



INFORMATIONAL MEMORANDUM

TO: Community Development and Neighborhoods Committee
FROM: Minnie Dhaliwal, Planning Supervisor
BY: Meredith Sampson, Assistant Planner
CC: Mayor Ekberg
DATE: August 27, 2019
SUBJECT: HB 1406

ISSUE

Does Tukwila want to participate in legislation that will retain a portion of the City's sales tax revenue to be used toward local investments in affordable housing?

BACKGROUND

During the 2019 legislative session, the state approved HB 1406 which is a local revenue sharing program for local governments. This allows local governments to collect a portion of state sales tax for addressing affordable housing. The tax credit is in place for up to 20 years. All projects funded by HB 1406 must serve those at or below 60% of the area median income (AMI). Homelessness and affordable housing are key issues both in the region as a whole and in the City of Tukwila itself. The revenue available to cities through this bill is a way to begin to address this issue through acquiring, rehabilitating, or constructing affordable housing; operations and maintenance of new affordable housing or supportive housing facilities; or for rental assistance. House Bill 1406 can be found as Attachment A.

Tukwila does not levy a "qualifying local tax". Therefore, the amount of sales tax credit eligible for Tukwila under HB 1406 is .0073% of the sales tax from the state. However if the City Council elects to get the maximum amount allowed under HB 1406 (.0146% of the sales tax), the Council would need to pass an ordinance to adopt a "qualifying local tax" including ballot measures by July 31, 2020. Qualifying local taxes include: an affordable housing levy (RCW 84.52.105), a sales and use tax for housing and related services (RCW 82.14.530), a sales tax for chemical dependency and mental health services or therapeutic courts (RCW 82.14.460), or a levy (property tax, RCW 84.55.050) if used solely for affordable housing.

See Attachment B for a handout prepared by the Association of Washington Cities explaining the implementation of HB 1406.

The revenue from HB 1406 can be used for:

1. Acquiring, rehabilitating, or constructing affordable housing; and/or
2. Operations and maintenance of new affordable housing or supportive housing facilities; and/or
3. Providing rental assistance to tenants (only an option for cities with a population less than 100,000 people)

DISCUSSION

The key decisions that Tukwila must make are:

1. Does the City want to participate?

Participation in HB 1406 does not increase tax to consumers, it is sales tax revenue that is being diverted from the State to the City to be used for affordable housing. Tukwila's expected revenue is \$162,046, based on data from 2018. A qualifying local tax would double this revenue totaling an expected \$324,093, but would result in an increase tax to residents and has to be approved by the voters.

Non-participation would result in the City's share going to King County.

2. Does the City want to impose a qualifying local tax?

Qualifying local taxes include: an affordable housing levy (RCW 84.52.105), a sales and use tax for housing and related services (RCW 82.14.530), a sales tax for chemical dependency and mental health services or therapeutic courts (RCW 82.14.460), or a levy (property tax, RCW 84.55.050) if used solely for affordable housing.

Imposing a qualifying local tax would double Tukwila's expected yearly revenue to \$324,093, but would result in an increase in tax for residents and would need to be approved by a vote of the residents of Tukwila.

3. How does the City want to use the revenue?

This decision does not need to be made at this time. If the Council decides to pass this ordinance, staff will come back to the Committee with a process for determining how the revenue will be used. HB 1406 enables participating cities to use the revenue in a variety of ways. Cities can keep their expected revenue in total to be used for affordable housing within their boundaries, they can pool their money with other cities through an interlocal agreement, or they can choose to do a combination of the two.

Tukwila currently participates in South King Housing and Homelessness Partners (SKHHP), which is a coalition formed by an interlocal agreement between Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Normandy Park, Renton, King County, and Tukwila. The purpose of SKHHP is to increase the available options for South King County residents to access affordable housing and to preserve the existing affordable housing stock. If Tukwila decides to pool its resources from HB 1406, SKHHP would be an avenue to do that. Additionally, King County is also looking at pooling resources at a County-wide level.

