available to the district.

(8) In addition to general obligation bonds, a housing benefit district may issue revenue bonds to be issued and sold in accordance with chapter 39.46 RCW.

(9) Any moneys received from the taxes imposed or bonds issued under this section must be spent in accordance with the requirements of this chapter, including the following:

(a) Station area planning strategies, including creating new or updating existing plans, identifying a community vision, assessing the current regulatory environment and identifying possible barriers to affordable housing development, assessing displacement risk for current low-income residents, creating a displacement mitigation plan, and assessing alternate pathways to ownership models such as community land trusts and limited or shared equity cooperatives;

(b) Land acquisition, based on station area plans and working with local jurisdictions and both nonprofit and for-profit developers to acquire, assemble, lease, land bank parcels, or sell, in cases where the station area plan clearly demonstrates that it is not financially feasible to lease all development parcels, with the net proceeds directed to subsidies for affordable housing and to promote community land trusts and infrastructure costs; and

(c) Infrastructure development, such as, but not limited to, area-wide environmental plans, sewers, and sidewalks.

(10) Up to one percent of revenue generated by the taxes imposed under this section must be used to cover the actual costs incurred by the advisory board established in section 4 of this act in the performance of its oversight and technical assistance duties.

NEW SECTION. **Sec.**  (1) There is hereby established a housing benefit district advisory board, to be appointed by the governor, and to provide oversight and technical assistance to housing benefit districts.

(2)(a) Seven members of the advisory board shall be appointed by the governor, one of whom shall be appointed by the governor as chair of the advisory board and who shall serve on the advisory board and as chair of the advisory board at the pleasure of the governor. The advisory board shall consist of the following voting members:

(i) One member with public or private real estate finance experience;

(ii) One member with affordable housing development experience;

(iii) One member with market rate housing development experience;

(iv) One member with experience in neighborhood and community planning;

(v) One member with design and architecture experience;

(vi) One member with experience in transit-oriented development; and

(vii) One member with economic development experience.

(b) The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their appointment.

(3) The advisory board shall review and approve the station area plans submitted by the housing benefit districts pursuant to section 2(5)(b) of this act to confirm compliance with regional growth strategies. A housing benefit district submitting a station area plan must receive approval from the advisory board before any proposition for a tax is submitted to the voters.

(4) The staff of the state housing finance commission under chapter 43.180 RCW shall provide administrative and staff support to the advisory board and shall be compensated for its services solely from the funds of the advisory board. In performing administrative and staff support to the advisory board, the state housing finance commission staff must:

(a) Employ permanent and temporary staff with expertise in housing finance, land use and planning, transit, and project development; and

(b) Provide all administrative and information technology services required for the advisory board.

**Sec.**  RCW 36.70A.600 and 2019 c 348 s 1 are each amended to read as follows:

(1) A city planning pursuant to RCW 36.70A.040 is encouraged to take the following actions in order to increase its residential building capacity:

(a) Authorize development in one or more areas of not fewer than five hundred acres that include at least one train station served by commuter rail or light rail with an average of at least fifty residential units per acre that require no more than an average of one on-site parking space per two bedrooms in the portions of multifamily zones that are located within the areas;

(b) Authorize development in one or more areas of not fewer than five hundred acres in cities with a population greater than forty thousand or not fewer than two hundred fifty acres in cities with a population less than forty thousand that include at least one bus stop served by scheduled bus service of at least four times per hour for twelve or more hours per day with an average of at least twenty-five residential units per acre that require no more than an average of one on-site parking space per two bedrooms in portions of the multifamily zones that are located within the areas;

(c) Authorize at least one duplex, triplex, or courtyard apartment on each parcel in one or more zoning districts that permit single-family residences unless a city documents a specific infrastructure of physical constraint that would make this requirement unfeasible for a particular parcel;

(d) Authorize cluster zoning or lot size averaging in all zoning districts that permit single-family residences;

(e) Authorize attached accessory dwelling units on all parcels containing single-family homes where the lot is at least three thousand two hundred square feet in size, and permit both attached and detached accessory dwelling units on all parcels containing single-family homes, provided lots are at least four thousand three hundred fifty-six square feet in size. Qualifying city ordinances or regulations may not provide for on-site parking requirements, owner occupancy requirements, or square footage limitations below one thousand square feet for the accessory dwelling unit, and must not prohibit the separate rental or sale of accessory dwelling units and the primary residence. Cities must set applicable impact fees at no more than the projected impact of the accessory dwelling unit. To allow local flexibility, other than these factors, accessory dwelling units may be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority, and must follow all applicable state and federal laws and local ordinances;

(f) Adopt a subarea plan pursuant to RCW 43.21C.420;

(g) Adopt a planned action pursuant to RCW 43.21C.440(1)(b)(ii), except that an environmental impact statement pursuant to RCW 43.21C.030 is not required for such an action;

(h) Adopt increases in categorical exemptions pursuant to RCW 43.21C.229 for residential or mixed-use development;

(i) Adopt a form-based code in one or more zoning districts that permit residential uses. "Form-based code" means a land development regulation that uses physical form, rather than separation of use, as the organizing principle for the code;

(j) Authorize a duplex on each corner lot within all zoning districts that permit single-family residences;

(k) Allow for the division or redivision of land into the maximum number of lots through the short subdivision process provided in chapter 58.17 RCW; and

(l) Authorize a minimum net density of six dwelling units per acre in all residential zones, where the residential development capacity will increase within the city.

