## STAFF REPORT

|  |  |  |  |
| --- | --- | --- | --- |
| **Agenda Item:** | 5 | **Name:** | Miranda Leskinen, Sam Porter, Wendy Soo Hoo, Sherrie Hsu |
| **Proposed No**.: | 2022-0399 | **Date:** | January 25, 2023 |

**SUBJECT**

Proposed Ordinance 2022-0399, which would submit a ballot proposition (“Crisis Care Centers Levy”) to the voters for their approval.

**SUMMARY**

Proposed Ordinance 2022-0399 is a proposition to fund the “Crisis Care Centers Levy”.

The Executive’s proposal would create a new nine-year levy (2024-2032) with an initial levy rate of $0.145 per $1,000 of assessed value in 2024. If approved by the voters, the proposed levy is currently projected to generate a total of approximately $1.25 billion in revenues during the nine-year levy period. A $0.145 per $1,000 AV levy would be estimated to cost the owner of a $694,000 home in King County (2022 median home value) approximately $121 for 2024 in property taxes.

The proposed levy would support the creation of five new regional crisis care centers distributed throughout the county, with one of the centers solely focused on serving youth; restore mental health residential treatment bed capacity and expand treatment availability and sustainability in King County; and support area behavioral health workforce needs.

Proposed Ordinance 2022-0399 was transmitted to Council on September 29, 2022, and has been dually referred, first to the Regional Policy Committee as a mandatory referral, and then to the Budget and Fiscal Management Committee.[[1]](#footnote-2) The Regional policy Committee (RPC) passed PO 2022-0399, as amended, on January 11, 2023. The legislation is now before the Budget and Fiscal Management Committee for its consideration and action. A summary of RPC amendments is provided later in this staff report.

If approved by the Council, the levy proposal would be placed before the voters at the April 25, 2023 election. The last regular Council meeting at which the Council could act as a non-emergency with minimum processing time would be the February 14, 2023 Council meeting. The last regular meeting at which the Council could act as an emergency would be the February 24, 2023 Council meeting.

**BACKGROUND**

The Behavioral Health and Recovery Division (BHRD) within the Department of Community and Human Services (DCHS) manages public behavioral health services in King County. This includes Medicaid-funded services provided through the King County Integrated Care Network, the state-funded Behavioral Health Administrative Services Organization, and programs funded with revenue from the Mental Illness and Drug Dependency sales tax.

Attachment 7 to this staff report provides detailed information about the behavioral health system and existing treatment facilities and capacity.

**ANALYSIS**

This section provides staff analysis of the transmitted proposal as follows:

* Levy proposal overview
* Summary of the levy ordinance sections
* Estimated funding distribution
* “Paramount Purpose” allocation analysis
* “Supporting Purpose One” allocation analysis
* “Supporting Purpose Two” allocation analysis
* Allowance for additional “Supporting” allocations
* Eligible expenditures
* Initial policy issues
* Supplantation considerations for King County
* Community engagement
* Next steps and key dates

**Levy proposal overview.** Proposed Ordinance 2022-0399 is a proposition to fund the “Crisis Care Centers Levy”. If approved by the Council, the proposition would be placed on the ballot for voter approval, specifically to authorize a regular property tax levy in excess of the state levy limitation contained in RCW chapter 84.55 to fund the levy. This type of tax levy increase is commonly known as a “levy lid lift”. The measure would require simple majority approval, with no voter turnout requirements (pursuant to RCW 84.55.050(1)).

The Executive’s proposal would create a new nine-year levy (2024-2032) with an initial levy rate of $0.145 per $1,000 of assessed value in 2024. If approved by the voters, the proposed levy is currently projected to generate a total of approximately $1.25 billion in revenues during the nine-year levy period. A $0.145 per $1,000 AV levy would be estimated to cost the owner of a $694,000 home in King County (2022 median home value) approximately $121 for 2024 in property taxes.[[2]](#footnote-3) Table 1 provides an overview of estimated revenue projections for the levy period per August 2022 forecast data[[3]](#footnote-4). This information is also provided in the transmitted fiscal note (Attachment 4 to this staff report).

**Table 1. Estimated levy revenues per August 2022 forecast data**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **2024** | **2025-2026** | **2027-2028** | **2029-2030** | **2031-2032** | **Total** |
| $61,579,330 | $327,846,079 | $332,453,533 | $248,822,895 | $275,658,233 | $1,246,360,070 |

The proposed levy would support the creation of five new regional crisis care centers distributed throughout the county, with one of the centers solely focused on serving youth; restore mental health residential treatment bed capacity and expand treatment availability and sustainability in King County; and support area behavioral health workforce needs.

Executive staff indicated that the proposed levy’s approach would fully fund the new facilities and does not depend upon added funding from other sources to launch crisis care centers and preserve and restore mental health residential treatment beds. According to Executive staff, this full funding model is designed to expedite creation of these needed facilities, rather than requiring providers to wait to begin projects while they secure multiple grants. It also provides operational funding at a level that would be sufficient to provide for more equitable wages. However, Executive staff note that the Executive has designed the proposed levy to have the flexibility to maximize opportunities to partner with the state, the federal government, cities, and philanthropies to fund crisis care facilities’ capital and operating costs.[[4]](#footnote-5)

Executive staff further note that King County plans to continue to work with state partners to secure state funding to complement and extend the county’s investment. According to Executive staff, as signaled in subsection 7.C.4 of the proposed ordinance, new funding from other sources for crisis care centers, mental health residential facilities, or workforce supports may expedite implementation of facilities, and would allow for additional features at crisis care centers, provide for deeper workforce investments, or enable adaptations to evolving real estate or construction cost conditions, among other potential benefits.