The funds collected can be used to:

- Rehabilitate Tukwila's existing affordable housing stock, this may include partnering with King County Housing Authority
- Partner with existing affordable housing developers such as Bellwether or Homestead for projects that are shovel-ready
- Pool with participating SKHHP cities, or with King County, for the construction of new affordable housing in South King County
- Provide rental assistance to Tukwila's low-income tenants

4. What are the deadlines for adopting legislation?

To participate, Tukwila must pass a resolution of intent by January 31, 2020, and adopt an ordinance authorizing collection of tax by July 27, 2020. If the City Council decides to impose a qualifying local tax the deadline is July 31, 2020. If Tukwila decides not to instate a qualifying local tax, there is no tax increase to consumers. The revenue can begin to be collected once a resolution of intent and an ordinance are both passed, and Department of Revenue is provided a thirty day notice. The city is able to collect taxes as early as November 1 if a resolution and an ordinance is adopted by the end of September.

FINANCIAL IMPACT

In order for Tukwila to begin collecting the revenue from HB 1406, the City must pass a Resolution of Intent, adopt an ordinance, and notify the Department of Revenue. The Department of Revenue requires 30 days notice of adoption of sales tax credits. The credit will then take effect on the first day of the month following the 30 day period. For example: if Tukwila passes a resolution of intent and adopts an ordinance on September 16, revenue could begin to be collected on November 1. Passing a resolution of intent and adopting an ordinance can happen in tandem.

Tukwila's expected revenue from HB 1406 without a qualifying tax is \$162,046 at no expense to residents or consumers. The amount of sales tax revenue will be calculated on December 31, 2019, which will establish the maximum amount the City can collect for the next 20 years. However, if the sales tax revenue for the City is below the maximum amount in any given year, the tax will cease to be distributed to the City for the remainder of that year. Any annual tax revenues above the City's maximum must be remitted to the treasurer for deposit in the general fund, and distributions will resume to the City at the beginning of the next fiscal year. Tukwila's expected revenue from HB 1406 with a qualifying tax is approximately \$324,093, which would result in an extra expense to residents and would need to be approved through a vote. Revenue will be distributed to each participating City monthly.

RECOMMENDATION

The Council is being asked to approve the resolution of intent and the ordinance to collect .0073% of the sales tax (without "qualifying tax" option) and consider this item at the September 9, 2019 Committee of the Whole meeting and subsequent September 16, 2019 Regular Meeting. King County has requested that the passage of the ordinance is after King County Council takes action on their ordinance which is scheduled for September 12.

ATTACHMENTS

- A: House Bill 1406
- B: AWC handout
- C: Resolution of Intent
- D: Ordinance

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1406

Chapter 338, Laws of 2019

66th Legislature
2019 Regular Session

AFFORDABLE AND SUPPORTIVE HOUSING--LOCAL SALES AND USE TAX

EFFECTIVE DATE: July 28, 2019

Passed by the House April 28, 2019
Yeas 62 Nays 36

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 28, 2019
Yeas 33 Nays 15

CYRUS HABIB

President of the Senate

Approved May 9, 2019 2:51 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1406** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 13, 2019

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1406

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By House Housing, Community Development & Veterans (originally sponsored by Representatives Robinson, Macri, Chapman, Valdez, Senn, Peterson, Kloba, Tharinger, Gregerson, Stanford, Walen, Doglio, Frame, Jenkins, Riccelli, Slatter, Ormsby, and Santos)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to encouraging investments in affordable and
2 supportive housing; and adding a new section to chapter 82.14 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.14
5 RCW to read as follows:

6 (1) The definitions in this subsection apply throughout this
7 section unless the context clearly requires otherwise.

8 (a) "Nonparticipating city" is a city that does not impose a
9 sales and use tax in accordance with the terms of this section.

10 (b) "Nonparticipating county" is a county that does not impose a
11 sales and use tax in accordance with the terms of this section.

12 (c) "Participating city" is a city that imposes a sales and use
13 tax in accordance with the terms of this section.

14 (d) "Participating county" is a county that imposes a sales and
15 use tax in accordance with the terms of this section.

16 (e) "Qualifying local tax" means the following tax sources, if
17 the tax source is instated no later than twelve months after the
18 effective date of this section:

19 (i) The affordable housing levy authorized under RCW 84.52.105;

1 (ii) The sales and use tax for housing and related services
2 authorized under RCW 82.14.530, provided the city has imposed the tax
3 at a minimum or at least half of the authorized rate;

4 (iii) The sales tax for chemical dependency and mental health
5 treatment services or therapeutic courts authorized under RCW
6 82.14.460 imposed by a city; and

7 (iv) The levy authorized under RCW 84.55.050, if used solely for
8 affordable housing.

