

MEMORANDUM

Date: June 13, 2019
To: ARCH Member Cities
From: Kurt Triplett, ARCH Executive Board Chair
Lindsay Masters, ARCH Executive Manager
RE: HB 1406 – Local Sales Tax Option for Affordable Housing

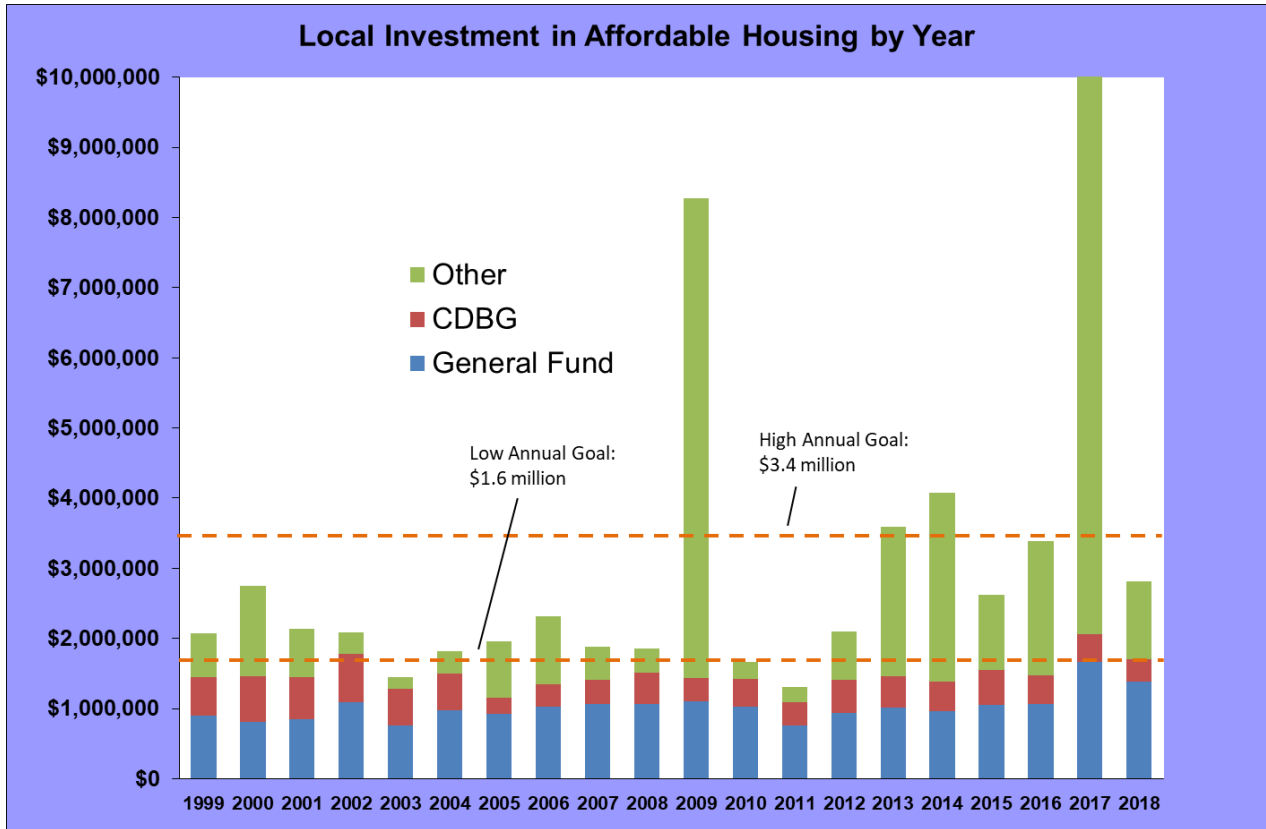
The State legislature adopted a number of housing-related bills during the most recent legislative session. Among these, HB 1406 was the most significant new funding tool created for local jurisdictions to increase investment in affordable housing. This memo provides background information on local funding for affordable housing, a summary of what HB 1406 authorizes and requires, and a sample template of a resolution for member cities electing to implement the tool.

Background: Local Investment in Affordable Housing in East King County

Since 1993, a core purpose in the formation and continued support for ARCH has been the successful cooperation around joint investments in affordable housing. This collaboration has set cities in East King County apart from other cities in the region, and led to a healthy track record of production and preservation of affordable homes since the 1990s, with investment in over 3,600 permanently affordable units/beds in the Housing Trust Fund portfolio as of 2018. Furthermore, ARCH has worked to ensure that these local investments leverage other private and public funding (historically \$9 for every \$1 of city funding), and created a loan fund that returns revenue to cities for future housing investment.

