

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1746

Chapter 273, Laws of 2019

66th Legislature
2019 Regular Session

COMMERCIAL OFFICE SPACE DEVELOPMENT--TAX INCENTIVES

EFFECTIVE DATE: July 28, 2019

Passed by the House April 18, 2019
Yeas 93 Nays 1

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2019
Yeas 32 Nays 9

CYRUS HABIB

President of the Senate

Approved May 7, 2019 10:55 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1746** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 13, 2019

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1746

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By House Local Government (originally sponsored by Representatives Fey, Gildon, Kilduff, Leavitt, Chambers, Reeves, Jenkins, Robinson, and Barkis)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to incentivizing the development of commercial
2 office space in cities in a county with a population of less than one
3 million five hundred thousand; amending RCW 81.104.170; adding a new
4 section to chapter 82.14 RCW; adding a new chapter to Title 35 RCW;
5 and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the cost of
8 developing high-quality, commercial office space is prohibitive in
9 cities located outside of a major metropolitan area. The legislature
10 finds these cities plan to locate commercial office space within
11 those urban centers. The legislature also finds that solely planning
12 for commercial office space within urban centers is inadequate and an
13 incentive should be created to stimulate commercial office space
14 development in urban centers outside major metropolitan areas. The
15 legislature intends to provide these cities with local options to
16 incentivize the development of commercial office space in urban
17 centers with access to transit, transportation systems, and other
18 amenities.

1 NEW SECTION. **Sec. 2.** A governing authority of a city may
2 designate a commercial office space development area. Within the
3 area, the city may:

4 (1) Adopt a local sales and use tax remittance program to
5 incentivize the development of commercial office space; and

6 (2) Establish a local property tax reinvestment program to make
7 public improvements that incentivize the development of commercial
8 office space.

9 NEW SECTION. **Sec. 3.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise.

12 (1) "Commercial office space" means a high quality building or
13 buildings in the local market, as determined by a city's governing
14 authority. High quality must be reflected in the finishes,
15 construction, and infrastructure of the project building. The
16 building or buildings must be at least fifty thousand square feet,
17 and at least three stories. The building must be centrally located in
18 a city, provide close access to available public transportation and
19 freeways, be managed professionally, and offer amenities and advanced
20 technology options to tenants.

21 (2) "Commercial office space development area" means an area that
22 has been designated by the city legislative authority as a commercial
23 office space development area. Each area is limited to contiguous
24 tracts, lots, pieces, or parcels of land without the creation of
25 islands of property not included in the commercial office space
26 development area. The commercial office space development area or
27 areas within a city cannot contain more than twenty-five percent of
28 the total assessed value of the taxable real property within the
29 boundaries of the city at the time the area is established.

30 (3) "County" means a county with a population of less than one
31 million five hundred thousand.

32 (4) "Family living wage job" means a job with a wage that is
33 sufficient for raising a family. A family living wage job must have
34 an average wage of eighteen dollars an hour or more, working two
35 thousand eighty hours per year, as adjusted annually by the consumer
36 price index. The family living wage may be increased by the local
37 authority based on regional factors and wage conditions.

38 (5) "Operationally complete" means that a certificate of
39 occupancy has been issued for the building.

1 (6) "Public improvement" means infrastructure improvements to be
2 owned by a public entity within the commercial office space
3 development area that include:

4 (a) Street, road, bridge, and rail construction and maintenance;
5 (b) Water and sewer system construction and improvements;
6 (c) Sidewalks, streetlights, landscaping, and streetscaping;
7 (d) Parking, terminal, and dock facilities;
8 (e) Park and ride facilities of a transit authority;
9 (f) Park facilities, recreational areas, and environmental
10 remediation;

11 (g) Stormwater and drainage management systems;
12 (h) Seismic improvements to buildings eligible for or eligible
13 for listing in the Washington state register of historic places (RCW
14 27.34.220) or the national register of historic places as defined in
15 the national historic preservation act of 1966 (Title 1, Sec. 101,
16 P.L. 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter
17 amended;

18 (i) Electric, gas, fiber, and other utility infrastructures; and
19 (j) Expenditures for any of the following purposes:
20 (i) Providing environmental analysis, professional management,
21 planning, and promotion within the commercial office space
22 development area; and

23 (ii) Providing maintenance and security for common or public
24 areas in the commercial office space development area.