(2) A city planning pursuant to RCW 36.70A.040 may adopt a housing action plan as described in this subsection. The goal of any such housing plan must be to encourage construction of additional affordable and market rate housing in a greater variety of housing types and at prices that are accessible to a greater variety of incomes, including strategies aimed at the for-profit single-family home market. A housing action plan may utilize data compiled pursuant to RCW 36.70A.610. The housing action plan should:

(a) Quantify existing and projected housing needs for all income levels, including extremely low-income households, with documentation of housing and household characteristics, and cost-burdened households;

(b) Develop strategies to increase the supply of housing, and variety of housing types, needed to serve the housing needs identified in (a) of this subsection;

(c) Analyze population and employment trends, with documentation of projections;

(d) Consider strategies to minimize displacement of low-income residents resulting from redevelopment;

(e) Review and evaluate the current housing element adopted pursuant to RCW 36.70A.070, including an evaluation of success in attaining planned housing types and units, achievement of goals and policies, and implementation of the schedule of programs and actions;

(f) Provide for participation and input from community members, community groups, local builders, local realtors, nonprofit housing advocates, and local religious groups; and

(g) Include a schedule of programs and actions to implement the recommendations of the housing action plan.

(3) If adopted by April 1, 2021, ordinances, amendments to development regulations, and other nonproject actions taken by a city to implement the actions specified in subsection (1) of this section, with the exception of the action specified in subsection (1)(f) of this section, are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(4) Any action taken by a city prior to April 1, 2021, to amend their comprehensive plan, or adopt or amend ordinances or development regulations, solely to enact provisions under subsection (1) of this section is not subject to legal challenge under this chapter.

(5) In taking action under subsection (1) of this section, cities are encouraged to utilize strategies that increase residential building capacity in areas with frequent transit service and with the transportation and utility infrastructure that supports the additional residential building capacity.

(6) A city with a population over twenty thousand that is planning to take at least two actions under subsection (1) of this section, and that action will occur between July 28, 2019, and April 1, 2021, is eligible to apply to the department for planning grant assistance of up to one hundred thousand dollars, subject to the availability of funds appropriated for that purpose. The department shall develop grant criteria to ensure that grant funds awarded are proportionate to the level of effort proposed by a city, and the potential increase in housing supply or regulatory streamlining that could be achieved. Funding may be provided in advance of, and to support, adoption of policies or ordinances consistent with this section. A city can request, and the department may award, more than one hundred thousand dollars for applications that demonstrate extraordinary potential to increase housing supply or regulatory streamlining.

(7) A city seeking to develop a housing action plan under subsection (2) of this section ((~~is~~)) or participating jurisdictions required to adopt a housing action plan under section 2(5) of this act are eligible to apply to the department for up to one hundred thousand dollars.

(8) The department shall establish grant award amounts under subsections (6) and (7) of this section based on the expected number of cities or participating jurisdictions that will seek or require grant assistance, to ensure that all cities and participating jurisdictions can receive some level of grant support. If funding capacity allows, the department may consider accepting and funding applications from cities with a population of less than twenty thousand if the actions proposed in the application will create a significant amount of housing capacity or regulatory streamlining and are consistent with the actions in this section.

(9) In implementing chapter 348, Laws of 2019, cities are encouraged to prioritize the creation of affordable, inclusive neighborhoods and to consider the risk of residential displacement, particularly in neighborhoods with communities at high risk of displacement.

**Sec.**  RCW 84.52.010 and 2017 c 196 s 10 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor must recompute and establish a consolidated levy in the following manner:

(a) The full certified rates of tax levy for state, county, county road district, regional transit authority, and city or town purposes must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy takes precedence over all other levies and may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, and the portion of the levy by a flood control zone district that was protected under RCW 84.52.816, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies must be reduced as follows:

(i) The portion of the levy by a flood control zone district that was protected under RCW 84.52.816 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district or regional fire protection service authority that is protected under RCW 84.52.125 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated; and

(viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(i) First, the certified property tax levy authorized under section 3(3) of this act must be reduced on a pro rata basis or eliminated;

(ii) Second, the certified property tax levy authorized under RCW 84.52.821 must be reduced on a pro rata basis or eliminated;

((~~(ii) Second~~)) (iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 must be reduced on a pro rata basis or eliminated;

((~~(iii) Third~~)) (iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts other than the portion of a levy protected under RCW 84.52.816 must be reduced on a pro rata basis or eliminated;

((~~(iv) Fourth~~)) (v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, must be reduced on a pro rata basis or eliminated;

((~~(v) Fifth~~)) (vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, must be reduced on a pro rata basis or eliminated;

((~~(vi) Sixth~~)) (vii) Seventh, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) must be reduced on a pro rata basis or eliminated; and

((~~(vii) Seventh~~)) (viii) Eighth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, must be reduced on a pro rata basis or eliminated.

**Sec.**  RCW 29A.36.210 and 2010 c 106 s 301 are each amended to read as follows:

(1) The ballot proposition authorizing a taxing district to impose the regular property tax levies authorized in RCW 36.68.525, 36.69.145, 67.38.130, 84.52.069, section 3(3) of this act, or 84.52.135 must contain in substance the following:

"Will the . . . . . . (insert the name of the taxing district) be authorized to impose regular property tax levies of . . . . . . (insert the maximum rate) or less per thousand dollars of assessed valuation for each of . . . . . . (insert the maximum number of years allowable) consecutive years?

Yes . . . . . . . . . . . .□

No  . . . . . . . . . . . .□"

Each voter may indicate either "Yes" or "No" on his or her ballot in accordance with the procedures established under this title.

(2) The ballot proposition authorizing a taxing district to impose a permanent regular tax levy under RCW 84.52.069 must contain in substance the following:

"Will the . . . . . (insert the name of the taxing district) be authorized to impose a PERMANENT regular property levy of . . . . . (insert the maximum rate) or less per thousand dollars of assessed valuation?

Yes . . . . . . . . . . . .□

No  . . . . . . . . . . . .□"

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 36 RCW.

**--- END ---**