9 (2)(a) A county or city legislative authority may authorize, fix,
10 and impose a sales and use tax in accordance with the terms of this
11 section.

12 (b) The tax under this section is assessed on the selling price
13 in the case of a sales tax, or value of the article used, in the case
14 of a use tax.

15 (c) The rate of the tax under this section for an individual
16 participating city and an individual participating county may not
17 exceed:

18 (i) Beginning on the effective date of this section until twelve
19 months after the effective date of this section:

20 (A) 0.0073 percent for a:

21 (I) Participating city, unless the participating city levies a
22 qualifying local tax; and

23 (II) Participating county, within the limits of nonparticipating
24 cities within the county and within participating cities that do not
25 currently levy a qualifying tax;

26 (B) 0.0146 percent for a:

27 (I) Participating city that currently levies a qualifying local
28 tax;

29 (II) Participating city if the county in which it is located
30 declares they will not levy the sales and use tax authorized under
31 this section or does not adopt a resolution in accordance with this
32 section; and

33 (III) Participating county within the unincorporated areas of the
34 county and any city that declares they will not levy the sales and
35 use tax authorized under this section or does not adopt a resolution
36 in accordance with this section;

37 (ii) Beginning twelve months after the effective date of this
38 section:

39 (A) 0.0073 percent for a:

1 (I) Participating city that is located within a participating
2 county if the participating city is not levying a qualifying local
3 tax; and

4 (II) Participating county, within the limits of a participating
5 city if the participating city is not levying a qualifying local tax;

6 (B) 0.0146 percent within the limits of a:

7 (I) Participating city that is levying a qualifying local tax;
8 and

9 (II) Participating county within the unincorporated area of the
10 county and within the limits of any nonparticipating city that is
11 located within the county.

12 (d) A county may not levy the tax authorized under this section
13 within the limits of a participating city that levies a qualifying
14 local tax.

15 (e)(i) In order for a county or city legislative authority to
16 impose the tax under this section, the authority must adopt:

17 (A) A resolution of intent to adopt legislation to authorize the
18 maximum capacity of the tax in this section within six months of the
19 date in which this section takes effect; and

20 (B) Legislation to authorize the maximum capacity of the tax in
21 this section within one year of the date on which this section takes
22 effect.

23 (ii) Adoption of the resolution of intent and legislation
24 requires simple majority approval of the enacting legislative
25 authority.

26 (iii) If a county or city has not adopted a resolution of intent
27 in accordance with the terms of this section, the county or city may
28 not authorize, fix, and impose the tax.

29 (3) The tax imposed under this section must be deducted from the
30 amount of tax otherwise required to be collected or paid to the
31 department of revenue under chapter 82.08 or 82.12 RCW. The
32 department must perform the collection of such taxes on behalf of the
33 county or city at no cost to the county or city.

34 (4) By December 31, 2019, or within thirty days of a county or
35 city authorizing the tax under this section, whichever is later, the
36 department must calculate the maximum amount of tax distributions for
37 each county and city authorizing the tax under this section as
38 follows:

39 (a) The maximum amount for a participating county equals the
40 taxable retail sales within the county in state fiscal year 2019

1 multiplied by the tax rate imposed under this section. If a county
2 imposes a tax authorized under this section after a city located in
3 that county has imposed the tax, the taxable retail sales within the
4 city in state fiscal year 2019 must be subtracted from the taxable
5 retail sales within the county for the calculation of the maximum
6 amount; and

7 (b) The maximum amount for a city equals the taxable retail sales
8 within the city in state fiscal year 2019 multiplied by the tax rate
9 imposed under subsection (1) of this section.

10 (5) The tax must cease to be distributed to a county or city for
11 the remainder of any fiscal year in which the amount of tax exceeds
12 the maximum amount in subsection (4) of this section. The department
13 must remit any annual tax revenues above the maximum to the state
14 treasurer for deposit in the general fund. Distributions to a county
15 or city meeting the maximum amount must resume at the beginning of
16 the next fiscal year.

17 (6)(a) If a county has a population greater than four hundred
18 thousand or a city has a population greater than one hundred
19 thousand, the moneys collected or bonds issued under this section may
20 only be used for the following purposes:

21 (i) Acquiring, rehabilitating, or constructing affordable
22 housing, which may include new units of affordable housing within an
23 existing structure or facilities providing supportive housing
24 services under RCW 71.24.385; or

25 (ii) Funding the operations and maintenance costs of new units of
26 affordable or supportive housing.

