

HOUSE BILL REPORT

HB 1938

As Reported by House Committee On:
Housing, Community Development & Veterans

Title: An act relating to creating a local infrastructure investment program to support the development of affordable housing, workforce housing, and revitalization efforts.

Brief Description: Creating a local infrastructure investment program to support the development of affordable housing, workforce housing, and revitalization efforts.

Sponsors: Representatives Steele, Barkis and Chapman.

Brief History:

Committee Activity:

Housing, Community Development & Veterans: 2/15/19, 2/20/19 [DPS], 1/14/20, 2/5/20 [DP3S].

Brief Summary of Third Substitute Bill

- Allows eligible cities and counties to apply for a remittance of 4.37 percent of the state sales and use tax on the construction of housing under a local infrastructure investment program.

HOUSE COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT & VETERANS

Majority Report: The third substitute bill be substituted therefor and the third substitute bill do pass. Signed by 8 members: Representatives Ryu, Chair; Morgan, Vice Chair; Jenkin, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Barkis, Johnson, J., Leavitt and Ramel.

Minority Report: Without recommendation. Signed by 1 member: Representative Frame.

Staff: Serena Dolly (786-7150).

Background:

Sales and Use Tax.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.0 percent, depending on the location.

Taxation of Construction Activities.

Prime contractors must collect retail sales tax from the purchaser of the construction project on the gross contract price. Billing invoices must disclose the sales tax separately. If the contract requires retainage, sales tax must be computed before deducting such amounts. Retail construction services are sourced to the location where the construction takes place. A contractor is considered the consumer of items purchased for use in the construction process and not used as component parts of the finished structure. Therefore, retail sales tax must be paid to the vendors of such items.

The purchase of materials by custom contractors that will become part of the completed project are purchases for resale (wholesale). Such purchases are not subject to retail sales tax. Reseller permits allow businesses to purchase items or services for resale without paying retail sales tax. Use tax is due if sales tax has not been paid on items the contractor uses as a consumer. Use tax is generally due on the following: equipment, tools, supplies, and rentals of equipment, even if the cost for these items is passed along to the purchaser of the construction project.

The Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 29 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be "fully planning" under the GMA.

Summary of Third Substitute Bill:

Local Infrastructure Investment Program.

An eligible city or county may establish a local infrastructure investment program to support affordable workforce housing or revitalization efforts within a revitalization district. An eligible city or county is any county located east of the Cascade mountains with a population of greater than 40,000 but no more than 125,000, and the cities within those counties. To initiate a program, an eligible city or county must adopt an ordinance containing the local definition of revitalization efforts and the geographic boundaries of the revitalization district.

An eligible project is an affordable workforce housing project or revitalization effort within a revitalization district. "Affordable workforce housing" is defined as housing rented or owned

by a person or household whose income is at or below 110 percent of the median income for the county in which the housing is located. In counties fully planning under the GMA, an eligible project must be located within an urban growth area or within limited areas of more intense rural development. In counties not fully planning under the GMA, an eligible project must be in a location consistent with a locally adopted development plan.

Sales and Use Tax Remittance.

A participating local jurisdiction establishing a program may receive a remittance equal to 4.37 percent of the sales or use tax on the construction of the housing developed. The tax remittance is credited against the state sales tax due on the same sales and may be claimed once per project.

A local jurisdiction must apply to the Department of Revenue (Department) before construction is initiated on the eligible project, and the Department must determine eligibility within 60 days. Upon completion of the eligible project, a participating local jurisdiction may claim the remittance by submitting a request to the Department with the following:

- the total amount of construction costs for the eligible project;
- the total amount of sales and use tax paid on the eligible project; and
- any other information required by the Department to determine the amount of remittance due to the participating local jurisdiction.

The Department may not approve any application that exceeds \$750,000 per fiscal year plus any excess amounts available from prior fiscal years. The Department may not approve any applications after June 30, 2027.

By November 1, 2026, the Department must submit a report to the Legislature that details:

- the total amount of each approved application by participating local jurisdiction and fiscal year; and
- the total amount of construction costs, sales tax paid, and remittance claimed for each eligible project by participating local jurisdiction and fiscal year.

Third Substitute Bill Compared to Original Bill:

The substitute bill combines the terms "affordable housing" and "workforce housing" into "affordable workforce housing." The substitute bill provides a participating local jurisdiction with a remittance based on the housing developed instead of the local infrastructure investment. It also defines "affordable workforce housing" as housing rented or owned by a person or household whose income is at or below 110 percent of the median income for the county in which the housing is located.

The substitute bill limits eligibility to counties located east of the Cascade mountains with a population of greater than 40,000 but no more than 125,000, and the cities within those counties. In addition, it requires eligible projects in counties fully planning under the GMA to be located within an urban growth area or within limited areas of more intense rural development. Eligible projects in counties not fully planning under the GMA must be in a location consistent with a locally adopted development plan.

The substitute bill establishes an approval and remittance process. Participating local jurisdictions must apply to the Department before construction is initiated on the eligible project and request the remittance after construction is completed. The substitute bill limits the total amount of approvals by the Department to \$750,000 per fiscal year plus any excess amounts available from prior fiscal years and prohibits the Department from approving any applications after June 30, 2027. The Department must submit a report to the appropriate committees of the Legislature by November 1, 2026, that details the total amount of approved applications and remittances by fiscal year.

Appropriation: None.

Fiscal Note: Available on substitute bill. New fiscal note requested February 6, 2020.

Effective Date of Third Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) All communities in Washington are facing affordable housing challenges. In one survey of cities, 77 percent of respondents cited affordable housing as an issue. A variety of tools are needed to focus on the different aspects of the housing problem. Resort communities face unique challenges and need moderate income housing for teachers, nurses, and other professionals. Some cities are losing first-time homebuyers, families, and median-income households who cannot afford to buy a home. Forty percent of workers in the City of Chelan commute from outside the city. Community land trusts and private donations have provided land in the City of Wenatchee, and the city has undertaken a pilot program to show this type of program can work. Infrastructure can make the difference in bringing housing developers to the community. This bill provides an opportunity for the state to help facilitate partnerships between local jurisdictions and developers. Adding homeownership to the proposal will help people achieve the American dream and remove entry barriers. The proposed substitute includes technical changes provided by the Department. The lack of income requirements in the bill is a concern. Many homeless people have jobs. The housing crisis is really with low-income workers, not the middle class.

(Opposed) None.

Persons Testifying: Representative Steele, prime sponsor; Shiloh Burgess and Frank Kuntz, City of Wenatchee; Jerrilea Crawford, City of East Wenatchee; Mike Cooney; Bruce Beckett, Wenatchee Valley Chamber of Commerce; Carl Schroeder, Association of Washington Cities; and Cynthia Stewart, League of Women Voters of Washington.

Persons Signed In To Testify But Not Testifying: None.