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**SENATE BILL 5861**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Liias, Robinson, Kuderer, Nguyen, and Nobles

AN ACT Relating to housing benefit districts; adding a new section to chapter 82.14 RCW; and adding a new chapter to Title 35 RCW.

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

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

(a) Housing for low-income and middle-income households is a public purpose;

(b) Providing local governments with more options to increase residential capacity, especially in urban areas, consistent with RCW 43.21C.420, is essential to fulfill this public purpose;

(c) A history of segregation and displacement has led to disparities in access to education, living wage employment, affordable housing, and transportation, particularly for black, indigenous, and people of color communities. This history has also allowed certain populations to obtain and build wealth and to access critical resources at the expense of others. Over time these factors have put pressure on, marginalized, and displaced many from these same communities;

(d) Black, Hispanic, and American Indian and Alaska Native residents in the King, Pierce, and Snohomish county region experience disproportionate housing cost burden and are more likely to be renters than homeowners. According to 2018 data from the federal housing and urban development department, the rates of homeownership for black residents were half the rate for white residents of the region. Black renters are also 30 percent more likely to be cost-burdened than white renters, and black homeowners are 38 percent more likely to be cost-burdened than white homeowners. Similar disparities exist for Hispanic populations whose rates of homeownership are 58 percent of the rate of white homeownership, are 17 percent more likely to be rental cost-burdened than white renters, and 25 percent more likely to be owner cost-burdened than white homeowners. American Indian and Alaska Native populations have rates of homeownership that are 71 percent that of white residents, are 12 percent more likely to be rental cost-burdened than white renters, and eight percent more likely to be owner cost-burdened than white homeowners;

(e) According to the fair housing equity assessment for the central Puget Sound region published by the Puget Sound regional council in 2014:

(i) Black residents continue to be the most segregated racial group in the region, which data suggests cannot be explained by income differences among racial groups; and

(ii) White and Asian residents are more likely to live in census tracts with high or very high access to opportunity relative to the total population when compared to foreign-born, American Indian, Hispanic, and black residents who are more likely to live in census tracts with low or very low access to opportunity relative to the total population. Living in poverty is associated with a higher likelihood of living in an area of low or very low access to opportunity, but this cannot explain why black and Hispanic persons living in poverty are more likely to live in areas of low or very low access to opportunity than their white or Asian peers;

(f) Publicly funded salaried professionals and paraprofessionals such as teachers, firefighters, law enforcement officers, nurses, social workers, and transit operators cannot afford to live in the districts in which they serve due to increasing housing costs;

(g) 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;

(h) 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 emissions reduction and commute trip reduction;

(i) 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;

(j) 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

(k) 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 establish a housing benefit district pilot program which, using a land acquisition and deployment strategy, would produce more affordable low-income and middle-income housing, ensuring any loss of affordable housing in a station area is exceeded by new units, to enable all members of the workforce to live in the district in which they serve, including members of racial and ethnic groups disproportionately experiencing adverse housing outcomes, to make sure that the transportation and housing investments in our state help to foster racial equity and rectify discriminatory practices.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affordable housing" means residential housing for which the monthly costs, including utilities other than telephone, do not exceed 30 percent of the monthly income.

(2) "City" means a city or town as defined in Title 35 RCW.

(3) "Community land trust" means a community housing development organization:

(a) That is not sponsored by a for-profit organization;

(b) That is established to:

(i) Acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

(ii) Transfer ownership of any structural improvements located on such leased parcels to the lessee; and

(iii) Retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income and moderate-income families in perpetuity;

(c) Whose corporate membership is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

(d) Whose board of directors:

(i) Includes a majority of members who are elected by the corporate membership; and

(ii) Is composed of equal numbers of: (A) Lessees pursuant to (b) of this subsection; (B) corporate members who are not lessees; and (C) any other category of persons described in the bylaws of the organization.

(4) "District" means a housing benefit district established under this chapter by the city legislative authority of a city authorized to participate in the housing benefit district pilot program. A district established by a participating city must have jurisdictional boundaries that are coextensive with the city's boundaries.

