## STAFF REPORT

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| **Agenda Item:** | 6 | **Name:** | April SandersSam Porter |
| **Proposed No**.: | 2020-0338 | **Date:** | February 3, 2021 |

**SUBJECT**

Proposed Ordinance 2020-0338 would require the Executive to develop and transmit for Council consideration an Implementation Plan to guide spending of housing sales tax revenues generated through the sales tax enacted by Ordinance 19179.

**SUMMARY**

Proposed Ordinance 2020-0338 outlines the content and approach the Executive would be required to take in developing an Implementation Plan describing how the revenues for the recently adopted one-tenth of one percent councilmanic[[1]](#footnote-1) sales tax for affordable housing would be spent[[2]](#footnote-2). The Proposed Ordinance defines key terms related to affordable housing, homelessness, and behavioral health treatment programs and prescribes the content of the initial Implementation Plan to include goals, strategies, performance metrics, reporting requirements and an annual expenditure plan. The Implementation Plan would be required to be developed in consultation with the Affordable Housing Committee[[3]](#footnote-3) and the chief executive officer of the King County Regional Homelessness Authority and be transmitted to Council for consideration no later than June 30, 2021.

Proposed Ordinance 2020-0338 went to a vote in the Regional Policy Committee on January 13, 2020, resulting in a Do Pass recommendation with several amendments, which are described in the "Regional Policy Committee Action" section below.

**BACKGROUND**

**House Bill 1590[[4]](#footnote-4) and RCW 82.14.530** *–* During the 2020 legislative session, the legislature passed House Bill 1590, which amended RCW 82.14.530, related to sales and use tax for housing and related services. Previously, this housing sales tax was required to go to the ballot for authorization from voters before enactment, but House Bill 1590 provided the option for the tax to be councilmanic.

HB 1590 gave counties until September 30, 2020 to impose the tax countywide. After that date, cities could impose the tax (either by ballot or councilmanic). If a county imposes the tax after one or more cities have already done so, the county must provide a credit to those cities for the full amount collected within each jurisdiction. Before Council passage of the housing sales tax legislation, 8 cities had imposed the sales tax: Covington, Issaquah, Kent, Renton, Snoqualmie, North Bend, Maple Valley and Bellevue.

State statute[[5]](#footnote-5) specifies the activities and services for which the tax may be used. Please see the table below for an overview of the statute’s spending requirements.

**Table 1. Overview of Spending Allocation Requirements**

|  |  |
| --- | --- |
| **Allocation** | **Requirements** |
| At least 60% of proceeds | 1. Constructing affordable housing – including new units within an existing structure and facilities providing housing-related services;
2. Constructing mental and behavioral health-related facilities;
3. Funding operations and maintenance of new affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers
 |
| Remaining Funds | 1. Used for operation, delivery or evaluation of mental and behavioral health treatment programs and services or housing-related services
 |

*Eligible Populations –* By state statue, affordable housing and housing-related programs funded with housing sales tax revenue can only be provided to the following population groups, provided that the individuals are at or below 60% of the median income for King County:

1. Persons with behavioral health disabilities;
2. Veterans;
3. Homeless, or at-risk of being homeless, families with children;
4. Unaccompanied homeless youth or young adults;
5. Persons with disabilities; or
6. Domestic violence survivors.

*Cites –* Counties imposing the tax must consult with cities when siting facilities within jurisdictional boundaries. Additionally, the county must spend at least 30% of revenue collected within any city with a population over 60,000 within that jurisdiction. Currently, the following cities have populations over 60,000: Seattle, Bellevue, Kent, Renton, Federal Way, Kirkland, Auburn, Redmond, and Sammamish.

*Bond –* The state statute allows for the county to issue general obligation or revenue bonds and pledge up to 50% of the monies collected for bond repayment. Bonded revenue may finance provision or construction of affordable housing, facilities where housing-related programs are provided, or evaluation and treatment centers.