27 (b) If a county has a population of four hundred thousand or less
28 or a city has a population of one hundred thousand or less, the
29 moneys collected under this section may only be used for the purposes
30 provided in (a) of this subsection or for providing rental assistance
31 to tenants.

32 (7) The housing and services provided pursuant to subsection (6)
33 of this section may only be provided to persons whose income is at or
34 below sixty percent of the median income of the county or city
35 imposing the tax.

36 (8) In determining the use of funds under subsection (6) of this
37 section, a county or city must consider the income of the individuals
38 and families to be served, the leveraging of the resources made
39 available under this section, and the housing needs within the
40 jurisdiction of the taxing authority.

1 (9) To carry out the purposes of this section including, but not
2 limited to, financing loans or grants to nonprofit organizations or
3 public housing authorities, the legislative authority of the county
4 or city imposing the tax has the authority to issue general
5 obligation or revenue bonds within the limitations now or hereafter
6 prescribed by the laws of this state, and may use, and is authorized
7 to pledge, the moneys collected under this section for repayment of
8 such bonds.

9 (10) A county or city may enter into an interlocal agreement with
10 one or more counties, cities, or public housing authorities in
11 accordance with chapter 39.34 RCW. The agreement may include, but is
12 not limited to, pooling the tax receipts received under this section,
13 pledging those taxes to bonds issued by one or more parties to the
14 agreement, and allocating the proceeds of the taxes levied or the
15 bonds issued in accordance with such interlocal agreement and this
16 section.

17 (11) Counties and cities imposing the tax under this section must
18 report annually to the department of commerce on the collection and
19 use of the revenue. The department of commerce must adopt rules
20 prescribing content of such reports. By December 1, 2019, and
21 annually thereafter, and in compliance with RCW 43.01.036, the
22 department of commerce must submit a report annually to the
23 appropriate legislative committees with regard to such uses.

24 (12) The tax imposed by a county or city under this section
25 expires twenty years after the date on which the tax is first
26 imposed.

Passed by the House April 28, 2019.
Passed by the Senate April 28, 2019.
Approved by the Governor May 9, 2019.
Filed in Office of Secretary of State May 13, 2019.

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Implementing HB 1406

2019

Don't miss out on up to 20 years of shared revenue for affordable housing

In the 2019 legislative session, the state approved a local revenue sharing program for local governments by providing up to a 0.0146% local sales and use tax credited against the state sales tax for housing investments, available in increments of 0.0073%, depending on the imposition of other local taxes and whether your county also takes advantage. The tax credit is in place for up to 20 years and can be used for acquiring, rehabilitating, or constructing affordable housing; operations and maintenance of new affordable or supportive housing facilities; and, for smaller cities, rental assistance. The funding must be spent on projects that serve persons whose income is at or below sixty percent of the area median income. Cities can also issue bonds to finance the authorized projects.

This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer. There are tight timelines that must be met to access this funding source – the first is January 31, 2020 to pass a resolution of intent. The tax ordinance must then be adopted by July 27, 2020 to qualify for a credit.

The following information is intended to assist your city in evaluating its options and timelines. It is not intended as legal advice. Check with your city's legal counsel and/or bond counsel for specific questions on project uses and deadlines for implementation.

Deadlines to participate:

- Resolution to levy tax credit: July 28, 2019 – January 31, 2020
- Ordinance to levy the tax credit: By July 27, 2020
- Adopt "qualifying local tax" (optional): By July 31, 2020

Eligibility to receive shared revenues

- The state is splitting the shared resources between cities and counties. However, cities can receive both shares if they have adopted a "qualifying local tax" by July 31, 2020. Qualifying taxes are detailed below. Cities who are levying a "qualifying local tax" by July 28, 2019, the effective date of the new law, will receive both shares immediately once they impose the new sales tax credit.
- If a city does not implement a qualifying local tax by the deadline, they can still participate in the program if they meet the other deadlines but will be eligible for a lower credit rate.
- A city can adopt the sales tax credit before designating how the funds will be used once collected.