**Summary of levy proposal sections.** The following is a brief summary of each of the sections in Proposed Ordinance 2022-0399.

Section 1. Definitions. This section provides definitions for the following terms used in the proposed ordinance:

* *Crisis Care Center*: Means a single facility or group of facilities that provide same-day access to multiple types of behavioral health crisis stabilization services,[[5]](#footnote-6) and shall endeavor to accept, at least for initial screening and triage, any person seeking behavioral health crisis care. A Center must be staffed by a multidisciplinary team that includes peer counselors.

A Center, as part of its services, shall include:

* a behavioral health urgent care clinic that offers 24/7 walk-in and drop-off client screening and triage;
* access to onsite assessment by a designated crisis responder; a 23-hour observation unit or similar facility and services that allows for short-term, onsite stabilization of a person experiencing a behavioral health crisis; and
* a crisis stabilization unit that provides short-term, onsite behavioral health treatment for up to 14 days or a similar short-term behavioral health treatment and facility.

A Center may incorporate pre-existing facilities that provide crisis stabilization services, so long as their services and operations are compatible with this definition. Additionally, where a Center is composed of more than one facility, those facilities shall either be geographically adjacent or shall have transportation provided between them to allow persons using or seeking service to conveniently move between facilities.

* *Designated Crisis Responder:*Same meaning as defined in state law.[[6]](#footnote-7)
* *King County Crisis Response Zone:*Means each of the four geographic subregions of King County.[[7]](#footnote-8)
1. *North King County Crisis Response Zone:* Means the portion of King County within the boundaries of the Cities of Bothell, Duvall, Kenmore, Kirkland, Lake Forest Park, Shoreline, Skykomish and Woodinville, plus the unincorporated areas within King County Council District Three as it is drawn on the effective date of this ordinance that are north or northwest of the City of Redmond.
2. *Central King County Crisis Response Zone****:*** Means the portion of King County within the boundaries of the City of Seattle, plus all unincorporated areas within King County Council Districts Two and Eight as they are drawn on the effective date of the proposed ordinance.
3. *South King County Cris Response Zone:* Means the portion of King County within the boundaries of the Cities of Algona, Auburn, Black Diamond, Burien, Covington, Des Moines, Enumclaw, Federal Way, Kent, Maple Valley, Milton, Normandy Park, Pacific, Renton, SeaTac and Tukwila, plus all unincorporated areas within King County Council Districts Five, Seven and Nine as they are drawn on the effective date of the proposed ordinance.
4. *East King County Crisis Response Zone*: Means the portion of King County within the boundaries of the Cities of Beaux Arts, Bellevue, Carnation, Clyde Hill, Hunts Point, Issaquah, Medina, Mercer Island, Newcastle, North Bend, Redmond, Sammamish, Snoqualmie and Yarrow Point, plus the unincorporated areas within King County Council District Three as it is drawn on the effective date of this ordinance that are east or southeast of the City of Redmond, plus all unincorporated areas within King County Council District Six as it is drawn on the effective date of the proposed ordinance.
* *Levy:* Means the levy of regular property taxes for the specific purposes and term provided in this ordinance and authorized by the electorate in accordance with state law.
* *Levy Proceeds:* Means the principal amount of moneys raised by the levy and any interest earnings on the moneys and the proceeds of any interim financing following authorization of the levy.
* *Residential Treatment:* Means a licensed, community-based facility that provides 24-hour onsite care for persons with mental health conditions, substance use disorders, or both, in a residential setting.
* *Regional Behavioral Health Services and Capital Facilities:*Means programs, services, activities, operations, staffing and capital facilities that:
* promote mental health and wellbeing and that treat substance use disorders and mental health conditions;
* promote integrated physical and behavioral health;
* promote and provide therapeutic responses to behavioral health crises;
* promote equitable and inclusive access to mental health and substance use disorder services and capital facilities for racial, ethnic, experiential and geographic communities that experience disparities in mental health and substance use disorder conditions and outcomes;
* build the capacity of mental health and substance use disorder service providers to improve the effectiveness, efficiency and equity of their services and operations;
* provide transportation to care for persons receiving, seeking or in need of mental health or substance use disorder services;
* promote housing stability for persons receiving or leaving care from a facility providing mental health or substance use disorder services;
* promote service and response coordination, data sharing and data integration amongst first responders, mental health and substance use disorder providers and King County staff;
* promote community participation in levy activities, including payment of stipends to persons with relevant lived experience who participate in levy activities whose employment does not already compensate them for such participation;
* administer, coordinate and evaluate levy activities;
* apply for federal, state and philanthropic moneys and assistance to supplement levy proceeds; and
* promote stability and sustainability of the behavioral health workforce.
* *Strategy:* Means a program, service, activity, initiative or capital investment intended to achieve the purposes described in Section 4 (Levy Purposes) of this ordinance.
* *Technical Assistance and Capacity Building:* Means assisting organizations in applying for grants funded by the levy and in implementing and improving delivery of a strategy or strategies for which levy moneys are eligible, and includes assisting community-based organizations in delivery of strategies to persons and communities that are disproportionately impacted by behavioral health conditions.