*Ordinance 19179 –* Ordinance 19179[[6]](#footnote-6) imposed a sales and use tax of 1/10th of 1% for housing and related services, as authorized in RCW 82.14.530. Proceeds from the tax will be deposited into the Health through Housing fund, which was created through Ordinance 19180[[7]](#footnote-7).

*Proceeds –* Proceeds will be spent on the uses outlined in state statute and described above. In addition, Ordinance 19179 would establish additional priorities beyond those set out in state statute. This includes prioritizing those within the specified population groups in RCW 82.14.520(2)(b) whose income does not exceed 30% of the King County area median income (AMI). Additionally, proceeds would be allocated with the objective of reducing racial and ethnic disproportionality among those experiencing chronic homelessness. The specification of 30% maximum AMI and the objective of reducing racial and ethnic demographic disproportionalities are not required by state statute.

*Interaction with Cities –* The state statute has specific requirements for how proceeds shall be expended within cities. This includes a requirement that the county would have to consult with a city before constructing any facilities within city limits. Additionally, King County would have to allocate at least 30% of proceeds collected within cities with a population over 60,000 to taxable activities within that city’s boundary. Note that if the county imposes the tax after a city within the county has imposed the tax, the county must provide a credit against its tax for the full amount of tax imposed by the city.

*Bonding* – Ordinance 19179 also provides the County with the authority to issue bonds and use up to 50% of the monies collected for repayment of those bonds. The Executive indicated through the 2021-2022 proposed biennial budget an intent to develop a bond package for approximately $400 million over the next biennium, though bonding amount may change based on updated financial projections.

*Council's Allocation of Proceeds in 2021-2022 Biennium –* Given that there will not be an implementation plan in place for 2021, revenues will be spent in accordance with state law[[8]](#footnote-8) and through the King County Council's allocation in the biennial budget[[9]](#footnote-9) that was adopted on November 17, 2020. Once an implementation plan is adopted in 2021 that plan would inform expenditures in 2022 and onward.

In the 2021-2022 biennial budget, the allocation is distributed as follows:

**Table 3. 2021-2022 Health Through Housing Sales Tax Adopted Expenditures**

|  |  |  |
| --- | --- | --- |
| Expenditure | 2021-2022 Adopted | Percentage of Revenues |
| Service Delivery & Evaluation | $3,500,000 | 3.2% |
| Technical Assistance & Capacity Building | $1,100,000 |  1% |
| Behavioral Health Support | $8,700,000 |  7.9% |
| Housing and Health Operations | $40,000,000 | 36.7% |
| Debt Service | $15,000,000 | 13.7% |
| Total | **$68,300,000** |  |

*Revenue Projections –* Revenue projections produced by the Office of Economic and Financial Analysis (OEFA) that appear in the Financial Plan dated October 28, 2020 (attachment 6 to this staff report) indicate that in the 2021-2022 biennium King County is projected to receive approximately $108.8 million in Health Through Housing sales tax revenue. This amount is approximately $3.2 million more than the totals shown for King County in the overall Sales Tax Revenue Projections for jurisdictions seen in Table 1 below. The approximately $3.2 million difference is the amount projected to be allocated to the City of Issaquah which passed a city-specific sales tax in October[[10]](#footnote-10). Language was included in the City of Issaquah's ordinance stating that their tax would automatically be repealed if a memorandum of understanding (MOU) was signed with the County providing at least $2 million for the tenant improvements of the Issaquah Transit Oriented Development Project. Executive staff indicate that the Department of Community and Human Services has initiated discussions with Issaquah's City Manager to seek an MOU.