25 (7) "Public improvement costs" means the costs of:

26 (a) Design; planning; acquisition, including land acquisition;
27 site preparation, including land clearing; construction;
28 reconstruction; rehabilitation; improvements; and installation of
29 public improvements;

30 (b) Demolishing, relocating, maintaining, and operating property
31 pending construction of public improvements;

32 (c) Relocating utilities as a result of public improvements;

33 (d) Financing public improvements, including interest during
34 construction; legal, and other professional services; taxes;
35 insurance; principal and interest costs on general indebtedness
36 issued to finance public improvements; and any necessary reserves for
37 general indebtedness; and

38 (e) Administrative expenses and feasibility studies reasonably
39 necessary and related to these costs, including related costs that
40 may have been incurred before adoption of the ordinance authorizing

1 the public improvements and use of funds deposited into the
2 commercial office development public improvement fund.

3 (8) "Qualifying project" means new construction or rehabilitation
4 of a building or group of buildings intended for use as commercial
5 office space. A "qualifying project" may include mixed-use buildings,
6 not solely intended to be used as office space, but does not include
7 any portion of a project intended for residential use or
8 noncommercial use. A "qualifying project" may include new
9 construction, or rehabilitation of an existing building, which
10 included an area intended to be used for childcare facilities at or
11 near the commercial office space. "Qualifying project" does not
12 include the land associated with the new construction or
13 rehabilitation.

14 (9) "Rehabilitation" and "rehabilitation improvements" means
15 modifications to an existing building or buildings made to achieve
16 substantial improvements such that the building or buildings can be
17 categorized as commercial office space.

18 (10) "Rehabilitation improvements" means modifications to an
19 existing building or buildings made to achieve substantial
20 improvements such that the building or buildings can be categorized
21 as commercial office space.

22 (11) "Urban center" means a compact identifiable district where
23 urban residents may obtain a variety of products and services. An
24 urban center must contain:

25 (a) Several existing or previous, or both, business
26 establishments that may include but are not limited to shops,
27 offices, banks, restaurants, and governmental agencies;

28 (b) Adequate public facilities including streets, sidewalks,
29 lighting, transit, domestic water, and sanitary sewer systems; and

30 (c) A mixture of uses and activities that may include housing,
31 recreation, and cultural activities in association with either
32 commercial or office use, or both commercial and office use.

33 NEW SECTION. **Sec. 4.** (1) In order for a city to approve a
34 qualifying project to receive a sales and use tax remittance and
35 participate in a local property tax reinvestment program, the city
36 legislative authority must adopt an ordinance designating a
37 commercial office space development area or areas. In the ordinance,
38 the city legislative authority must:

1 (a) Outline the boundaries of the commercial office space
2 development area or areas, consistent with the definitions of this
3 chapter;

4 (b) Find that the area is wholly within an urban center;

5 (c) Find that the area lacks sufficient available, desirable,
6 high-quality, and convenient commercial office space to provide
7 family living wage jobs in the urban center;

8 (d) Outline standards and guidelines consistent with section 5 of
9 this act to accept and approve applications for qualifying projects
10 to be considered for a local sales and use tax remittance or a
11 property tax reinvestment program; and

12 (e) Establish a commercial office development public improvement
13 fund in which to deposit property tax reinvestment revenues.

14 (2) The city legislative authority must hold a public hearing on
15 the ordinance establishing the commercial office space development
16 area or areas. The city legislative authority must give notice of a
17 hearing held under this section by publication of the notice once
18 each week for two consecutive weeks, not less than seven days, nor
19 more than thirty days before the date of the hearing in a paper
20 having a general circulation in the city where the proposed
21 commercial office space development area or areas would be located.
22 The notice must state the time, date, place, and purpose of the
23 hearing and generally identify the area proposed to be designated as
24 a commercial office space development area.