Qualifying local taxes

The following are considered "qualifying local taxes" and, if levied, give the city access to both shares of the tax credit (i.e. 0.0146% rate instead of the single share rate of 0.0073%):

- Affordable housing levy (property tax) under RCW 84.52.105
- Sales and use tax for housing and related services under RCW 82.14.530. The city must have adopted at least half of the authorized maximum rate of 0.001%.
- Sales tax for chemical dependency and mental health (optional .1 MIDD) under RCW 82.14.460
- Levy (property tax) authorized under RCW 84.55.050, if used solely for affordable housing

Think of the "qualifying local tax" as a multiplier or "doubler." It gives the city access to double the tax credit even when the county chooses to participate in the program.

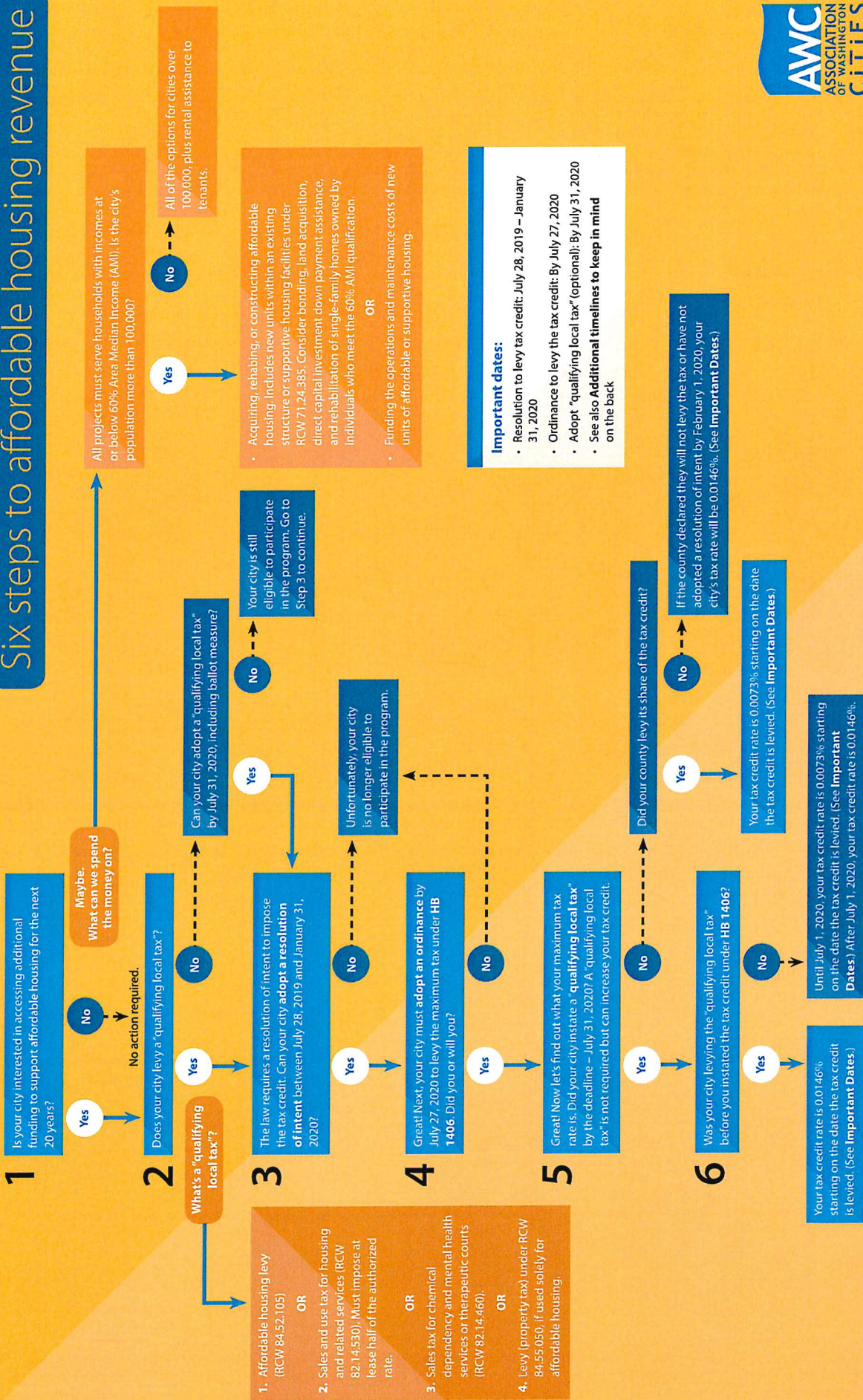
Contact:

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Six steps to affordable housing revenue



Tax credit rate examples

Max tax credit rate under HB 1406	City with qualifying local tax	City without qualifying local tax	City doesn't levy a tax credit, county does participate	County doesn't participate, city participates but doesn't have a qualifying tax.*
City	0.0146%	0.0073%	0.0%	July 2020: 0.0%
County	0.0%	0.0073%	0.0146%	0.0%

*We believe that this was an error in bill drafting. Please let us know if you are in this situation. We can work to address it in future legislative sessions.

Eligible uses of the funds:

1. Projects must serve those at or below 60% AMI.
2. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services. In addition to investing in traditional subsidized housing projects, this authority could potentially be used to provide for land acquisition, down payment assistance, and home repair so long as recipients meet the income guidelines.
3. Funding the operations and maintenance costs of new units of affordable or supportive housing.
4. For cities with a population under 100,000, the funds can also be used for rental assistance to tenants.

Additional timelines to keep in mind:

1. Department of Revenue (DOR) requires 30-days-notice of adoption of sales tax credits. The credit will then take effect on the first day of the month following the 30-day period.
2. If your city is adopting a "qualifying local tax", DOR requires 75-days-notice of adoption of sales tax increases. Local sales tax increases may only take effect on the first day of the first, second, or third quarter – not the fourth (April 1, July 1, or October 1).
3. If your city is adopting a "qualifying local tax" remember to factor in the ballot measure process into the timeline, as these must be approved by the voters.
4. If you are intending to bond the revenues for a project under this authority, check with your legal counsel and bond counsel about other deadlines that may apply to your city.

Frequently asked questions:

1. **This program sounds very familiar. Didn't a local option, affordable housing sales tax law pass a few years ago?** Yes, but the new law has important differences. The Legislature passed HB 2263 in 2015 that authorized cities and towns to levy up to a 0.1% sales tax for affordable housing—

but, importantly, only after voter approval. This sales tax levy is considered a "qualifying local tax" under HB 1406. Another important distinction is that the affordable housing sales tax from 2015 is an additional tax on the consumer, and not a credit on an existing state-imposed tax.

2. **Do we have to levy a "qualifying local tax" to participate?** No. Your city is still eligible to participate in the program, but your tax credit rate will depend on whether the county participates in the program. See *Tax credit rate examples* chart to the left.
3. **Do we only have access to the program if the county declines to participate?** No. A city can participate, and receive funds, even if the county participates. Unfortunately, if your city does not impose a "qualifying local tax" by the deadline and your county declines to participate, then you will not have access to funds after the first year, due to a drafting error in the bill. We don't anticipate this scenario to occur, but please let us know if you find yourself in that situation. We will work with the Legislature to address it if this proves problematic. In all cases you must meet the program deadlines to participate. See *Deadlines to participate*.
4. **Does it make a difference at all if our county participates?** Only if you have not adopted a "qualifying local tax." If you have adopted a "qualifying local tax" you can access the higher credit rate regardless of county participation. If you don't have a "qualifying local tax" then you can only access the higher rate if the county does not participate.
5. **How is "rental assistance" defined? Does that include rent vouchers?** The term "rental assistance" is not defined in the chapter 82.14 RCW; however, both federal and state housing programs use the term "rental assistance" to mean providing rent, security deposits, or utility payment assistance to tenants.
6. **Can we pool our revenue with another entity? Can we issue bonds or use the money to repay bonds?** Yes! Cities can enter into an interlocal agreement with other local governments or a public housing authority to pool tax receipts, pledge tax collections to bonds, allocating collected taxes to authorized affordable housing expenditures, or other agreements authorized under chapter 39.34 RCW. Cities may also use the tax credit revenue to issue or repay bonds in order to carry out the projects authorized under the new law.
7. **Is the amount of tax credit we receive limited only by the amount of sales tax collected per year?** No. The maximum amount will be based on state fiscal year 2019 sales.
8. **Does the tax credit program expire?** Yes, the tax expires 20 years after the date on which the tax is first levied.

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DRAFT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, DECLARING THE INTENT OF THE CITY TO ADOPT LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019), AND OTHER MATTERS RELATED THERETO.