**Table 2. 2021-2022 OEFA Health Through Housing Sales Tax Revenue Projections**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Opt Out | Jurisdiction | 2019 | 2019 % | 2021 OEFA Forecast | 2022 OEFA Forecast |
|  | **Algona** | $36,386,461 | 0.0% | $32,189 | $34,463 |
|  | **Auburn/king** | $2,117,510,934 | 2.8% | $1,873,223 | $2,005,592 |
|  | **Beaux Arts Village** | $7,923,782 | 0.0% | $7,010 | $7,505 |
| X | **Bellevue** | $8,933,341,960 | 11.7% | $7,902,742 | $8,461,179 |
|  | **Black Diamond** | $112,381,373 | 0.1% | $99,416 | $106,442 |
|  | **Bothell/king** | $777,622,941 | 1.0% | $687,912 | $736,522 |
|  | **Burien** | $929,791,950 | 1.2% | $822,526 | $880,649 |
|  | **Carnation** | $48,233,887 | 0.1% | $42,669 | $45,685 |
|  | **Clyde Hill** | $111,458,896 | 0.1% | $98,600 | $105,568 |
| X | **Covington** | $594,453,531 | 0.8% | $525,874 | $563,034 |
|  | **Des Moines** | $435,871,761 | 0.6% | $385,587 | $412,834 |
|  | **Duvall** | $134,974,007 | 0.2% | $119,403 | $127,840 |
|  | **Enumclaw** | $402,255,383 | 0.5% | $355,849 | $380,995 |
|  | **Federal Way** | $1,863,700,413 | 2.4% | $1,648,693 | $1,765,196 |
|  | **Hunts Point** | $26,273,712 | 0.0% | $23,243 | $24,885 |
| X | **Issaquah** | $1,739,704,391 | 2.3% | $1,539,002 | $1,647,754 |
|  | **Kenmore** | $319,786,014 | 0.4% | $282,894 | $302,884 |
| X | **Kent** | $3,049,343,254 | 4.0% | $2,697,554 | $2,888,173 |
|  | **Kirkland** | $3,079,239,411 | 4.0% | $2,724,001 | $2,916,489 |
|  | **Lake Forest Park** | $136,754,572 | 0.2% | $120,978 | $129,527 |
| X | **Maple Valley** | $439,824,226 | 0.6% | $389,084 | $416,578 |
|  | **Medina** | $157,639,360 | 0.2% | $139,453 | $149,307 |
|  | **Mercer Island City** | $521,004,160 | 0.7% | $460,898 | $493,467 |
|  | **Milton/king** | $13,175,084 | 0.0% | $11,655 | $12,479 |
|  | **Newcastle** | $192,444,912 | 0.3% | $170,243 | $182,273 |
|  | **Normandy Park** | $77,974,021 | 0.1% | $68,979 | $73,853 |
| X | **North Bend** | $332,772,522 | 0.4% | $294,382 | $315,184 |
|  | **Pacific/King** | $62,321,745 | 0.1% | $55,132 | $59,028 |
|  | **Redmond** | $4,551,991,910 | 6.0% | $4,026,849 | $4,311,401 |
| X | **Renton** | $3,378,246,019 | 4.4% | $2,988,513 | $3,199,692 |
|  | **Sammamish** | $711,963,916 | 0.9% | $629,828 | $674,334 |
|  | **Seatac** | $2,302,134,793 | 3.0% | $2,036,548 | $2,180,458 |
|  | **Seattle** | $31,397,314,003 | 41.1% | $27,775,144 | $29,737,841 |
|  | **Shoreline** | $1,278,930,709 | 1.7% | $1,131,386 | $1,211,334 |
|  | **Skykomish** | $8,340,362 | 0.0% | $7,378 | $7,900 |
| X | **Snoqualmie** | $330,570,539 | 0.4% | $292,434 | $313,099 |
|  | **Tukwila** | $2,353,367,586 | 3.1% | $2,081,870 | $2,228,983 |
|  | **Unincorporated King County** | $2,565,809,922 | 3.4% | $2,269,804 | $2,430,197 |
|  | **Woodinville** | $875,600,392 | 1.1% | $774,586 | $829,321 |
|  | **Yarrow Point** | $32,129,811 | 0.0% | $28,423 | $30,432 |
|  |  |  |  |  |  |
| Total | **$76,440,564,625** | **100.00%** | **$67,621,953** | **$72,400,377** |
| Total Opt-outs | **$18,798,256,442** | **24.59%** | **$16,629,584** | **$17,804,694** |
| Total King County | **$57,642,308,183** | **75.41%** | **$50,992,369** | **$54,595,683** |

**ANALYSIS**

Proposed Ordinance 2020-0338 would require that the Executive transmit an initial implementation plan for the Health Through Housing one-tenth of one percent councilmanic sales tax that was adopted by King County Council in October 2020[[11]](#footnote-11). The plan, due to Council no later than June 30, 2021, would be required to include goals, strategies, performance measures, reporting requirements, and an annual spending plan for 2022 through 2028. Proposed Ordinance 2020-0338 would require the Executive to consult with the Affordable Housing Committee and the CEO of the KC Regional Homelessness Authority in order to develop the implementation plan.