Section 2. Levy Submittal. This section calls for the submittal of the proposition to the qualified electors (voters) to approve authorizing the property tax:

* To provide necessary moneys for the purposes identified in Section 4 of this ordinance (Levy Purposes)
* Levy period of nine consecutive years, with collection beginning in 2024
* Initial rate of $0.145 per $1,000 AV
* Annual limit factor of one hundred one percent (one percent annual growth factor per chapter 84.55 RCW)

Section 3. Deposit of Levy Proceeds: This section identifies that levy proceeds would be deposited into the Crisis Care Centers Fund, or its successor.

Section 4. Levy Purposes: This section identifies the levy’s purposes, which are categorized into a paramount and two supporting purposes. Additionally, the ordinance allows for the levy implementation plan (required per Section 7) to specify additional supporting purposes so long as they are subordinate to, and are not inconsistent with, the paramount and two supporting purposes described in the ordinance. Levy purposes, as outlined in the proposed ordinance, are further discussed in the ‘Estimated funding distribution’ section of this staff report.

Section 5. Eligible Expenditures: This section identifies what levy proceeds may be spent on. Eligible levy expenditures, as outlined in the proposed ordinance, are further discussed in the ‘Eligible expenditures’ section of this staff report.

Section 6. Call for Special Election: This section would set the date for the election on April 25, 2023, and provide the specific language to appear on the ballot.

Section 7. Implementation Plan: This section requires the Executive to transmit a levy implementation plan to the County Council for adoption by ordinance, if the levy is approved by voters, by December 31, 2023. It is further directed that legislation also be adopted to either establish or empower an existing advisory body (i.e., a King County Board or Commission) to provide levy oversight. The proposed ordinance directs the transmitted implementation plan to include the following:

* A list and descriptions of the purposes of the levy (in accordance with the purposes described in this ordinance);
* A list and descriptions of strategies and allowable activities to achieve the levy purposes (see previous bullet), which strategies shall at least include:
1. planning, capital, operations and services investments for crisis care centers, which may include construction of new or acquisition, renovation, updating or expanding existing buildings in whole or in part;
2. capital and maintenance investments for mental health residential treatment capacity;
3. investments to increase attraction to, retention in, and sustainability of the behavioral health workforce;
4. establishment and maintenance of levy and capital reserves to promote continuity of levy-funded activities and prioritization of the paramount and then supporting purposes (One and Two) in the event of fluctuations in levy revenue or strategy costs;
5. activities that promote post-crisis stabilization and housing stability for persons receiving or discharging from levy-funded services;
6. mobile and site-based behavioral health activities during the initial period of the levy prior to initiation of operations of the first crisis care center that promote access to behavioral health services for persons experiencing or at risk of a behavioral health crisis;
7. technical assistance and capacity building for organizations applying for or receiving levy funding, including a strategy or strategies to promote inclusive care at levy-funded facilities for racial, ethnic and other demographic groups that experience disproportionate rates of behavioral health conditions in King County;
8. capital facility siting support, communication and city partnership activities;
9. levy administration activities and activities that monitor and promote coordination, more effective crisis response, and quality of care within and amongst crisis care centers, other behavioral health crisis response services in King County, and first responders; and
10. performance measurement and evaluation activities;
* A financial plan to direct the use of the proceeds for regional behavioral health services and capital facilities that achieve the purposes and strategies (see 1st and 2nd bullets), which must include at a minimum:
1. forecast of annual revenue for each levy year;
2. annual expenditure plan for each levy year that allocates forecasted levy proceeds among the levy’s strategies;
3. specific description of the sequence and timing of planned expenditures and activities to establish and operate the regional network of five crisis care centers required to satisfy the levy’s paramount purpose; and
4. specific description of how a portion of the first-year levy proceeds will be allocated to make rapid initial progress toward supporting purposes One and Two;
* A description of how the Executive will seek and incorporate when available federal, state, philanthropic and other moneys that are not proceeds of the levy to accelerate, enhance, compliment or sustain accomplishment of the levy’s paramount and supporting purposes;
* A description of the Executive’s assumptions about the role of Medicaid funding in the financial plan and planned approach to billing eligible crisis care services to Medicaid or other sources of potential payment such as private insurance;
* A description of the process by which King County and cities shall collaborate to support siting of new capital facilities that use proceeds from the levy for their construction or acquisition;
* A summary of the process and key findings of the community and stakeholder engagement process that informs the proposed implementation plan;
* A process to make substantial adjustments to the financial plan, which process shall require notice to the County Council and provide the ability for the Council to stop any substantial adjustment that it does not support;
* A description of the composition, duties of[[8]](#footnote-9), and process to establish the levy’s advisory body, which can be a new or existing body with relevant expertise, and must be demographically representative of the County and whose membership must include:
1. at least one resident from each of the crisis response zones, and
2. persons who have previously received crisis stabilization services, and
3. persons with professional training and experience in the provision of behavioral health crisis care;
* A description of how the Executive shall provide each online annual report to the Council Clerk, councilmembers and Regional Policy Committee members and alternates, including confirmation that the Executive shall electronically file a proposed motion that shall acknowledge receipt of the report; and
* A description of how the purpose of the crisis response zones is to promote geographic distribution of the centers so that they are accessible for walk-in and drop-off crisis care throughout King County, but that the crisis care zones shall not be used to limit the ability of any person in King County to use any particular center.