25 NEW SECTION. **Sec. 5.** (1) In order to approve the sales and use
26 tax remittance and property tax reinvestment for a qualifying project
27 under section 4 of this act, an owner of a qualifying project must,
28 in coordination with the city, submit an application to the city
29 consistent with the standards and guidelines provided in section 4 of
30 this act. Additionally, the application must include:

31 (a) Whether the qualifying project is located within a commercial
32 office space development area, in accordance with an adopted
33 ordinance under section 4 of this act;

34 (b) Whether the qualifying project meets the definition of a
35 qualifying project;

36 (c) The number of family living wage jobs estimated to be
37 generated by the qualifying project;

38 (d) A description of the qualifying project, including a physical
39 description of proposed building or buildings including estimated

1 square footage, number of floors, and a list of features and
2 amenities;

3 (e) The cost of construction or rehabilitation, and length of
4 time that the qualifying project will be under construction;

5 (f) Whether the qualifying project is or will be, at the time of
6 completion, in conformance with all local plans and regulations that
7 apply at the time the application is approved; and

8 (g) A statement that the qualifying project is not anticipated to
9 be used for the purpose of relocating a business from outside of the
10 commercial office space development area, but within the state, to
11 within the commercial office space development area. This does not
12 exclude the incentives authorized under this chapter and section 11
13 of this act from being used for the expansion of a business,
14 including the development of additional offices or satellite
15 facilities.

16 (2) If the project applicant is seeking a sales and use tax
17 remittance, the application must also include:

18 (a) A written agreement for the use of the local sales and use
19 tax remittance from any taxing authority that imposes a sales or use
20 tax under chapter 82.14 RCW or RCW 81.104.170. The agreement must be
21 authorized by the governing body of such participating taxing
22 authorities. If a taxing authority does not provide a written
23 agreement, the sales and use tax for that taxing authority may not be
24 remitted and the revenue may not be estimated in the application;

25 (b) An estimate of the amount of local sales and use tax revenue
26 that will be remitted to a taxpayer;

27 (c) The approximate date that the local sales and use tax revenue
28 will be remitted to a taxpayer; and

29 (d) The criteria under this section by which a qualifying project
30 can later receive certification under section 11(4) of this act
31 confirming that a taxpayer is eligible for the remittance.

32 (3) If the city intends to approve the qualifying project for a
33 property tax reinvestment, the application must also include:

34 (a) A written agreement of the participation of any taxing
35 authority that collects a local property tax allocation. The
36 agreement must be authorized by the governing body of such
37 participating local taxing authorities. If a taxing authority does
38 not provide written agreement, the local property tax for that taxing
39 authority may not be remitted to the city legislative authority that
40 established a commercial office development public improvement fund;

1 (b) An estimated amount of property tax to be deposited into a
2 commercial office development public improvement fund resulting from
3 the qualifying project; and

4 (c) A prioritized list of public improvements that support the
5 development of the qualifying project, and the estimated public
6 improvement costs.

7 NEW SECTION. **Sec. 6.** (1) The duly authorized administrative
8 official or committee of the city may approve the application if it
9 finds that:

10 (a) The proposed qualifying project meets the criteria as defined
11 by the city in section 4 of this act;

12 (b) The proposed qualifying project is or will be, at the time of
13 completion, in conformance with all local plans and regulations that
14 apply at the time the application is approved;

15 (c) The owner has complied with all standards and guidelines
16 adopted by the city in section 4 of this act; and

17 (d) The site is located in a commercial office space development
18 area that has been designated by the city legislative authority in
19 accordance with the procedures and guidelines indicated in section 4
20 of this act.

21 (2) If the application is approved, the city must issue the owner
22 of the property a conditional certificate of acceptance of the
23 project for the sales and use tax remittance and participation in a
24 property tax reinvestment program.

25 (3) If the application is denied by the authorized administrative
26 official or committee authorized by the city legislative authority,
27 the deciding administrative official or committee must state in
28 writing the reasons for denial and send the notice to the applicant
29 at the applicant's last known address within ten days of the denial.