WHEREAS, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (Chapter 338, Laws of 2019) (“SHB 1406”); and

WHEREAS, SHB 1406 authorizes the governing body of a city or county to impose a local sales and use tax for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing, for the operations and maintenance costs of affordable or supportive housing, or (in cities with a population of 100,000 or less) for providing rental assistance to tenants; and

WHEREAS, the tax will be credited against state sales taxes collected within the City of Tukwila and, therefore, will not result in higher sales and use taxes within the City of Tukwila and will represent an additional source of funding to address housing needs in the City of Tukwila; and

WHEREAS, the tax must be used to assist persons whose income is at or below 60 percent of the City median income; and

WHEREAS, the City has determined that imposing the sales and use tax to address this need will benefit its citizens; and

WHEREAS, in order for a city or county to impose the tax, within 6 months of the effective date of SHB 1406, or January 28, 2020, the governing body must adopt a resolution of intent to authorize the maximum capacity of the tax, and within 12 months of the effective date of SHB 1406, or July 28, 2020, must adopt legislation to authorize the maximum capacity of the tax; and

WHEREAS, this resolution constitutes the resolution of intent required by SHB 1406; and

WHEREAS, the Tukwila City Council desires to declare its intent to impose a local sales and use tax as authorized by SHB 1406 as set forth herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Resolution of Intent. The City Council declares its intent to adopt legislation to authorize the maximum capacity of the sales and use tax authorized by SHB 1406 within one year of the effective date of SHB 1406, or by July 28, 2020.

Section 2. Further Authority; Ratification. All City officials, their agents, and representatives are hereby authorized and directed to undertake all action necessary or desirable from time to time to carry out the terms of, and complete the actions contemplated by, this resolution. All acts taken pursuant to the authority of this resolution but prior to its effective date are hereby ratified.

Section 3. Effective Date. This resolution shall take effect immediately upon its passage and adoption.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2019.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Kathy Hougardy, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____
Passed by the City Council: _____
Resolution Number: _____

Rachel B. Turpin, City Attorney

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AUTHORIZING THE MAXIMUM CAPACITY OF A LOCAL SALES AND USE TAX TO FUND INVESTMENTS IN AFFORDABLE AND SUPPORTIVE HOUSING, TO BE CODIFIED AT CHAPTER 3.14 OF THE TUKWILA MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Tukwila's Comprehensive Plan states that almost half of City residents are burdened by housing costs, paying more than 30% of their income for housing; and

WHEREAS, Goal 3.2 of Tukwila's Comprehensive Plan is that the City of Tukwila has safe, healthy, and affordable homes for all residents; and

WHEREAS, Goal 3.3 of Tukwila's Comprehensive Plan is that the City of Tukwila supports and collaborates with other jurisdictions and organizations to assess housing needs, coordinate funding, and preserve and create affordable housing opportunities; and

WHEREAS, an implementation strategy in Tukwila's Comprehensive Plan is to support and encourage legislation at the county, state, and federal levels that promotes affordable housing goals; and

WHEREAS, the Tukwila City Council, in accordance with Washington State Legislature Chapter 338, Laws of 2019, has adopted a resolution of intent to adopt legislation to authorize the maximum capacity of a sales and use tax within six months of the effective date of Chapter 338, Laws of 2019; and

WHEREAS, the City of Tukwila intends to impose the maximum local sales and use tax authorized under Chapter 338, Laws of 2019 within one year of the date on which said law takes effect; and

WHEREAS, the Department of Revenue requires 30 days' notice of adoption of sales tax credits and the credit will then take effect on the first day of the month following the 30-day period; and

WHEREAS, the local sales and use tax will be credited against the state sales and use tax so that the total tax paid by the consumer will not increase; and

WHEREAS, the local sales and use tax revenue shall be spent on acquiring, rehabilitating, constructing affordable housing or supportive housing, or rental assistance and other related expenditures as authorized by Chapter 338, Laws of 2019; and

WHEREAS, Chapter 338, Laws of 2019 authorizes the City of Tukwila to issue general obligation or revenue bonds to carry out the purposes of the legislation and to pledge the revenue collected by the local sales and use tax to repay the bonds; and

WHEREAS, in 2019 the cities of Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Normandy Park, Renton, Tukwila and King County entered into an Interlocal Agreement that formed the South King Housing and Homelessness Partners (SKHPP); and