*Required goals –* Proposed Ordinance 2020-0338 would require the implementation plan include the following goals:

* The creation and ongoing operation of two thousand units[[12]](#footnote-12) of affordable housing with housing-related services;
* An annual reduction of racial and ethnic demographic disproportionality among persons experiencing chronic homelessness in King County; and
* The creation and operation of a mobile behavioral health intervention program with access for its clients to be created, operated, or otherwise funded by proceeds[[13]](#footnote-13).

*Health Through Housing Advisory Committee –* The Proposed Ordinance would require that the implementation plan be transmitted with a companion ordinance establishing the Health Through Housing Advisory Committee. The Committee would be tasked with providing advice to the Executive and Council and producing an annual report on the accomplishments and effectiveness of Health Through Housing sales tax expenditures. The Committee's responsibilities are to be described in the initial implementation plan and the membership would be required to include representatives of the following demographics:

* Individuals who have experienced homelessness,
* Racial and ethnic communities disproportionately represented among people experiencing chronic homelessness,
* Residents of cities with populations greater than sixty thousand,
* Residents of the unincorporated areas, and
* Representatives from county, city, and subregional boards, commissions or committees pertaining to King County human services investments.

*Siting Affordable Housing and Behavioral Health Facilities –* Proposed Ordinance 2020-0338 would require that the implementation plan outline the process of siting affordable housing and behavioral health facilities funded through the Health Through Housing sales tax. This process would be done in accordance with state law[[14]](#footnote-14) and would be required to involve the use of an equity and social justice impact review process. The Proposed Ordinance does not define what an equity and social justice impact review process would consist of. King County's Office of Equity and Social Justice offers an Equity Impact Awareness Tool[[15]](#footnote-15) but it is unclear if this is the tool intended to be used when siting facilities as described in the Proposed Ordinance. Council may wish to consider recommending in detail the tool with which the facility siting process is conducted and also whether the Executive should use a specific equity impact review process in developing other aspects of the implementation plan.

*Eight-year annual spending plan –* The eight-year annual spending plan to be included in the implementation plan described in Proposed Ordinance 2020-0338 would be required to include the following for each year:

1. A forecast of bond debt service associated with bonds issued and an allocation of proceeds to fully cover the debt service, and
2. An allocation of nine to thirteen percent of each year's proceeds to be spent on behavioral health treatment programs and services outside of those provided within affordable housing or behavioral health facilities supported by proceeds.
3. Of the proceeds remaining after items one and two listed above,
	* No more than five percent for administration,
	* No more than one and one-half percent for evaluation, and
	* At least one percent to support and build capacity of community-based organizations to deliver programs and services eligible for Health Through Housing proceeds and communities that are disproportionately demographically represented among persons experiencing chronic homelessness in King County.

This spending plan is in compliance with RCW 82.14.530(2) that requires a minimum of sixty percent of revenue to be used for constructing affordable housing, mental or behavioral health related facilities, or the maintenance and operations of new facilities. Under state law the remainder of revenues collected must be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services.

Proposed Ordinance 2020-0338 would require that no later than June 30, 2027, and every eight years thereafter, the Executive transmit a proposed eight-year update to the implementation plan.

*Sound Cities Association Questions –* Mayor Birney, on behalf of the Sound Cities Association caucus members, requested answers to the following questions in an e-mail dated November 12, 2020. Responses were provided by DCHS staff at the December 2, 2020 RPC meeting.

