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**SENATE BILL 5195**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Kuderer, Das, Zeiger, and Fortunato

Read first time 01/15/19. Referred to Committee on Housing Stability & Affordability.

1 AN ACT Relating to providing cities and counties authority to use  
2 real estate excise taxes to support affordable housing and  
3 homelessness projects; amending RCW 82.46.035 and 82.46.037; and  
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that homelessness  
7 has reached a crisis level across Washington state. Every community  
8 has felt the impact as affordable housing continues to be out of  
9 reach for many residents of the state. Therefore, the legislature  
10 intends to help provide cities and counties with the flexibility and  
11 tools to take on this crisis by investing in facilities and projects  
12 that keep people in homes, provide the services that can help prevent  
13 people from entering homelessness, and ensure affordable housing in  
14 every community.

15 **Sec. 2.** RCW 82.46.035 and 2011 c 354 s 3 are each amended to  
16 read as follows:

17 (1) The legislative authority of any county or city must identify  
18 in the adopted budget the capital projects funded in whole or in part  
19 from the proceeds of the tax authorized in this section, and must

1 indicate that such tax is intended to be in addition to other funds  
2 that may be reasonably available for such capital projects.

3 (2) The legislative authority of any county or any city that  
4 plans under RCW 36.70A.040(1) may impose an additional excise tax on  
5 each sale of real property in the unincorporated areas of the county  
6 for the county tax and in the corporate limits of the city for the  
7 city tax at a rate not exceeding one-quarter of one percent of the  
8 selling price. Any county choosing to plan under RCW 36.70A.040(2)  
9 and any city within such a county may only adopt an ordinance  
10 imposing the excise tax authorized by this section if the ordinance  
11 is first authorized by a proposition approved by a majority of the  
12 voters of the taxing district voting on the proposition at a general  
13 election held within the district or at a special election within the  
14 taxing district called by the district for the purpose of submitting  
15 such proposition to the voters.

16 (3) Revenues generated from the tax imposed under subsection (2)  
17 of this section must be used by such counties and cities solely for  
18 financing capital projects specified in a capital facilities plan  
19 element of a comprehensive plan. However, revenues (a) pledged by  
20 such counties and cities to debt retirement prior to March 1, 1992,  
21 may continue to be used for that purpose until the original debt for  
22 which the revenues were pledged is retired, or (b) committed prior to  
23 March 1, 1992, by such counties or cities to a project may continue  
24 to be used for that purpose until the project is completed.

25 (4) Revenues generated by the tax imposed by this section must be  
26 deposited in a separate account.

27 (5) As used in this section, "city" means any city or town and  
28 "capital project" means those public works projects of a local  
29 government for planning, acquisition, construction, reconstruction,  
30 repair, replacement, rehabilitation, or improvement of streets,  
31 roads, highways, sidewalks, street and road lighting systems, traffic  
32 signals, bridges, domestic water systems, storm and sanitary sewer  
33 systems(~~(, and)~~); planning, construction, reconstruction, repair,  
34 rehabilitation, or improvement of parks; and planning, acquisition,  
35 construction, reconstruction, repair, replacement, rehabilitation, or  
36 improvement of facilities for those experiencing homelessness and  
37 affordable housing projects.

38 (6) When the governor files a notice of noncompliance under RCW  
39 36.70A.340 with the secretary of state and the appropriate county or  
40 city, the county or city's authority to impose the additional excise

1 tax under this section is temporarily rescinded until the governor  
2 files a subsequent notice rescinding the notice of noncompliance.

3 ~~((7) From June 30, 2012, until December 31, 2016, a city or  
4 county may use the greater of one hundred thousand dollars or  
5 thirty-five percent of available funds under this section, but not to  
6 exceed one million dollars per year, for operations and maintenance  
7 of existing capital projects as defined in subsection (5) of this  
8 section, and counties may use available funds under this section for  
9 the payment of existing debt service incurred for capital projects as  
10 defined in RCW 82.46.010. If a county uses available funds for  
11 payment of existing debt service under RCW 82.46.010, the total  
12 amount used for payment of debt service and any amounts used for  
13 operations and maintenance is subject to the limits in this  
14 subsection.))~~

15 **Sec. 3.** RCW 82.46.037 and 2017 3rd sp.s. c 16 s 6 are each  
16 amended to read as follows:

17 (1) A city or county that meets the requirements of subsection  
18 (2) of this section may use the greater of one hundred thousand  
19 dollars or twenty-five percent of available funds, but not to exceed  
20 one million dollars per year, from revenues collected under RCW  
21 82.46.035 for:

22 (a) The maintenance of capital projects, as defined in RCW  
23 82.46.035(5); and

24 ~~((From July 1, 2017, until June 30, 2019, the acquisition,  
25 construction, improvement, or rehabilitation of facilities to provide  
26 housing for the homeless; or~~

27 ~~(e))~~ The planning, acquisition, construction, reconstruction,  
28 repair, replacement, rehabilitation, improvement, or maintenance of  
29 capital projects as defined in RCW 82.46.010(6)(b) that are not also  
30 included within the definition of capital projects in RCW  
31 82.46.035(5).

32 (2) A city or county may use revenues pursuant to subsection (1)  
33 of this section if:

34 (a) The city or county prepares a written report demonstrating  
35 that it has or will have adequate funding from all sources of public  
36 funding to pay for all capital projects, as defined in RCW  
37 82.46.035(5), identified in its capital facilities plan for the  
38 succeeding two-year period; and

1 (b) (i) The city or county has not enacted, after June 9, 2016,  
2 any requirement on the listing or sale of real property; or any  
3 requirement on landlords, at the time of executing a lease, to  
4 perform or provide physical improvements or modifications to real  
5 property or fixtures, except if necessary to address an immediate  
6 threat to health or safety;

7 (ii) Any local requirement adopted by the city or county under  
8 (b) (i) of this subsection is: Specifically authorized by RCW  
9 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW;  
10 specifically authorized by other state or federal law; or a seller or  
11 landlord disclosure requirement pursuant to RCW 64.06.080; or

12 (iii) For a city or county using funds under subsection (1) (b) of  
13 this section, the requirements of this subsection apply, except that  
14 the date for such enactment under (b) (i) of this subsection is ninety  
15 days after October 19, 2017.

16 (3) The report prepared under subsection (2) (a) of this section  
17 must: (a) Include information necessary to determine compliance with  
18 the requirements of subsection (2) (a) of this section; (b) identify  
19 how revenues collected under RCW 82.46.035 were used by the city or  
20 county during the prior two-year period; (c) identify how funds  
21 authorized under subsection (1) of this section will be used during  
22 the succeeding two-year period; and (d) identify what percentage of  
23 funding for capital projects within the city or county is  
24 attributable to revenues under RCW 82.46.035 compared to all other  
25 sources of capital project funding. The city or county must prepare  
26 and adopt the report as part of its regular, public budget process.

27 (4) For purposes of this section, "maintenance" means the use of  
28 funds for labor and materials that will preserve, prevent the decline  
29 of, or extend the useful life of a capital project. "Maintenance"  
30 does not include labor or material costs for routine operations of a  
31 capital project.

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