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## Finance Committee

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### HB 1996

**Brief Description:** Authorizing a qualified county to impose a tax for the funding of behavioral health diversion from the criminal justice system.

**Sponsors:** Representatives Farivar, Macri, Scott, Parshley, Simmons, Thomas and Pollet.

**Brief Summary of Bill**

- Authorizes a county option local sales and use tax to fund programs that either prevent individuals with behavioral health needs from entering the criminal justice system or divert these individuals away from the criminal justice system once incarcerated.

**Hearing Date:** 2/24/25

**Staff:** Tracey Taylor (786-7152).

**Background:**

Retail Sales and Use Tax.

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 are not collected when the user acquires the property, digital product, or service, then use tax applies 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 4.1 percent, depending on the location.

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### Local Sales and Use Taxes.

Counties, cities, and towns were first granted the authority to impose a local sales and use tax in 1970. There is a basic 0.5 percent sales and use tax and an optional 0.5 percent sales and use tax. The revenues from these two sales and use taxes are unrestricted and may be used for any lawful government purpose.

When both the city and the county impose the basic sales and use tax, the county must credit back the full amount of the city's basic sales and use tax so that the combined rate does not exceed 0.5 percent. However, the first 15 percent of the basic sales and use tax collected within the city must be distributed to the county. This is also the case with the optional sales and use tax.

There are other optional sales and use taxes that may be imposed; however, the revenues from these sales and use taxes are restricted to specific purposes. For example, the cultural access program sales and use tax of 0.1 percent must be used to benefit or expand access to nonprofit cultural organizations. Many of the optional local sales and use taxes require voter approval. There are also local option sales and use taxes that may be credited against the state portion of the sales tax. This means that the consumer will not pay more sales tax when the local government levies the sales and use tax. Instead, the state collects less revenue as its rate is reduced. Local option sales and use taxes credited against the state portion include the affordable housing sales and use tax and the rural county public facilities district sales and use tax.

### Criminal Justice Sales and Use Tax.

One local option sales and use tax is the criminal justice sales and use tax. The tax may be imposed by any county; however, the revenue must be shared with cities. Ten percent of the revenue is distributed to the county, while the remaining 90 percent is shared between the county and its cities on a per capita basis. The imposition of this tax does not require voter approval.

The criminal justice sales and use tax rate is 0.1 percent and the revenues must be used for criminal justice purposes. "Criminal justice purposes" means activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which include domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates.

### Public Safety Sales and Use Tax.

Another local option sales and use tax is the public safety sales and use tax. Any county may impose a sales and use tax of up to 0.3 percent with voter approval. Cities and towns may also impose a public safety sales and use tax, with a lower maximum rate of 0.1 percent. However, the combined city and county rate may not exceed 0.3 percent.

If both the city and the county impose the public safety sales and use tax, the revenues must be shared; however, the distribution formula depends on which jurisdiction placed the issue on the ballot. The county retains 60 percent of any countywide public safety tax revenues, while the

remaining 40 percent is distributed to the cities within the county on a per capita basis. If the city imposes a public safety sales and use and tax, the city retains 85 percent of the revenues and must share 15 percent with the county.

At least one-third of the revenue may be used for criminal justice purposes, fire protection purposes, or both. The remaining two-thirds are unrestricted and may be used for any lawful governmental purposes but must be spent in accordance with the purpose specified in the ballot measure.

Trueblood Lawsuit and Timelines for Competency Services.

In *Trueblood v. the Department of Social and Health Services* (2015), a federal district court found that the State of Washington was violating the constitutional rights of in-jail defendants for excess wait times for competency evaluation and restoration services. As a result, the Department of Social and Health Services (DSHS) was ordered to provide in-jail competency evaluations within 14 days of a court order and inpatient competency evaluation and restoration services within seven days of a court order. In 2017 the court found the state in contempt for continued noncompliance, and in 2018, the state reached a contempt settlement agreement. The settlement requires the state to take numerous actions to meet the timeframes set forth by the court. The actions are being implemented in three phases in different parts of Washington. The creation of forensic navigators and outpatient competency restoration programs are components of the settlement agreement and were enacted into law in 2019.

**Summary of Bill:**

A county that has a behavioral health diversion plan that is approved by the Secretary of DSHS may impose by ordinance or resolution a sales and use tax of 0.1 percent. The behavioral health diversion plan must meet the requirements in House Bill 1218, which is an act relating to persons referred for competency evaluation and restoration services within the framework of the forensic mental health care system consistent with the requirements agreed to in the Trueblood settlement agreement.

If the county imposes the 0.1 percent sales and use tax authorized in House Bill 1805, which is an act relating to creating a local sales and use tax to fund services for children and families that enhance well-being, promote mental health, and provide early interventions, as well as the tax authorized in this act, the combined rate of the two taxes may not exceed 0.1 percent.

The proceeds of the tax imposed under this act must be used for programs that either prevent individuals with behavioral health needs from entering the criminal justice system or divert these individuals away from the criminal justice system once incarcerated. This includes measures and strategies that:

- reduce the number of individuals with behavioral health needs whose highest charge is up to a class C felony from entering or remaining in the criminal justice system;
- increase the diversion of individuals with behavioral health needs whose highest charge is up to a class C felony away from the competency system;

- identify individuals for whom a court has made multiple prior findings of nonrestorability, and apply strategies to prevent future competency evaluation or restoration orders and instead use diversion options for these individuals;
- reduce recidivism for individuals with behavioral health needs who are likely to be referred for a competency service within the next six months based on history of criminal justice system involvement or homelessness; and
- include a strategic plan to create programming, supports, and services along each intercept in the sequential intercept model for the county.

This act takes effect only if HB 1218 is enacted by August 1, 2025.

**Appropriation:** None.

**Fiscal Note:** Requested on February 18, 2025.

**Effective Date:** The bill contains a contingent effective date and takes effect so long as HB 1218 is enacted by August 1, 2025.