Since 1998, ARCH cities have used a “parity” formula to establish goals for local contributions to fund affordable housing. During that time, ARCH cities have provided consistent contributions that have resulted in a steady track record of investment in local projects. As shown in Figure 1, the level of investment from general funds has not increased significantly over the years, however, ARCH member cities have increasingly looked to other strategies to contribute resources, namely donation of City property and use of in-lieu payments from developers under incentive and inclusionary programs.

Figure 1. Local Investment in Affordable Housing by ARCH Member Cities



Other includes land, fee waivers, and in-lieu payments

** The low and high annual goals reflect the cumulative parity goals for all member cities, as updated for inflation in 2018.

In recent years, the dramatic rise of housing prices has placed enormous pressures on communities across the region, leading to conversations about strategies to scale up a range of housing strategies, including direct investment. In June of 2018, the ARCH Executive Board transmitted a recommendation to city councils to adopt a technical update to the parity formula to account for inflation, and engage councils in a subsequent conversation on setting a future aspirational increases in response to the increased need for affordable housing. The passage of HB 1406 now provides a vehicle for continued discussion and progress toward goals for local investment in housing.

New Funding Tool: HB 1406

HB 1406 allows cities and counties to retain a portion of the sales tax for investment in affordable or supportive housing. This portion is offset by a reduction in the state’s portion, and therefore does not result in an increased tax on consumers. The bill sets up a system for cities and counties to share the revenue, with two tiers based on whether a jurisdiction has adopted a “qualifying local tax”. Seattle is currently the only city in King County with a qualifying tax.

The bill gives 6 months for jurisdictions to declare their intent and 12 months to act on legislation. After 12 months, a county may implement any authority that has gone unused by cities. For the first 12 months, the tax is limited to:

- 0.0073% for a city without a qualifying local tax, or a county within the limits of a nonparticipating city
- 0.0146% for a city with a qualifying tax, or a participating city in a county that declares it will not levy the tax, or a county within unincorporated areas or within cities that declare they will not levy the tax

After 12 months, the tax is limited to:

- 0.0073% for a city without a qualifying local tax, or a county within the limits of a participating city
- 0.0146% for a city with a qualifying tax, or a participating city in a county that declares it will not levy the tax, or a county within unincorporated areas or within any nonparticipating cities.

Cities have a choice of whether to be a participating or nonparticipating city, and a choice of whether to adopt a qualifying tax to increase the portion they may retain. After 12 months, any available revenue that is not collected by a city will be retained by the County.

Figure 2. Illustration of available taxing authorities.

First 12 months:

participating city w/ qualifying tax	participating city w/out qualifying tax	nonparticipating cities	in unincorporated areas	in cities that declare they will not levy the tax
0.0146% - city	0.0073% - city 0% - county	0% - city 0.0073% - county	0.0146% - county	0.0146% - county

After 12 months:

participating city w/ qualifying tax	participating city w/out qualifying tax	nonparticipating cities	in unincorporated areas
0.0146% - city	0.0073% - city 0.0073% - county	0.0146% - county	0.0146% - county

Qualifying Local Taxes

Qualifying local taxes include the following:

- An affordable housing levy authorized under RCW 84.52.105, which allows cities or counties to impose up to fifty cents per thousand dollars of assessed value of

property for up to ten years if approved by a majority of voters in the taxing district. The governing body of the jurisdiction must first declare the existence of a housing emergency, and adopt a financing plan.

- 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 of at least half of the authorized rate (0.1%). Cities must place a ballot proposition before voters for approval.
- The sales tax for chemical dependency and mental health treatment services or therapeutic courts authorized under RCW 582.14.460 imposed by a city. Because King County has already authorized this tax, cities within King County would not be eligible to use this authority.
- The levy authorized under RCW 84.55.050, if used solely for affordable housing. RCW 84.55.050 sets forth procedures for increasing levy authority if a proposition is approved by a majority of voters of a taxing district.

A qualifying tax must be “instated” no later than twelve months after the effective date of the law, which means no later than July 30, 2020. The Association of Washington Cities (AWC) is currently seeking a clarification to confirm that “instated” means that an ordinance has been adopted.