Section 8. Updating the definition of crisis care center: This section allows for the definition of a crisis care center to be updated by ordinance, which would have to be mandatorily referred to the Regional Policy Committee, upon (and in alignment with) the recommendation of the levy’s advisory board due to new research, changing best practices, updated federal or state regulations or other evidence-based factors that cause this ordinance’s definition to become infeasible, impracticable or inconsistent with the levy’s paramount purpose.

Section 9. Exemption: This section indicates the levy would be included in any real property tax exemption authorized by state law (RCW 84.36.381).

Section 10. Ratification and Confirmation: This section ratifies and confirms certification of the proposition by the Clerk of the Council to the Director of King County Elections.

Section 11. Severability: This section specifies that if any part of the ordinance is held invalid, the remainder of the ordinance would not be affected.

**Estimated funding distribution.** The transmitted ordinance (Section 4) identifies categories of expenditures (“Paramount” and “Supporting” purposes), but it does not describe the allocation of levy proceeds to each investment area. To this point, the fiscal note included in the transmitted materials (Attachment 4 to this staff report) provides a summary of estimated levy revenues and an example of expenditures by category with the caveat that all expenditure estimates will be governed by the levy’s implementation plan and are therefore subject to change from the example provided in the fiscal note.

As indicated by Executive staff, the terms “paramount purpose” and “supporting purpose” are analogous to the terms “paramount goal” and “supporting goal” as used in King County Code 24.30 for Health through Housing, which likewise does not define these terms in legislation. Executive staff further indicate that “paramount purpose” describes the levy component that will be prioritized above all others in financial modeling and implementation planning – in the CCC levy’s case, the five crisis care centers. “Supporting purpose” describes other important outcomes that the levy would simultaneously pursue.

According to Executive staff, this approach defines clearly what levy purposes the County must accomplish (and what other types of expenditures the levy may not support) without prematurely budgeting specific amounts into categories that have high levels of uncertainty such as land acquisition costs, capital construction costs, and the previously mentioned assumptions around what State-funded Medicaid and non-Medicaid expenditures may support (and how those assumptions may change over the course of a nine-year levy). They further indicate that this approach allows the levy to adapt its funding plan to changing conditions while still providing clarity and accountability about what the levy may and may not fund, and would allow King County to incorporate and maximize new or expanded state, federal, or philanthropic funding partnerships that create new opportunities.

“Paramount” Allocation Overview. As directed in the proposed ordinance, the levy’s paramount purpose is to establish and operate a regional network of five crisis care centers (as defined in Section 2) in King County with each of the four King County crisis response zones (as defined in Section 2) containing at least one center and at least one of the five centers specializing in serving persons younger than 19 years of age.

As indicated by Executive staff, relating to the Executive’s envisioned process for siting the centers, King County would not unilaterally site facilities and would depend upon providers submitting proposals for sites with host city support. According to Executive staff, the Executive envisions partnering with cities and providers to identify opportunities to site the behavioral health facilities funded by the levy. Key components of this process are expected to include procurement processes by which providers locate appropriate sites, as well as consultation with cities to identify potential sites, to assure geographic distribution throughout the County as described in the ballot measure ordinance. According to Executive staff, the Executive would support creating centers by funding the construction of new facilities, repurposing existing buildings, or a mix of the two strategies. Executive staff noted that subsection 7.C.6 of the proposed ordinance indicates that the Executive will prove more information on siting in the implementation plan.

Council staff also requested information on whether and/or how communities more broadly would be engaged as part of the siting process. According to Executive staff, community engagement and siting processes will be directed by the implementation plan and informed by community engagement. Building operators and owners would lead these efforts in partnership with local jurisdictions. As in North King County, cities may take an active role in identifying a potential site and provider, or providers may identify a site and then approach a jurisdiction to discuss the potential use.

Executive staff also note that the Executive expects that newly built levy-funded facilities will be subject to the same environmental building policies as other similar facilities.

Additionally, Council staff inquired about the envisioned owner and operator approach for the proposed crisis care centers, to which Executive staff indicated that the County intends to capitalize other entities (such as providers or local jurisdictions) to build and own the facility, while the County would encumber the facility through a covenant for very long term or permanent public use consistent with the ballot measure. Executive staff note that this is similar to the County’s approach with affordable housing uses.

“Supporting” Allocations Overview. Per the proposed ordinance, two ‘supporting’ levy purposes are additionally identified, the first of which pertains to “*restoring the number of mental health residential treatment beds in King County to at least 355 beds and to expand the availability and sustainability of residential treatment in King County*”.