30 (4) Upon denial by a duly authorized administrative official or
31 committee, an applicant may appeal the denial to the city legislative
32 authority within thirty days after receipt of the denial. The appeal
33 before the governing authority must be based upon the record made
34 before the administrative official or committee with the burden of
35 proof on the applicant to show that there was no substantial evidence
36 to support the administrative official's or committee's decision. The
37 decision of the city legislative authority in denying or approving
38 the application is final.

1 NEW SECTION. **Sec. 7.** (1) Once the city approves an application
2 for a qualifying project to participate in a property tax
3 reinvestment program, the city must deposit into a commercial office
4 development public improvement fund, the equivalent of the city's
5 share of the ad valorem property taxation on the value of new
6 construction and rehabilitation improvements of real property for
7 qualifying projects under this chapter for a period of ten successive
8 years beginning January 1st of the calendar year immediately
9 following the calendar year in which the application is initially
10 approved.

11 (2) For a period of ten successive years beginning January 1st of
12 the calendar year immediately following the calendar year in which
13 the application is initially approved, taxing districts participating
14 under this section that provide a written agreement under section 5
15 of this act must transfer to the city an amount equivalent to the
16 portion of the taxing district's ad valorem property tax on the value
17 of new construction and rehabilitation improvements of real property
18 for qualifying projects for the city to deposit into a commercial
19 office development public improvement fund.

20 NEW SECTION. **Sec. 8.** (1) The city may only make expenditures
21 from the commercial office development public improvement fund that:

22 (a) Are to construct the public improvement that was identified
23 in the approved application, requesting the property tax reinvestment
24 submitted under section 5 of this act and approved under section 6 of
25 this act;

26 (b) Transfer funding to the project applicant to construct the
27 public improvement and transfer ownership of the public improvement
28 to a public agency; and

29 (c) Meet any additional criteria established in an ordinance
30 adopted under section 4 of this act.

31 (2) The city and the project applicant must enter into a written
32 agreement outlining the specifics of the public improvement,
33 associated public improvement costs, responsible parties, and any
34 other information required by the city.

35 NEW SECTION. **Sec. 9.** If a qualifying project participating in
36 the property tax reinvestment program under this chapter changes
37 ownership, the property continues to qualify for the reinvestment, if
38 the new owner complies with all of the application requirements,

1 procedures, terms, conditions, and reporting requirements under this
2 chapter, and meets all of the criteria established by the city to
3 which the application was submitted under this chapter.

4 NEW SECTION. **Sec. 10.** (1) The joint legislative audit and
5 review committee must study the effectiveness of the local sales and
6 use tax remittance and the local property tax reinvestment programs
7 authorized in this chapter, and submit a report as provided in
8 subsection (3) of this section.

9 (2) The report must include, but is not limited to, an assessment
10 of the local sales and use tax remittance and the property tax
11 reinvestment programs authorized under this chapter and an evaluation
12 of:

13 (a) The availability of quality office space;

14 (b) The effects on affordable housing;

15 (c) The effects on transportation, traffic congestion, and
16 greenhouse gas emissions; and

17 (d) Job creation.

18 (3) By October 1, 2028, and in compliance with RCW 43.01.036, the
19 joint legislative audit and review committee must submit to the
20 appropriate committees of the legislature a final report with their
21 findings and recommendations under this section.

22 (4) This section expires December 31, 2028.

23 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.14
24 RCW to read as follows:

25 (1) Subject to the requirements of chapter 35.--- RCW (the new
26 chapter created in section 12 of this act) and RCW 81.104.170, a
27 project is eligible for a sales and use tax remittance under the
28 authority of this chapter on:

29 (a) The sale of or charge made for labor and services rendered in
30 respect to construction or rehabilitation of a qualifying project
31 located in a city; and

32 (b) The sales or use of tangible personal property that will be
33 incorporated as an ingredient or component of a qualifying project
34 located in a city during the course of the constructing or
35 rehabilitating.