Potential Revenue Estimates

The maximum amount a city may collect will be limited by the amount of taxable retail sales within a jurisdiction in fiscal year 2019 times the applicable rate. Figure 2 shows the estimated revenue potential based on Taxable Retail Sales in ARCH cities in 2018.

Figure 2. Revenue Potential in ARCH Cities based on Taxable Retail Sales in 2018

Location	Taxable Retail Sales	.0073%	.0146%
BEAUX ARTS VILLAGE	6,769,158	494	988
BELLEVUE RTA	8,107,493,934	591,847	1,183,694
BOTHELL/KING	744,325,187	54,336	108,671
CLYDE HILL	76,829,233	5,609	11,217
HUNTS POINT	17,061,939	1,246	2,491
ISSAQUAH RTA	1,718,731,158	125,467	250,935
KENMORE	270,571,011	19,752	39,503
KIRKLAND	2,673,063,240	195,134	390,267
MEDINA	124,696,680	9,103	18,206
MERCER ISLAND	497,503,623	36,318	72,636
NEWCASTLE	158,413,823	11,564	23,128
REDMOND RTA	3,499,834,893	255,488	510,976
SAMMAMISH RTA	715,541,878	52,235	104,469
WOODINVILLE RTA	783,625,291	57,205	114,409
YARROW POINT	31,228,953	2,280	4,559
		1,418,075	2,836,151

Eligible Housing and Services Uses

The housing and services funded with the tax must serve populations earning up to 60% of the county median income. In determining the use of funds, 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.

Attachment 1 shows incomes and affordable monthly rents for households earning up to 30%, 50% and 60% of median income. **Attachment 2** shows data on housing cost burden by income level in each ARCH member city.

All cities and counties may use the funds for:

- (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.

Cities with population under 100,000 and counties with population under 400,000 may also use the funds for rental assistance.

Bonding Authority / Interlocal Agreements

Cities and counties may pledge the funds for repayment of general obligation or revenue bonds, and may also enter into interlocal agreements with other counties, cities, or public housing authorities to pool the tax receipts received under this section. The existing ARCH Interlocal Agreement (ILA) provides a structure to enable cities to pool revenue for investment in housing. Since 2010, the ILA authorized the City of Bellevue (Administering Agency for ARCH) to establish and maintain a centralized Housing Trust Fund Account for the purpose of administering the contributions of ARCH members to affordable housing projects and programs. The Housing Trust Fund Account includes a sub-account for each member city, with contributions to be released only when directed by each individual city.

Deadlines to Act

To impose the tax, a county or city legislative authority must adopt within 6 months of the effective date of the legislation a resolution of intent to adopt legislation to authorize the maximum capacity of the tax. The resolution requires simple majority approval. In addition, the legislative authority must approve actual legislation within 12 months. The bill takes effect 90 days after the end of the session, which means that cities must adopt a resolution by January 31, 2020, and actual legislation by July 27, 2020. The tax expires 20 years after the jurisdiction first imposes the tax.

A sample resolution is provided in **Attachment 4**.

Staff Recommendation

Staff recommend that councils of ARCH member cities take advantage of this new tool and adopt a resolution declaring their intent to adopt legislation to authorize the maximum capacity of the tax by January 31, 2020.

Attachments:

- 1. Household Incomes and Affordable Rents by Percent of Area Median Income in 2019 (Seattle-Bellevue HUD Metro FMR Area)**
- 2. Number of Households with Housing Cost Burden by Income in ARCH Cities**
- 3. Sample Form of Ordinance/Resolution of Intent Pursuant to HB 1406 (prepared by Pacifica Law Group LLP)**

Attachment 1. Household Incomes and Affordable Rents by Percent of Area Median Income in 2019 (Seattle-Bellevue HUD Metro FMR Area)

Household Incomes by Percent of Area Median Income (AMI)

	1 person	2 person	3 person	4 person	5 person	6 person
30% AMI	\$22,806	\$26,064	\$29,322	\$32,580	\$35,186	\$37,793
50% AMI	\$38,010	\$43,440	\$48,870	\$54,300	\$58,644	\$62,988
60% AMI	\$45,612	\$52,128	\$58,644	\$65,160	\$70,373	\$75,586
80% AMI	\$60,816	\$69,504	\$78,192	\$86,880	\$93,830	\$100,781
100% AMI	\$76,020	\$86,880	\$97,740	\$108,600	\$117,288	\$125,976