(5) "Extremely low-income household" means a single person, family, or unrelated persons living together whose income is at or below 30 percent of the median income, as determined by the United States department of housing and urban development, with adjustments for household size, for the county where the taxing district is located.

(6) "Low-income household" means a single person, family, or unrelated persons living together whose income is above 50 percent and at or below 80 percent of the median income, as determined by the United States department of housing and urban development, with adjustments for household size, for the county where the taxing district is located.

(7) "Middle-income household" means a single person, family, or unrelated persons living together whose income is above 80 percent and at or below 120 percent of the median income, as determined by the United States department of housing and urban development, with adjustments for household size, for the county where the taxing district is located.

(8) "Participating city" means a city that is authorized to create a housing benefit district under the pilot program established in section 3 of this act.

(9) "Permanently affordable homeownership" means homeownership that:

(a) Is sponsored by a nonprofit organization or government entity;

(b) Is subject to a ground lease or deed restriction that includes a:

(i) Resale restriction designed to provide affordability for future low-income and moderate-income homebuyers;

(ii) Right of first refusal for the sponsor organization to purchase the home at resale; and

(iii) Requirement that the sponsor must approve any refinancing, including home equity lines of credit;

(c) Allows the sponsor organization to:

(i) Execute a new ground lease or deed restriction with a duration of at least 99 years at the initial sale and with each successive sale; and

(ii) Support homeowners and enforces the ground lease or deed restriction.

(10) "Station area" means an area within one-half mile, including contiguous full and partial blocks as defined by the street grid, of a major transit stop that is zoned to have an average minimum density of 15 dwelling units or more per gross acre.

(11) "Station area plan" means a subarea plan adopted under RCW 43.21C.420.

(12) "Very low-income household" means a single person, family, or unrelated persons living together whose income is above 30 percent and at or below 50 percent of the median income, as determined by the United States department of housing and urban development, with adjustments for household size, for the county where the taxing district is located.

NEW SECTION. **Sec.**  (1) Cities with a population between 110,000 and 115,000 in a county located west of the crest of the Cascade mountains with a population between 825,000 and 840,000; cities with a population between 55,000 and 60,000 or 105,000 and 110,000 in a county located west of the crest of the Cascade mountains with a population between 2,250,000 and 2,300,000; and cities with a population between 217,000 and 220,000 in a county located west of the crest of the Cascade mountains with a population between 920,000 and 930,000 are authorized to establish a housing benefit district within their city boundaries 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 their city boundaries consistent with any existing state, regional, or county housing plans and chapter 43.185B RCW.

(2) The members of the legislative authority of a city participating in the pilot program, acting ex officio and independently, constitute the governing body of the district.

(3) The treasurer of a city participating in the pilot program shall act as the ex officio treasurer of the district.

(4) Once a participating city has established a district within its boundaries, the participating city shall plan for and implement the following mix of affordable housing:

(a) A minimum of five percent affordable to extremely low-income households;

(b) A minimum of 10 percent affordable to very low-income households;

(c) A minimum of 19 percent affordable to low-income households;

(d) A minimum of 33 percent affordable to middle-income households; and

(e) The remainder at market rate.

(5) A city establishing a district within a county with a population of at least 750,000 must adopt a station area plan that is consistent with accommodating 65 percent of future population growth. Station area plans must be approved by the advisory board created in section 7 of this act. Districts must submit any subsequent amendments to station area plans to the advisory board for approval.

(6) A city participating in the pilot program is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the Washington state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the Washington state Constitution.