The second supporting levy purpose, as defined in the proposed ordinance, is to “*increase the sustainability and representativeness of the behavioral health workforce in King County by increasing recruitment and retention and by improving financial feasibility for the behavioral health workforce through increased wages, apprenticeship programming, and where possible, reduction of costs such as cost of insurance, child care, caregiving and fees or tuition associated with behavioral health training and certification*”. As further explained, this supporting purpose “*shall promote workforce recruitment and retention for the region’s behavioral health workforce, while prioritizing increased wages and reductions of costs for the behavioral health workforce providing regional behavioral health services and capital facilities as a part of the levy’s paramount purpose*”.

Allowance for Additional ‘Supporting’ allocations: The proposed ordinance allows the implementation plan called for in Section 7 of the ordinance to specify additional supporting purposes so long as they are subordinate to, and are not inconsistent with, the levy’s paramount and Supporting Purposes One and Two.

Council staff asked for examples of what may be included within the additional supporting allocations in the implementation plan. According to Executive staff, subject to available resources, it creates a range of potential additional purposes that could fit within the eligible expenditure categories set out in section 5.C that are further defined through the terms “regional behavioral health services and capital facilities” in section 1.G, and “residential treatment” in section 1.F of the proposed ordinance. Two possible examples of such purposes, if resources permit, could be investments in a system to coordinate patient care and referrals between levy-funded facilities, establishment of unified electronic health record system for levy-funded services, or investments to create, enhance, or expand other behavioral health crisis services.

**UPDATED**: Preliminary Estimates of Funding Breakout. Executive staff provided a preliminary breakout of how levy proceeds would be allocated, as shown in Table 2 below – note that these estimates are likely to be revised during implementation planning. Updates are highlighted.

**Table 2. Anticipated Allocation of Levy Proceeds**

|  |  |
| --- | --- |
| **Purpose** | **Anticipated Allocation of Levy Proceeds** |
| **Paramount Purpose** *(network of five crisis care centers)* | **$846M** including:* $236M for capital
* $555M for operating (including funding for wage competitiveness)
* $55M for post-crisis stabilization/housing stability
 |
| **Supporting Purpose One** *(mental health residential capacity)* | **$186M** focused primarily on capital and maintenance |
| **Supporting Purpose Two** *(behavioral health workforce expansion)* | **$70M** for (for the workforce pipeline, e.g., apprenticeships) |
| **Administration** *(including technical assistance/capacity building, evaluation, siting support, city partnerships)* | **~$145M** |

Envisioned implementation timeline. The proposed ordinance defers to the financial plan to be included in the levy’s implementation plan to address the specific description of the sequence and timing of planned expenditures and activities to establish and operate the regional network of five crisis care centers required to satisfy the levy’s paramount purpose.

According to Executive staff, DCHS expects the process for providers and host jurisdictions to propose viable crisis care center sites to be complex. Due to revenue constraints, necessary community engagement, and the complexity of program planning and siting, DCHS expects the crisis care centers and residential treatment facilities envisioned for this levy to be implemented in phases, seeking proposals for two centers in 2025 one more facility annually in 2026, 2027, and 2028. Executive staff indicate that initial centers would be expected to open in late 2026 at the earliest and more likely 2027, depending upon whether proposals require new construction and licensing.

Initial models anticipate having all five centers in operation by the end of 2030. As further indicated, while planning, development, and siting is under way for these multifaceted facilities, initial levy revenue will be deployed to further the levy’s stated purposes, and may include strategic near-term investments in workforce supports, community-based crisis services to help bridge the gap to the launch of the centers, or preservation of mental health residential facilities. Executive staff further indicate that these timelines could be expedited if funding estimates come in under budget and providers, siting, and permitting move more quickly than anticipated. Executive staff also note that these timelines would be refined for Council review and approval in the required Implementation Plan.

**UPDATE:** Executive staff, per committee member request, have provided a memo (Attachment 8 to this staff report) that provides additional information about the assumptions and fiscal modeling that informed DCHS’ recommendations for levy rate and structure in the Executive’s proposal, PO 2022-0399 as transmitted. This memo was also distributed to committee members via email on December 30, 2022.

**Eligible expenditures.** Aside from attributable election costs incurred by the County and up to $1M for initial levy implementation planning activities (both paid out of first-year levy proceeds), levy proceeds could be spent on the following:

* Plan, site, construct, acquire, restore, maintain, operate, implement, staff, coordinate, administer and evaluate regional behavioral health services and capital facilities that achieve and maintain the paramount and supporting purposes (One and Two) described in Section 4 and as they may be further described in the levy implementation plan;
* Plan, site, construct, acquire, restore, maintain, operate, implement, staff, coordinate, administer and evaluate regional behavioral health services and capital facilities that achieve additional levy purposes included in the levy implementation plan, so long as those purposes are subordinate to and not inconsistent with the paramount and supporting purposes One and Two; and
* Provide for regional behavioral health services and capital facilities provided by metropolitan park districts, fire districts or local hospital districts in King County in an amount up to the lost revenues to the individual district resulting from prorationing, as mandated by state law, to the extent the levy was a demonstrable cause of the prorationing and only if the County Council has authorized the expenditure by ordinance.