36 (2)(a) A qualifying project owner claiming a remittance under
37 this section must pay all applicable state and local sales and use

1 taxes imposed or authorized under RCW 82.08.020, 82.12.020, and this
2 chapter on all purchases and uses qualifying for the remittance.

3 (b) The amount of the remittance is one hundred percent of the
4 local sales and use taxes paid under an ordinance enacted under the
5 authority of this chapter for purchases or uses qualifying under
6 subsection (1) of this section, if the taxing authorities imposing
7 taxes under the authority of this chapter have authorized the use of
8 the remittance to the city legislative authority as provided under
9 section 6 of this act.

10 (3) After the qualifying project has been operationally complete
11 for eighteen months, but not more than thirty-six months, and after
12 all local sales and use taxes for purchases and uses qualifying under
13 subsection (1) of this section have been paid, a qualifying project
14 owner who submits an application for a building permit for that
15 qualifying project prior to July 1, 2027, may apply to the department
16 for a remittance of local sales and use taxes.

17 (4) A qualifying project owner requesting a remittance under this
18 section must obtain certification from the governing authority of a
19 city verifying that the qualifying project has satisfied the criteria
20 in section 6 of this act.

21 (5) A qualifying project owner must specify the amount of
22 exempted tax claimed and the qualifying purchases or uses for which
23 the exemption is claimed. The qualifying project owner must retain,
24 in adequate detail, records to enable the department to determine
25 whether the qualifying project owner is entitled to an exemption
26 under this section, including invoices, proof of tax paid, and
27 construction contracts.

28 (6) The department must determine eligibility under this section
29 based on information provided by the qualifying project owner, which
30 is subject to audit verification by the department.

31 (7)(a) A person otherwise eligible for a remittance under this
32 section that transfers the ownership of the qualifying project before
33 the requirements in subsection (3) of this section are met may assign
34 the right to the remittance under this section to the subsequent
35 owner of the qualifying project.

36 (b) Persons applying for the remittance as an assignee must
37 provide the department the following documentation in a form and
38 manner as provided by the department:

39 (i) The agreement that transfers the right to the remittance to
40 the assignee;

(ii) Proof of payment of sales and use tax on the qualifying project; and

(iii) Any other documentation the department requires.

(8) The definitions in section 3 of this act apply to this section.

Sec. 12. RCW 81.104.170 and 2015 3rd sp.s. c 44 s 320 are each amended to read as follows:

(1) Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, public transportation benefit areas, high capacity transportation corridor areas, and regional transit authorities may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter, solely for the purpose of providing high capacity transportation service.

(2) The tax authorized pursuant to this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district.

(a) Except for the tax imposed under (b) of this subsection by regional transit authorities that include a county with a population of more than one million five hundred thousand, the maximum rate of such tax must be approved by the voters and may not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax). The maximum rate of such tax that may be imposed may not exceed nine-tenths of one percent in any county that imposes a tax under RCW 82.14.340, or within a regional transit authority if any county within the authority imposes a tax under RCW 82.14.340.

(b) The maximum rate of such tax that may be imposed by a regional transit authority that includes a county with a population of more than one million five hundred thousand must be approved by the voters and may not exceed 1.4 percent. If a regional transit authority imposes the tax authorized under this subsection (2)(b) in excess of 0.9 percent, the authority may not receive any state grant funds provided in an omnibus transportation appropriations act except transit coordination grants created in chapter 11, Laws of 2015 3rd sp. sess.

1 (3) (a) The exemptions in RCW 82.08.820 and 82.12.820 are for the
2 state portion of the sales and use tax and do not extend to the tax
3 authorized in this section.

4 (b) The exemptions in RCW 82.08.962 and 82.12.962 are for the
5 state and local sales and use taxes and include the tax authorized by
6 this section.

7 (c) The exemptions in section 11 of this act are for the local
8 sales and use taxes and include the tax authorized by this section.

9 NEW SECTION. **Sec. 13.** Sections 1 through 10 of this act
10 constitute a new chapter in Title 35 RCW.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor May 7, 2019.

Filed in Office of Secretary of State May 13, 2019.

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