Affordable Monthly Rent by Household Size and Income

	1 person	2 person	3 person	4 person	5 person	6 person
30% AMI	\$570	\$652	\$733	\$815	\$880	\$945
50% AMI	\$950	\$1,086	\$1,222	\$1,358	\$1,466	\$1,575
60% AMI	\$1,140	\$1,303	\$1,466	\$1,629	\$1,759	\$1,890
80% AMI	\$1,520	\$1,738	\$1,955	\$2,172	\$2,346	\$2,520
100% AMI	\$1,901	\$2,172	\$2,444	\$2,715	\$2,932	\$3,149

Attachment 2. Number of Households with Housing Cost Burden by Income in ARCH Cities

(Source: 2011-2015 CHAS 5-Year Estimates)

	Not cost burdened	Cost burdened (30-49%)	Severely cost burdened (50%+)	Sum of Cost burdened and Severely cost burdened	Total Households
EKC cities	130,150	31,833	26,484	58,317	188,467
<=30% AMI	2,358	1,714	13,614	15,328	17,686
31% - 50% AMI	3,102	5,409	6,768	12,177	15,279
51% - 80% AMI	7,289	7,389	2,978	10,367	17,656
81% - 100% AMI	7,705	5,156	1,341	6,497	14,202
>100% AMI	109,696	12,165	1,783	13,948	123,644
Beaux Arts Village	98	28	24	52	150
<=30% AMI	-	4	12	16	16
31% - 50% AMI	-	8	4	12	12
51% - 80% AMI	8	-	-	-	8
81% - 100% AMI	8	4	4	8	16
>100% AMI	82	12	4	16	98
Bellevue	37,115	8,945	8,139	17,084	54,199
<=30% AMI	860	530	4,370	4,900	5,760
31% - 50% AMI	885	1,755	2,000	3,755	4,640
51% - 80% AMI	2,455	1,880	869	2,749	5,204
81% - 100% AMI	2,255	1,650	420	2,070	4,325
>100% AMI	30,660	3,130	480	3,610	34,270
Bothell	10,601	3,064	2,308	5,372	15,973
<=30% AMI	199	249	1,399	1,648	1,847
31% - 50% AMI	419	665	525	1,190	1,609
51% - 80% AMI	818	815	284	1,099	1,917
81% - 100% AMI	1,010	665	40	705	1,715
>100% AMI	8,155	670	60	730	8,885
Clyde Hill	751	136	172	308	1,059
<=30% AMI	4	4	32	36	40
31% - 50% AMI	8	19	54	73	81
51% - 80% AMI	8	14	42	56	64
81% - 100% AMI	23	4	14	18	41
>100% AMI	708	95	30	125	833
Hunts Point	106	60	58	118	224
<=30% AMI	4	-	20	20	24
31% - 50% AMI	-	8	4	12	12
51% - 80% AMI	-	4	12	16	16
81% - 100% AMI	4	8	4	12	16
>100% AMI	98	40	18	58	156

	Not cost burdened	Cost burdened (30-49%)	Severely cost burdened (50%+)	Sum of Cost burdened and Severely cost burdened	Total Households
Issaquah	9,400	2,555	2,090	4,645	14,045
<=30% AMI	225	110	1,070	1,180	1,405
31% - 50% AMI	355	290	575	865	1,220
51% - 80% AMI	440	790	240	1,030	1,470
81% - 100% AMI	645	315	85	400	1,045
>100% AMI	7,735	1,050	120	1,170	8,905
Kenmore	5,334	1,549	1,113	2,662	7,996
<=30% AMI	99	220	634	854	953
31% - 50% AMI	225	329	250	579	804
51% - 80% AMI	425	250	84	334	759
81% - 100% AMI	390	215	80	295	685
>100% AMI	4,195	535	65	600	4,795
Kirkland	23,349	6,576	5,434	12,010	35,359
<=30% AMI	284	198	2,695	2,893	3,177
31% - 50% AMI	695	1,125	1,555	2,680	3,375
51% - 80% AMI	1,410	1,690	659	2,349	3,759
81% - 100% AMI	1,485	1,118	250	1,368	2,853
>100% AMI	19,475	2,445	275	2,720	22,195
Medina	701	183	173	356	1,057
<=30% AMI	-	-	72	72	72
31% - 50% AMI	10	18	12	30	40
51% - 80% AMI	4	8	25	33	37
81% - 100% AMI	12	4	35	39	51
>100% AMI	675	153	29	182	857
Mercer Island	6,638	1,360	1,574	2,934	9,572
<=30% AMI	160	40	610	650	810
31% - 50% AMI	75	170	440	610	685
51% - 80% AMI	299	240	150	390	689
81% - 100% AMI	244	120	100	220	464
>100% AMI	5,860	790	274	1,064	6,924
Newcastle	2,972	649	492	1,141	4,113
<=30% AMI	18	15	210	225	243
31% - 50% AMI	105	70	163	233	338
51% - 80% AMI	34	165	39	204	238
81% - 100% AMI	210	39	55	94	304
>100% AMI	2,605	360	25	385	2,990
Redmond	17,229	3,444	2,690	6,134	23,363
<=30% AMI	460	180	1,545	1,725	2,185
31% - 50% AMI	195	600	750	1,350	1,545
51% - 80% AMI	975	990	205	1,195	2,170
81% - 100% AMI	944	609	95	704	1,648