Of note, the proposed ordinance specifies that levy proceeds may not be expended until an implementation plan is adopted by the County Council, with the exception of attributable elections costs and the set aside of up to $1 million for initial levy implementation planning activities (e.g., including drafting the implementation plan). The implementation plan, upon its effective date and in alignment with this ordinance, would govern levy expenditures throughout the levy period.

Additionally, it is important to note that the ordinance specifies that levy proceeds, unless otherwise made eligible by subsection 5.C. of the ordinance, shall not be used to “*provide, supplant, replace or expand funding for non-behavioral health purposes including, but not limited to, jails, prisons, courts of law, criminal prosecution, criminal defense or law enforcement, except for costs that provide or coordinate regional behavioral health services and capital facilities within or between crisis care centers and other health care settings or that remove or reduce a barrier to receiving behavioral health services such as quashing a warrant*”. The ordinance further specifies that “*nothing in this subsection* [subsection 5.D.] *shall be interpreted or construed to limit, discourage, or impede law enforcement agencies’ or other first responders’ coordination with, use of and access to crisis care centers for persons they encounter in the conduct of their duties*”.

**Initial policy issues.** Staff have identified several potential policy issues as summarized below. The issues below all represent policy choices and the committee may wish to consider changes.

Levy rate and levy period**.** The proposed ordinance identifies an initial levy rate of $0.145 per $1,000 AV and a nine-year levy period.

Lack of dollar or percentage targets or requirements for investment areas**.** The proposed ordinance, as transmitted, identifies categories of expenditures, including “Paramount” and “Supporting” purposes, but the ordinance does not prescribe the allocation of levy proceeds to any investment area, aside from directing up to $1 million out of first-year proceeds for initial implementation planning. Instead, the ordinance defers to the levy implementation plan, to be transmitted by the Executive, to include a financial plan that identifies an annual expenditure plan for each levy year that allocates forecasted levy proceeds among the levy’s strategies.

Focus on mental health residential treatment in levy Supporting Purpose One language. The proposed ordinance, as transmitted, identifies the levy’s supporting purpose one shall be “*to restore the number of mental health residential treatment beds in King County to at least 355 beds and to expand the availability and sustainability of residential treatment in King County*”. As noted in Attachment 7 to this staff report, Executive staff state that, although additional SUD residential resources are also needed, SUD residential treatment beds are operated through a statewide system that includes 992 beds in 17 treatment facilities, five of which are in King County. This means that King County residents can access SUD residential treatment both in King County and other communities when needed, and typically can be admitted within five days or less.

Whether to focus Supporting Purpose One on mental health residential treatment needs or expand this supporting purpose to include substance use disorder residential treatment and bed capacity represents a policy choice.

“Regional Behavioral Health Services and Capital Facilities” Definition Flexibility. Whether to incorporate flexibility into this term, as defined in the transmitted ordinance, such as through adding “including, but not limited to,” language to the list of qualifying programs of programs, services, activities, operations, staffing and capital facilities identified in the ordinance represents a policy choice.

Updating the definition of “King County Crisis Response Zone”.The proposed ordinance defines this term to mean each of the four geographic subregions of King County, and subsequently identifies the boundaries for each subregion. The proposed ordinance does not appear to allow for this definition, including the boundaries for each of the four geographic subregions, to be updated after the ordinance’s effective date. Whether to explicitly allow for this definition to be later updated, similar to the ordinance’s allowance for the definition of “crisis care center” to be later updated (Section 8) represents a policy choice.

Explicitly identifying bonding as an eligible levy expenditure. According to Executive staff, bonding is not expected to be necessary to execute the levy’s proposed capital investments. However, as further indicated, under RCW 84.55.050, the nine-year term of the levy allows for the possibility of bonding if that becomes necessary in the future to achieve the levy’s paramount purpose. That said, if members are interested in bonding (debt service) as an eligible use of levy proceeds, the ordinance would need to be clarified.

Prorationing considerations**.** RCW 84.52.043 establishes a maximum aggregate property tax rate of $5.90 per $1,000 of assessed valuation for counties, cities, fire districts, library districts, and certain other junior taxing districts. Under state law, if a taxing district reaches its statutory rate limitation, that district can only collect the amount of tax revenue that would be produced by that statutory maximum levy rate. In other words, if the aggregate of taxing districts exceeds the $5.90 limit, the tax district’s levies would have to be reduced so that the $5.90 aggregate collection limit is not exceeded. Reductions are made in accordance with a district hierarchy established under RCW 84.52.010. In general, countywide levies are the most senior taxing districts and would be the last to be reduced, or pro-rationed, under state law.[[9]](#footnote-10)

Prorationing mitigation is identified as an eligible levy expenditure in the proposed ordinance, if approved by Council by ordinance, to reduce the levy’s impact on applicable metropolitan park districts (but not park and recreation districts), fire districts and hospital districts in an amount up to the lost revenue to the individual district resulting from prorationing to the extent the levy was a demonstrable cause of the prorationing. Note that the districts would be required to use levy proceeds for purposes consistent with the levy purposes, which may make it challenging for park districts to utilize the prorationing mitigation funding.

Based on current prorationing analysis from the King County Office of Economic and Financial Analysis (OEFA), it is not expected that the proposed levy would have a prorationing impact on other taxing districts. In other words, levy suppression and prorationing are not currently projected as an issue for the proposed levy as transmitted.

