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Title: AN ORDINANCE authorizing the levy collection and legislative policies of an additional sales and use tax of one-tenth of one percent for the delivery of mental health and chemical dependency services, and therapeutic courts with collections to begin consistent with RCW 82.14.055; and adding a new chapter to K.C.C. Title 4.

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Indexes: Courts, Executive, levy, Mental Health, Taxes

Code sections: 4 -

Attachments: 1. 15949.pdf, 2. 2007-0599 Hearing Notice.doc, 3. 2007-0599 MIDD Fiscal Note.xls, 4. 2007-0599 REVISED Staff Report from 11-08-07 OBFMMHC - MIDD Sales Tax.doc, 5. 2007-0599 Staff Report for 11-07&08-07 OBFMMHC - MIDD Sales Tax.doc, 6. 2007-0599 transmittal letter.doc

Date	Ver.	Action By	Action	Result
11/13/2007	3	Metropolitan King County Council	Hearing Held	
11/13/2007	2	Metropolitan King County Council	Passed as Amended	Pass
11/8/2007	2	Operating Budget, Fiscal Management and Mental Health Committee	Recommended Do Pass Substitute	Pass
11/7/2007	1	Operating Budget, Fiscal Management and Mental Health Committee	Deferred	
10/29/2007	1	Metropolitan King County Council	Introduced and Referred	

Clerk 11/14/2007

AN ORDINANCE authorizing the levy collection and legislative policies of an additional sales and use tax of one-tenth of one percent for the delivery of mental health and chemical dependency services, and therapeutic courts with collections to begin consistent with RCW 82.14.055; and adding a new chapter to K.C.C. Title 4.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. In 2005, recognizing the need for additional mental health and chemical dependency programs, the state legislature authorized counties to implement a one-tenth of one percent sales tax to support new or expanded chemical dependency or mental health treatment services and for the operation of new or expanded therapeutic court programs. The 2008 executive proposed budget proposes establishing the sales tax to fund the programs outlined in the Mental Illness and Drug Dependency Action Plan accepted by Motion 12598.

B. In July 2006, Motion 12320 called for a mental illness and drug dependency action plan. The plan was to include: a prevalence study of the individuals with mental illness and chemical dependency involved in the criminal justice, emergency services and homeless services systems; a review of current county programs, and strategies for addressing the issues and problems of the mentally ill and substance abusing populations recycling through jail, emergency medical and homelessness systems consistent with the goals of Motion 12320. The council acknowledged receipt of the action plan by accepting it with Motion 12598 on October 8, 2007.

C. The intent of the sales tax and the programs funded by it is to fund new or expanded mental health and substance abuse programs and the operation of new or expanded therapeutic court programs. These programs are to enable the implementation of a full continuum of treatment, housing and case management services that focus on the prevention and reduction of chronic homelessness and unnecessary involvement in the criminal justice and emergency medical systems and promote recovery for persons with disabling mental illness and chemical dependency.

D. It is the county's intent to: promote adequate, stable public funding for community mental health services in King County; ensure timely, affordable culturally appropriate access to mental health services that focus on recovery and resilience; improve community-based treatment programs and thereby reduce costly incarceration and emergency room utilization; develop a stable and well-trained workforce; reduce caseloads to ensure quality and timely services for clients; improve workplace safety; and improve continuity of care and services.

E. Labor unrest within agencies providing mental health services under contract to the county would threaten the efficient provision of mental health services to the vulnerable community in need of such services. King County provides critical mental health care needed for protecting both individuals and the community through a range of inter-connected services, including outpatient counseling and medication management; inpatient evaluation and treatment; crisis outreach response; crisis triage; emergency room treatment; and residential services. These services are currently provided by seventeen different community mental health agencies, along with public employees (such as Designated Mental Health Professionals and Harborview staff). In addition, the criminal justice system, including courts and jails, is connected to these services because many clients end up in jail.

F. A disruption at any one of the mental health providers due to unresolved issues between labor and management can adversely impact other services provided by the county including but not limited to jails, hospitals and services for the homeless. With a limited number of in patient beds and secure units, and limited numbers of slots available for outpatient services, a crisis in care at one provider can quickly overwhelm the system. Without services, many mentally ill clients will decompensate, creating a further crisis that overflows into all other parts of the safety net of services provided including the county jails.