WHEREAS, the Executive Board of SKHHP is considering cooperative action and pooling public and private resources to address affordable housing needs in South King County; however, no decisions have been made at this time; and

WHEREAS, the City has determined it is in the best interest of the City and its residents to begin implementation of the tax and then later determine the process for the distribution of the funds collected by a resolution of the Tukwila City Council to meet the requirements of Chapter 338, Laws of 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Chapter 3.14 of the Tukwila Municipal Code Established. A chapter of the Tukwila Municipal Code entitled "Sales and Use Tax for Affordable Housing," to be codified as Tukwila Municipal Code (TMC) Chapter 3.14, is hereby established to read as follows:

**CHAPTER 3.14
SALES AND USE TAX FOR AFFORDABLE HOUSING**

- Sections:
- 3.14.010 Imposition of Sales and Use Tax for Affordable Housing
 - 3.14.020 Purpose of Tax
 - 3.14.030 Administration and Collection – Statutory Compliance

Section 2. Regulations Established. TMC Section 3.14.010, "Imposition of Sales and Use Tax for Affordable Housing," is hereby established to read as follows:

3.14.010 Imposition of Sales and Use Tax for Affordable Housing

A. There is imposed a sales and use tax as authorized by Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW, upon every taxable event, as defined in Chapter 82.14 RCW, occurring within the City of Tukwila. The tax shall be imposed upon and collected from those persons from whom the State sales tax or use tax is collected pursuant to Chapter 82.08 and 82.12 RCW.

B. The rate of the tax imposed by TMC Section 3.14.010 shall be 0.0073 percent of the selling price or value of the article used.

C. The tax imposed under TMC Section 3.14.010 shall be deducted from the amount of tax otherwise required to be collected or paid to the Department of Revenue under Chapter 82.08 or 82.12 RCW. The Department of Revenue will perform the collection of such taxes on behalf of the City of Tukwila at no cost to the City.

D. The Department of Revenue will calculate the maximum amount of tax distributions for the City of Tukwila based on the taxable retail sales in the City in State Fiscal Year 2019, and the tax imposed under TMC Section 3.14.010 will cease to be distributed to the City of Tukwila for the remainder of any State Fiscal Year in which the amount of tax exceeds the maximum amount of tax distributions for the City as properly calculated by the Department of Revenue. Distributions to the City of Tukwila that have ceased during a State Fiscal Year shall resume at the beginning of the next State Fiscal Year.

Section 3. Regulations Established. TMC Section 3.14.020, "Purpose of Tax," is hereby established to read as follows:

3.14.020 Purpose of Tax

A. The City may use the moneys collected by the tax imposed under TMC Section 3.14.010 or bonds issued only for the following purposes:

1. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385; and
2. Providing the operations and maintenance costs of new units of affordable or supportive housing; and
3. Providing rental assistance to tenants.

B. The housing and services provided under TMC Section 3.14.020 may only be provided to persons whose income is at or below 60 percent of the median income of the City.

C. In determining the use of funds under TMC Section 3.14.020, the City must consider the income of the individuals and families to be served, the leveraging of the resources made available under TMC Section 3.14.010, and the housing needs within the City.

D. The Finance Director must report annually to the Washington State Department of Commerce, in accordance with the Department's rules, on the collection and use of the revenue from the tax imposed under TMC Section 3.14.010.

E. The tax imposed by the City under TMC Section 3.14.010 will expire 20 years after the date on which the tax is first imposed. The Finance Director shall provide notice to the City Council and the Mayor of the expiration date of the tax each year beginning three years before the expiration date, and shall also promptly notify the City Council and the Mayor of any changes to the expiration date.

Section 4. Regulations Established. TMC Section 3.14.030, "Administration and Collection – Statutory Compliance," is hereby established to read as follows:

3.14.030 Administration and Collection – Statutory Compliance

The administration and collection of the tax imposed by Chapter 3.14 shall be in accordance with the provisions of Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW.

Section 5. The Finance Director is authorized to provide any necessary notice to the Department of Revenue to effectuate the tax enacted by this ordinance and to execute, for and on behalf of the City of Tukwila, any necessary agreement with the Department of Revenue for the collection and administration of the tax enacted by this ordinance.

Section 6. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 7. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 8. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at
a Regular Meeting thereof this _____ day of _____, 2019.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Rachel B. Turpin, City Attorney

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____