NEW SECTION. **Sec.**  A housing benefit district shall by covenant, deed restriction, and contract ensure that the properties which it transfers or arranges to develop for housing purposes meet or exceed the minimum affordable housing mixture requirements of section 3(4) of this act; and, that the overall mixture of housing developed shall result in a net gain in extremely low-income, very low-income, and low-income housing from the levels existing at the time of formation of the district. Once a housing benefit district is established and housing has been developed and opened for residency, participating cities must conduct regular audits of those housing units built to date on properties of which the district has either transferred ownership for housing purposes or retained ownership and developed for housing to ensure that the district and current owners or operators of such housing units are achieving the affordable housing mix as required by section 3(4) of this act. Audits shall be performed every three years, and at least one-third of all units must be audited during each three-year cycle, with the entire number of units audited after three audit cycles. The audit should determine whether there is a net gain of affordable housing within each quartile below median income within the station area. Audits shall be conducted at the expense of the housing benefit district. If any owner or manager of housing units is determined by the audits required by this section to not be offering units deemed affordable to the residents pursuant to the mixture of affordability established by the district, the auditing city shall provide notice to the district and establish a plan to bring the owner or manager into compliance for minor or inadvertent variation from the plan. For significant variances from the affordable housing plan and commitments, the city shall notify the department of revenue and the state, county, and city shall require repayment of any tax preference provided on the basis of the owner providing affordable housing for all years during which the owner was not substantially in compliance; and may issue penalties up to the difference between the market rate at which units were offered and the affordable housing rental rate which would have been charged if the owner or manager was compliant with the plan. Penalties collected by the city shall be used solely for purposes associated with providing affordable housing and related services as defined in section 6 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.14 RCW to read as follows:

(1) A city participating in the housing benefit district pilot program authorized in section 3 of this act may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to 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 public facilities district. The rate of tax for a participating city may not exceed 0.025 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.

(2) The tax imposed under subsection (1) of this section must be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department must perform the collection of such taxes on behalf of the participating city at no cost to the participating city.

(3) The tax imposed in this section expires when bonds issued to finance or refinance the purposes defined in section 6 of this act are retired, but not more than 40 years after the tax is first collected.

(4) Moneys collected under this section may only be used for the purposes set forth in section 6 of this act.

(5) To receive the rebate authorized in this section, participating cities must establish a housing benefit district within three years of the effective date of this section.

(6) For purposes of this section, "participating city" means a city that is authorized to create a housing benefit district under the pilot program established in section 3 of this act.

NEW SECTION. **Sec.**  (1)(a) Any moneys received from the taxes imposed under section 5 of this act or penalties issued under section 4 of this act must be spent to implement or reimburse jurisdictions for implementing the purposes of this chapter, including the following:

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

(ii) Infrastructure development, such as area-wide environmental plans, sewers, and sidewalks; and

(iii) 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. Where leasing a development parcel is financially feasible, the housing benefit district may also choose to retain the underlying ownership of the parcel. The housing benefit district shall include in station area plans specific enforceable commitments to include in deed restrictions, covenants, contracts, and leases which ensure that the plan does not reduce the housing units available in the station area for extremely low, very low, and low-income residents; and which establish a plan to meet the affordable housing population requirements in section 3(4) of this act, including minimum expectations for owners and managers of all properties which it has purchased. The housing benefit district shall provide ongoing funding for the jurisdiction or jurisdictions within which the properties purchased by the district lie which is adequate for the jurisdiction to perform the auditing function required pursuant to section 4 of this act.

(b) For purposes of (a)(iii) of this subsection, land may not be leased or sold at a discounted rate unless affordable housing comprises 100 percent of the units.

(2) Up to one percent of revenue generated by the taxes imposed under this act may be used to:

(a) Cover the actual costs incurred by the advisory board created in section 7 of this act in the performance of its oversight and technical assistance duties; and

(b) Compensate housing finance commission staff providing support to the advisory board.

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

(2)(a) The governor shall appoint nine members of the advisory board, one of whom shall be appointed by the governor as chair. 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;

(vii) One member with economic development experience;

(viii) One member representing advocates for affordable housing for marginalized communities; and

(ix) One member representing nonprofit housing developers.

(b) In appointing persons to serve on the advisory board, the governor shall strive to reflect the racial and ethnic makeup of state residents overall to ensure the inclusion of members of racial and ethnic groups disproportionately experiencing severe and moderate housing cost-burden.

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

(3) The advisory board must review and approve the station area plans submitted by the districts pursuant to section 3(5) of this act to confirm compliance with regional growth strategies.

(4) Staff to the housing finance commission under chapter 43.180 RCW must provide administrative and staff support to the advisory board and must be compensated for its services as prescribed under section 6(2) of this act. In performing administrative and staff support to the advisory board, 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.

NEW SECTION. **Sec.**  Sections 1 through 4, 6, and 7 of this act constitute a new chapter in Title 35 RCW.

**--- END ---**