City of East Wenatchee, Washington

Resolution No. 2019-18

A Resolution of the City of East Wenatchee, Washington declaring the intent of the City Council 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).

1. **Alternate format.**

   1.1. Para leer este documento en otro formato (español, Braille, leer en voz alta, etc.), póngase en contacto con el vendedor de la ciudad al alternatformat@east-wenatchee.com, al (509) 884-9515 o al 711 (TTY).

   1.2. To read this document in an alternate format (Spanish, Braille, read aloud, etc.), please contact the City Clerk at alternateformat@east-wenatchee.com, at (509) 884-9515, or at 711 (TTY).

2. **Authority.**

   2.1. RCW 35A.11.020 and RCW 35A.13.190 authorize the City Council to organize and regulate its internal affairs and to define the powers, functions and duties of its officers and employees.

   2.2. RCW 82.14 authorizes the City to authorize, fix, and impose a sales and use tax.

3. **Recitals.**

   3.1. During the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (Chapter 338, Laws of 2019) ("SHB 1406") creating a sales and use tax, revenue-sharing program for local investments in affordable housing.

   3.2. 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, and for the operations and maintenance costs of affordable or supportive housing, and for cities of 100,000 or less for providing rental assistance to tenants.
3.3. The sales and use tax must be used to assist persons whose income is at or below 60 percent of the City median income.

3.4. The sales and use tax provided to the City under SHB 1406 will be credited against state share of sales taxes collected within the City and, therefore, will not result in higher sales and use taxes within the City and will represent an additional source of funding to address housing needs in the City.

3.5. To take advantage of this funding source, the City Council must pass a Resolution of intent by January 31, 2020 and within twelve months of the effective date of SHB 1406, or July 28, 2020, must adopt legislation to authorize the maximum capacity of the tax.

3.6. The City must submit annual reports on the collection and uses of the revenue to the Department of Commerce.

3.7. The City Council has determined that imposing the sales and use tax program authorized by SHB 1406 to address the housing needs of the community will benefit its citizens.

3.8. The City Council now desires to declare its intent to impose a local sales and use tax as authorized by SHB 1406 as set forth herein. This Resolution constitutes the resolution of intent required by SHB 1406.

THE CITY COUNCIL OF THE CITY OF EAST WENATCHEE DO RESOLVE AS FOLLOWS:

4. Declaration 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.

5. Further Authority; Ratification. The City Council authorizes and directs all City officials, their agents, and representatives 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.

6. Severability. The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the
validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances

7. **Effective Date.** This Resolution shall become effective immediately upon passage and adoption by the City Council as provided by law.

Passed by the City Council of East Wenatchee, at a regular meeting thereof on this **20th** day of **August** 2019.

The City of East Wenatchee,
Washington

By **Jennifer Crawford - Pro Tem**
Steven C. Lacy, Mayor

Authenticated:

**Maria E. Holman**
Maria Holman, City Clerk

Approved as to form only:

**Devin Poulson, City Attorney**

**FILED WITH THE CITY CLERK:** 08/13/2019  
**PASSED BY THE CITY COUNCIL:** 08/20/2019  
**EFFECTIVE DATE:** 08/20/2019  
**RESOLUTION NO.** 2019-18
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

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

JAY INSLEE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to encouraging investments in affordable and supportive housing; and adding a new section to chapter 82.14 RCW.

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

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

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

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

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

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

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

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

(i) The affordable housing levy authorized under RCW 84.52.105;
(ii) The sales and use tax for housing and related services authorized under RCW 82.14.530, provided the city has imposed the tax at a minimum or at least half of the authorized rate;

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

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

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

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

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

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

      (A) 0.0073 percent for a:

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

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

      (B) 0.0146 percent for a:

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

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

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

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

      (A) 0.0073 percent for a:
Participating city that is located within a participating county if the participating city is not levying a qualifying local tax; and

Participating county, within the limits of a participating city if the participating city is not levying a qualifying local tax;

(B) 0.0146 percent within the limits of a:

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

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

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

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

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

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

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

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

(3) The tax imposed under this section must 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 must perform the collection of such taxes on behalf of the county or city at no cost to the county or city.

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

(a) The maximum amount for a participating county equals the taxable retail sales within the county in state fiscal year 2019.
multiplied by the tax rate imposed under this section. If a county imposes a tax authorized under this section after a city located in that county has imposed the tax, the taxable retail sales within the city in state fiscal year 2019 must be subtracted from the taxable retail sales within the county for the calculation of the maximum amount; and

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

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

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

(i) 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; or

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

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

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

(8) In determining the use of funds under subsection (6) of this section, a county or city must consider the income of the individuals and families to be served, the leveraging of the resources made available under this section, and the housing needs within the jurisdiction of the taxing authority.
(9) To carry out the purposes of this section including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, the moneys collected under this section for repayment of such bonds.

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

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

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