Whether or not to designate a specific reserve out of levy proceeds in the proposed ordinance for this purpose, as well as whether to add park and recreation districts to the list of types of taxing districts eligible for prorationing mitigation funding represents a policy choice.

Property Tax Exemption Program application processing cost consideration. Section 9 of the proposed ordinance indicates the levy would be included in any real property tax exemption authorized by state law. For context, state law allows cities and counties the option to exempt eligible senior citizens, veterans with disabilities, and others with disabilities from the regular property tax increase resulting from a levy, subject to meeting eligibility criteria and receiving application approval.[[10]](#footnote-11)

Council staff was asked if administrative costs attributable to the proposed levy associated with processing tax exemptions could be funded with the levy proceeds; if members wish for processing tax exemptions to be an eligible use of levy proceeds, the levy ordinance would need to be amended.

**Supplantation considerations for King County.** Under state law,[[11]](#footnote-12) a levy lid lift proposition may only be used for the specific limited purpose of the levy, as identified in the ballot title. In addition, state law allows for levy funds to be used to provide for existing programs and services, provided the levy funds are used to supplement, but not supplant existing funds. Existing funding is determined based on actual spending in the year in which the levy is placed on the ballot. Existing funding excludes lost federal funds, lost or expired state grants or loans, extraordinary events not likely to reoccur, changes in contract provisions beyond the control of the taxing district receiving the services, and major nonrecurring capital expenditures.

For the proposed levy, this prohibition on supplantation means that levy funds may be used for entirely new programs and services—in any amount over the life of the levy—and to fund existing programs and services, but only in an amount additional to the amounts the County spent on those programs or services in 2023, unless one of the exceptions noted earlier applies.

The state statute governing levy lid lifts (RCW 84.55.050) includes a ‘moratorium’ pausing the prohibition on supplantation in counties with a population greater than 1.5 million—such as King County. Specifically, the supplantation restriction is removed for levies approved in calendar years 2015 through 2022. However, as Executive staff indicate that only new investments are included in the levy proposal, a supplantation concern would not be applicable even if the ‘moratorium’ on supplantation restriction expires at the end of 2022.

**Community engagement.** According to Executive staff, DCHS hosted five work sessions, inviting all of the over 40 community-based behavioral health providers who are members of the King County Integrated Care Network (KCICN), on the topics of crisis care centers, behavioral health workforce, residential treatment facilities, and youth-serving facilities. DCHS leadership convened a Crisis Response Choreography Project in early 2022 with law enforcement from Seattle, Kent, and the King County Sheriff's Office (KCSO), first responders, designated crisis responders (DCRs), and Behavioral Health providers—that project informed the paramount purpose of the Levy. As further indicated, the Executive also held a listening session with behavioral health workers, met with several Sound Cities Association city mayors, and held several joint meetings with representatives of the Seattle City Council and Mayor’s Office, business, providers, King County Regional Homelessness Authority (KCRHA), and behavioral health workers. Additionally, DCHS presented on the crisis care centers levy concept and levy development process to the King County Behavioral Health Advisory Board and the King County Peer Network group. Executive staff indicate that both groups provided feedback to inform concept development.

Executive staff further note that the Executive branch continues to meet with these partners to discuss the proposal, questions about implementation, and broader behavioral health issues. Subject to Council and voter approval of the proposed levy, additional community engagement sessions would occur to inform a proposed implementation plan.

**Next steps and key dates.** Proposed Ordinance 2022-0399 was introduced on October 4, 2022, and referred first to the Regional Policy Committee as a mandatory referral, and then to the Budget and Fiscal Management Committee.

Following action on the proposed legislation in the Regional Policy Committee, the Budget and Fiscal Management Committee would then take up the legislation.

RPC January 11, 2023, Committee Action Summary. The Regional policy Committee (RPC) passed PO 2022-0399, as amended, on January 11, 2023. A summary of RPC amendments is provided in Table 3. Solely for illustrative purposes, a track changes document comparing PO 2022-0399.2 (as passed RPC) to PO 2022-0399.1 (as transmitted) is attached to this staff report (Attachment 2).

**Table 3. Summary of RPC-Adopted Amendments**

|  |  |  |
| --- | --- | --- |
| **No.** | **Sponsor** | **Amendment Effect** |
| **S1** | von Reichbauer | Makes various technical corrections and clarifications |
| 1 to S1 | Zahilay, *as amended by friendly amendment* | Restores original language from transmitted ordinance and adds sentence clarity |
| 3 to S1 | Backus | Adds zip code-levy data requirements as part of levy annual reporting |
| **T1** | von Reichbauer | Aligns the title with the body of the ordinance as amended by S1 |

Assuming the Budget and Fiscal Management Committee passes the legislation to the full Council for consideration and that either the BFM Committee or the full Council amends the legislation (creating a new version), the legislation would need to be re-referred to the Regional Policy Committee for its consideration before moving to the full Council for possible final action. Table 4 provides the anticipated schedule for the proposed ordinance.