* The number of properties that could be acquired and number of units retrofitted to create affordable housing units.
* How much funding will be available for services for those housed in units funded by this sales tax revenue?
* How much funding will be available for services that are not associated with units that have been acquired/retro-fitted?
* The Executive’s plan for working with cities and what consultation will take place in 2021 and in the near-term on the acquisition of properties and spending of revenue in cities over a population of 60,000.

**Regional Policy Committee Action –** Proposed Ordinance 2020-0338 went to a vote in the Regional Policy Committee on January 13, 2020, resulting in a “Do Pass” recommendation. The Ordinance was amended in committee as follows:

* Amendment 1 made various technical changes.
* Amendment 1.1 changed the date of transmittal of the Implementation Plan from June 30 to August 30, 2021.
* Amendment 1.2 required the Advisory Committee's annual reporting to include information on the amount of sales tax proceeds spent in each jurisdiction.
* Amendment 1.3 changed the number of affordable housing units to reflect revised revenue projections.
* Amendment 1.4 stated that funding may sometimes only be required for operating and supportive services funding. It also required the Plan to include a process for the Executive to work with jurisdictions funding affordable housing to align sales tax allocations with those efforts.
* Amendment 2 required the Plan to require a process between the County and cities where facilities are proposed, in order to jointly agree on locations to be purchased or constructed.
* Amendment 3 required the Plan to include a communication and partnership plan.
* Amendment 4 required the Plan to include a forecast of annual expenditures.
* Amendment T1 corrected the Title.

**INVITED**

1. Leo Flor, Director, Department of Community and Human Services
2. Mark Ellerbrook, Division Director, Housing, Homelessness and Community Development Division

**ATTACHMENTS**

1. Proposed Ordinance 2020-0338
2. Fiscal Note for Proposed Ordinance 2020-0311[[16]](#footnote-16)
3. Financial Plan, Health Through Housing Fund, October 28, 2020
1. Councilmanic sales taxes are authorized by Washington State law to be adopted and implemented without a vote of the people. The Mental Illness and Drug Dependency sales tax is also councilmanic. [↑](#footnote-ref-1)
2. Ordinance 19179 [↑](#footnote-ref-2)
3. A committee of the growth management planning council developed to implement the work of the regional affordable housing task force developed to implement Motion 14754. [↑](#footnote-ref-3)
4. https://app.leg.wa.gov/billsummary?BillNumber=1590&Year=2019&Initiative=false [↑](#footnote-ref-4)
5. RCW 82.14.530 [↑](#footnote-ref-5)
6. Passed October 13, 2020 [↑](#footnote-ref-6)
7. Passed October 13, 2020 [↑](#footnote-ref-7)
8. RCW 82.14.530 [↑](#footnote-ref-8)
9. Proposed Ordinance 2020-0306 [↑](#footnote-ref-9)
10. Issaquah City Council Ordinance No. 2922 <https://issaquah.civicweb.net/filepro/documents/?preview=127758> [↑](#footnote-ref-10)
11. Ordinance 19179 [↑](#footnote-ref-11)
12. As of November 2020, Executive staff indicate that with the decrease of approximately 25 percent of sales tax revenue only 1,650 new units would be possible. This includes funding capital and operating costs for 1,400 units, and funding operating costs only of 250 additional units. [↑](#footnote-ref-12)
13. The mobile behavioral health intervention program described in PO 2020-0338 is intended to provide an alternative to the use of law enforcement to respond to behavioral health crisis. Either developing a fully new program or supplementing and adapting an existing program would fulfill this required goal. [↑](#footnote-ref-13)
14. RCW 82.14.530 [↑](#footnote-ref-14)
15. King County Equity Impact Tool <https://www.kingcounty.gov/~/media/elected/executive/equity-social-justice/2020/COVID-19/OESJ-EIA-942020.ashx?la=en> [↑](#footnote-ref-15)
16. Note that the Executive transmitted Proposed Ordinance 2020-0311, which would impose a housing sales tax. The Council introduced and referred a separate ordinance (Ordinance 2020-0337) to impose the sales tax for consideration. [↑](#footnote-ref-16)