	Not cost burdened	Cost burdened (30-49%)	Severely cost burdened (50%+)	Sum of Cost burdened and Severely cost burdened	Total Households
>100% AMI	14,655	1,065	95	1,160	15,815
Sammamish	12,309	2,322	1,564	3,886	16,195
<=30% AMI	45	55	655	710	755
31% - 50% AMI	75	125	294	419	494
51% - 80% AMI	209	324	295	619	828
81% - 100% AMI	205	300	125	425	630
>100% AMI	11,775	1,518	195	1,713	13,488
Woodinville	3,280	893	570	1,463	4,743
<=30% AMI	-	105	270	375	375
31% - 50% AMI	55	223	130	353	408
51% - 80% AMI	200	215	60	275	475
81% - 100% AMI	270	105	20	125	395
>100% AMI	2,755	245	90	335	3,090
Yarrow Point	267	69	83	152	419
<=30% AMI	-	4	20	24	24
31% - 50% AMI	-	4	12	16	16
51% - 80% AMI	4	4	14	18	22
81% - 100% AMI	-	-	14	14	14
>100% AMI	263	57	23	80	343
King County	529,895	159,155	130,605	289,760	819,655
<=30% AMI	15,780	18,750	82,205	100,955	116,735
31% - 50% AMI	25,395	39,980	27,625	67,605	93,000
51% - 80% AMI	49,170	37,210	11,725	48,935	98,105
81% - 100% AMI	50,655	23,255	4,330	27,585	78,240
>100% AMI	388,895	39,960	4,720	44,680	433,575

SAMPLE FORM OF ORDINANCE/RESOLUTION OF INTENT PURSUANT TO HB 1406
Prepared by Pacifica Law Group LLP

[ORDINANCE/RESOLUTION]

No. _____

[AN ORDINANCE][A RESOLUTION] OF THE [CITY COUNCIL][_____
COUNTY BOARD OF COMMISSIONERS] OF [_____
DECLARING THE INTENT OF THE [_____] TO ADOPT
LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR
AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH
SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019), AND
OTHER MATTERS RELATED THERETO.

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

WHEREAS, SHB 1406 authorizes the governing body of a city or county to impose a local sales and use tax for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing, [and] for the operations and maintenance costs of affordable or supportive housing, [*FOR COUNTIES of 400,000 or less, or CITIES of 100,000 or less: or, if eligible, for providing rental assistance to tenants*]; and

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

WHEREAS, the tax must be used to assist persons whose income is at or below sixty percent of the [City/County] median income; and

WHEREAS, the [City/County] has [describe housing need] and has determined that imposing the sales and use tax to address this need will benefit its citizens; and

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

WHEREAS, this [ordinance/resolution] constitutes the resolution of intent required by SHB 1406; and

WHEREAS, the [City Council/County Board of Commissioners] now desires to declare its intent to impose a local sales and use tax as authorized by SHB 1406 as set forth herein;

NOW, THEREFORE, BE IT [RESOLVED][ORDAINED] BY THE [CITY COUNCIL/COUNTY BOARD OF COMMISSIONERS] OF THE [CITY OF _____/ _____ COUNTY] AS FOLLOWS:

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

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

Section 3. Effective Date. This [resolution][ordinance] shall take effect [immediately upon its passage and adoption][____ days after the passage and publication].

Passed by majority vote of the _____ in open meeting this _____ day of _____, 2019.

[insert appropriate signature blocks]