**Table 4. Anticipated Schedule for PO 2022-0399**

*Note: Assumes any/all amendments via RPC and no re-referral*

|  |  |  |
| --- | --- | --- |
| **Action** | **Committee/****Council** | **Date** |
| Submitted to Clerk |  | 9/29/22 |
| Introduction and referral | Full Council | 10/4/22 |
| Discussion only ***(Executive Staff Briefing)*** | RPC | 11/9/22 |
| Briefing *(legislation is in RPC control)* | Special BFM | 12/5/22 |
| Discussion only | Special RPC | 12/7/22 |
| **Action** | RPC | 1/11/23 |
| **Action**  | BFM | 1/25/23 |
| **Action** *(Regular Schedule)* | Full Council | 2/7/23 |

Lastly, it is important to note the following key dates by which the Regional Policy Committee and the Council must complete their respective review processes and the Council must pass legislation in order to place a levy proposal (ballot measure) on the April 25, 2023, ballot for voter approval.

Deadlines for the April 25, 2023 ballot:

Last regular council meeting with minimum processing time is February 14, 2023

Last regular council meeting to pass as emergency is February 21, 2023

Last special council meeting to pass as emergency is February 24, 2023

Elections Division deadline for receiving effective ordinance is February 24, 2023

**INVITED**

* Leo Flor, Director, Department of Community and Human Services (DCHS)
* Michael Reading, Chief of Crisis Services, Behavioral Health & Recovery Division, DCHS

**ATTACHMENTS**

1. Proposed Ordinance 2022-0399.2
2. ILLUSTRATIVE PURPOSES ONLY: Track changes document comparing PO 2022-0399.2 (as passed RPC) to PO 2022-0399.1 (as transmitted)
3. Transmittal Letter
4. Fiscal Note
5. Council Clerk’s Memorandum on Deadlines for Adoption of Ballot Measures in 2023
6. Illustrative map of Proposed Crisis Response Zone Geographic Subregions (provided by Executive Staff)
7. Issue Background Overview (prepared by Council staff)
8. Memorandum (prepared by Executive staff) providing additional information about the assumptions and fiscal modeling that informed DCHS’ recommendations for levy rate and structure in the Executive’s proposal, PO 2022-0399.1 (as transmitted)
1. The Regional Policy Committee held briefings on the proposed ordinance on November 9th, December 7th and January 11th. The Budget and Fiscal Management (BFM) Committee was briefed on the item on December 5th. Today is the second briefing on this item in the BFM Committee. [↑](#footnote-ref-2)
2. *Assessed Value and Taxes by City, Typical Residence in 2021 and 2022.* King County Assessor, <https://kingcounty.gov/depts/assessor/Reports/annual-reports/~/media/depts/assessor/documents/annualreports/2022/22AVByCity.ashx?la=en>. Last accessed on October 28, 2022. Of note, according to Executive staff, the $121 estimate was calculated by increasing the 2022 median assessed value of $694,000 by 20.68%, consistent with the currently forecasted increase between 2022 and 2024 in countywide assessed value, to arrive at an estimated 2024 median-priced home value of $837,519. This forecasted higher estimated median home value in 2024 results in an estimated 2024 annual cost of $121. [↑](#footnote-ref-3)
3. King County Office of Economic and Financial Analysis. URL: <https://kingcounty.gov/independent/forecasting.aspx>. Last accessed on November 8, 2022. [↑](#footnote-ref-4)
4. Of note, the adopted 2023-2024 King County biennial budget (Ordinance 19546) includes $11.5 million for capital and operational spending for a behavioral health crisis care center in North King County. This amount is inclusive of $10 million in state funding from its capital budget (Section 1025, Chapter 296, Laws of Washington 2022). [↑](#footnote-ref-5)
5. May include, but isn’t limited to, services described in state law (RCW 71.24.025.20). [↑](#footnote-ref-6)
6. RCW 71.05.020 defines “Designated Crisis Responder” to mean “a mental health professional appointed by the county, by an entity appointed by the county, or by the authority in consultation with a federally recognized Indian tribe or after meeting and conferring with an Indian health care provider, to perform the duties specified in RCW Chapter 71.05”. [↑](#footnote-ref-7)
7. An illustrative map prepared by Executive staff is attached to this staff report (Attachment 6). [↑](#footnote-ref-8)
8. The proposed ordinance identifies that the levy advisory body’s duties shall include advising the Executive and the County Council on matters pertaining to levy implementation, annually visiting each existing crisis care center and reporting annually to the Council and community through online annual reports beginning in 2025 on the levy’s progress over the previous year towards accomplishing the levy purposes and actual financial expenditures in the previous year relative to the levy’s financial plan. [↑](#footnote-ref-9)
9. State law currently removes regular park and recreation district property tax levies from the $5.90 limit if levied on an island within a county with a population over two million (i.e., Vashon Island). This exemption, unless changed by state law, expires January 1, 2027. (Chapter 117, Laws of 2021) [↑](#footnote-ref-10)
10. *Guide to Property Tax Exemptions for Seniors, Persons with Disabilities, and Disabled Veterans.* King County Department of Assessments. URL: <https://kingcounty.gov/depts/assessor/TaxRelief/~/media/depts/assessor/documents/Exemptions/Brochure.ashx>. Last accessed on November 15, 2022. [↑](#footnote-ref-11)
11. RCW 84.55.050. [↑](#footnote-ref-12)