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**SENATE BILL 5861**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

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

Read first time 01/14/22. Referred to Committee on Housing & Local Government.

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

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

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

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

8 (b) Providing local governments with more options to increase  
9 residential capacity, especially in urban areas, consistent with RCW  
10 43.21C.420, is essential to fulfill this public purpose;

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

19 (d) Black, Hispanic, and American Indian and Alaska Native  
20 residents in the King, Pierce, and Snohomish county region experience  
21 disproportionate housing cost burden and are more likely to be

1 renters than homeowners. According to 2018 data from the federal  
2 housing and urban development department, the rates of homeownership  
3 for black residents were half the rate for white residents of the  
4 region. Black renters are also 30 percent more likely to be cost-  
5 burdened than white renters, and black homeowners are 38 percent more  
6 likely to be cost-burdened than white homeowners. Similar disparities  
7 exist for Hispanic populations whose rates of homeownership are 58  
8 percent of the rate of white homeownership, are 17 percent more  
9 likely to be rental cost-burdened than white renters, and 25 percent  
10 more likely to be owner cost-burdened than white homeowners. American  
11 Indian and Alaska Native populations have rates of homeownership that  
12 are 71 percent that of white residents, are 12 percent more likely to  
13 be rental cost-burdened than white renters, and eight percent more  
14 likely to be owner cost-burdened than white homeowners;

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

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

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

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

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

39 (h) The failure to make adequate provision for low-income and  
40 middle-income housing pushes many households to seek housing further

1 away from work, which leads to increased greenhouse gas emissions  
2 from transportation, as well as congestion on state managed  
3 transportation infrastructure, so providing for more low-income and  
4 middle-income housing would enable the state to better meet  
5 established goals for greenhouse gas emissions reduction and commute  
6 trip reduction;

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

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

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

24 (2) The legislature intends with this act to establish a housing  
25 benefit district pilot program which, using a land acquisition and  
26 deployment strategy, would produce more affordable low-income and  
27 middle-income housing, ensuring any loss of affordable housing in a  
28 station area is exceeded by new units, to enable all members of the  
29 workforce to live in the district in which they serve, including  
30 members of racial and ethnic groups disproportionately experiencing  
31 adverse housing outcomes, to make sure that the transportation and  
32 housing investments in our state help to foster racial equity and  
33 rectify discriminatory practices.

34 NEW SECTION. **Sec. 2.** The definitions in this section apply  
35 throughout this chapter unless the context clearly requires  
36 otherwise.

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

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

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

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

5 (b) That is established to:

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

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

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

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

17 (d) Whose board of directors:

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (c) Allows the sponsor organization to:

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

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

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

32 (11) "Station area plan" means a subarea plan adopted under RCW  
33 43.21C.420.

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

1        NEW SECTION.        **Sec. 3.**        (1) Cities with a population between  
2 110,000 and 115,000 in a county located west of the crest of the  
3 Cascade mountains with a population between 825,000 and 840,000;  
4 cities with a population between 55,000 and 60,000 or 105,000 and  
5 110,000 in a county located west of the crest of the Cascade  
6 mountains with a population between 2,250,000 and 2,300,000; and  
7 cities with a population between 217,000 and 220,000 in a county  
8 located west of the crest of the Cascade mountains with a population  
9 between 920,000 and 930,000 are authorized to establish a housing  
10 benefit district within their city boundaries for the purpose of  
11 acquiring, land banking, predevelopment contracting, selling,  
12 improving, funding, and leasing land for the creation of affordable  
13 low-income and middle-income housing and community development  
14 projects within their city boundaries consistent with any existing  
15 state, regional, or county housing plans and chapter 43.185B RCW.

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

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

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

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

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

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

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

31        (e) The remainder at market rate.

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

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

1 "taxing district" within the meaning of Article VII, section 2 of the  
2 Washington state Constitution.

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

1 for purposes associated with providing affordable housing and related  
2 services as defined in section 6 of this act.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.14  
4 RCW to read as follows:

5 (1) A city participating in the housing benefit district pilot  
6 program authorized in section 3 of this act may impose a sales and  
7 use tax in accordance with the terms of this chapter. The tax is in  
8 addition to other taxes authorized by law and must be collected from  
9 those persons who are taxable by the state under chapters 82.08 and  
10 82.12 RCW upon the occurrence of any taxable event within the public  
11 facilities district. The rate of tax for a participating city may not  
12 exceed 0.025 percent of the selling price in the case of a sales tax  
13 or value of the article used in the case of a use tax.

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

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

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

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

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

31 NEW SECTION. **Sec. 6.** (1)(a) Any moneys received from the taxes  
32 imposed under section 5 of this act or penalties issued under section  
33 4 of this act must be spent to implement or reimburse jurisdictions  
34 for implementing the purposes of this chapter, including the  
35 following:

36 (i) Station area planning strategies, including creating new or  
37 updating existing plans, identifying a community vision, assessing  
38 the current regulatory environment and identify possible barriers to



1 affordable housing development, assessing displacement risk for  
2 current low-income residents and underrepresented racial and ethnic  
3 minorities, creating a displacement mitigation plan, promoting  
4 equitable homeownership opportunities for underrepresented racial and  
5 ethnic minorities, and assessing alternate pathways to ownership  
6 models such as community land trusts and limited or shared equity  
7 cooperatives;

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

10 (iii) Land acquisition, based on station area plans and working  
11 with local jurisdictions and both nonprofit and for-profit developers  
12 to acquire, assemble, lease, land bank parcels, or sell, in cases  
13 where the station area plan clearly demonstrates that it is not  
14 financially feasible to lease all development parcels, with the net  
15 proceeds directed to subsidies for affordable housing and to promote  
16 community land trusts and infrastructure costs. Where leasing a  
17 development parcel is financially feasible, the housing benefit  
18 district may also choose to retain the underlying ownership of the  
19 parcel. The housing benefit district shall include in station area  
20 plans specific enforceable commitments to include in deed  
21 restrictions, covenants, contracts, and leases which ensure that the  
22 plan does not reduce the housing units available in the station area  
23 for extremely low, very low, and low-income residents; and which  
24 establish a plan to meet the affordable housing population  
25 requirements in section 3(4) of this act, including minimum  
26 expectations for owners and managers of all properties which it has  
27 purchased. The housing benefit district shall provide ongoing funding  
28 for the jurisdiction or jurisdictions within which the properties  
29 purchased by the district lie which is adequate for the jurisdiction  
30 to perform the auditing function required pursuant to section 4 of  
31 this act.

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

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

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

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

3 NEW SECTION. **Sec. 7.** (1) There is hereby established a housing  
4 benefit district advisory board, to be appointed by the governor, to  
5 provide oversight and technical assistance to districts.

6 (2)(a) The governor shall appoint nine members of the advisory  
7 board, one of whom shall be appointed by the governor as chair. The  
8 advisory board shall consist of the following voting members:

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

11 (ii) One member with affordable housing development experience;

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

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

15 (v) One member with design and architecture experience;

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

17 (vii) One member with economic development experience;

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

20 (ix) One member representing nonprofit housing developers.

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

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

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

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

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

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

6           NEW SECTION.   **Sec. 8.** Sections 1 through 4, 6, and 7 of this act  
7 constitute a new chapter in Title 35 RCW.

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