G. King County experienced such a crisis when in 1998-99 West Seattle Psychiatric Hospital, a private community provider, experienced a strike lasting one hundred thirty-eight days. Once the strike began, the hospital immediately limited admissions and diverted patients to other inpatient facilities. The hospital was unable to meet its obligations to serve the number of patients it contracted with the county to serve. This caused disruption in the coordinated and effective provision of mental health services to the community and caused additional financial and program impacts to the county. It is the intent of the county in enacting this ordinance to ensure that when an additional tax burden is imposed on the citizens of the county, the services to be funded by such additional tax will be efficiently provided to those in need.

G. It is the policy of the county not to interfere with an employee's choice about whether to join or to be

represented by a labor union. For this reason, the county wishes not to subsidize efforts by an employer to assist, promote or deter union organizing. It is the intent of the council in enacting this ordinance to avoid having an employer use county funds for the purpose of influencing employees to support or oppose unionization.

H. The expiration date of the tax is established to enable progress toward meeting the county's policy goals outcomes, and to enable evaluations of the programs funded with the sales tax revenue to take place and for the county to deliberate on the success of meeting policy goals and outcomes. The county may choose to amend the expiration date set forth in this section to provide for continued collection of this sales tax.

SECTION 2. Sections 3, 4 and 5 of this ordinance should constitute a new chapter in K.C.C. Title 4.

NEW SECTION. SECTION 3. A. It is the policy of the county that citizens and policy makers be able to measure the effectiveness of the investment of these public funds. The county requires appropriate oversight, accountability and reporting on the status and progress of the programs supported with the sales tax funds. The programs supported with these funds shall be designed to achieve the following policy goals:

1. A reduction of the number of mentally ill and chemically dependent using costly interventions like jail, emergency rooms and hospitals;
2. A reduction of the number of people who recycle through the jail, returning repeatedly as a result of their mental illness or chemical dependency;
3. A reduction of the incidence and severity of chemical dependency and mental and emotional disorders in youth and adults;
4. Diversion of mentally ill and chemically dependent youth and adults from initial or further justice system involvement; and
5. Explicit linkage with, and furthering the work of, other council directed efforts including, the adult and juvenile justice operational master plans, the Plan to End Homelessness, the Veterans and Human Services Levy Services Improvement Plan and the county Recovery Plan.

B. To ensure the oversight, implementation and evaluation of the Mental Illness and Drug Dependency Action Plan is consistent with the county's policy goals outlined in subsection A. of this section and to ensure fulfillment of the requirements of RCW 82.14.460 which enables the sales tax, the office of management and budget, the departments of community and human services, public health and adult and juvenile detention, superior court, district court, the prosecuting attorney, the public defender and the sheriff are requested, with assistance from council staff, to develop and submit for council review and approval an oversight, implementation and evaluation plan for the Mental Illness and Drug Dependency Action Plan accepted by council by Motion 12598.

C. The oversight, implementation and evaluation plan shall have three parts:

1. Part One: Oversight Plan. Part one of the oversight, implementation and evaluation plan shall be an oversight plan. Part one, the oversight plan, shall propose an oversight group that will be responsible for the ongoing oversight of the mental illness and drug dependency action plan. The oversight group shall include representation from other county, state and community agencies and entities involved in the mental health, substance abuse, domestic violence and sexual assault, homeless, justice, public health and hospital systems. The oversight plan shall also identify the proposed role of the oversight group and how the oversight group will link and coordinate with other existing county groups such as the Criminal Justice Council, the Committee to End Homelessness and the veterans and human services levy oversight groups. Part one of the oversight, implementation and evaluation plan shall be submitted to the council by April 1, 2008, for council review and approval by motion. Twelve copies of the part one oversight plan shall be filed with the clerk of the council, for distribution to all councilmembers and to the lead staff the law, justice and human services committee or its successor;

2. Part Two: Implementation Plan. Part two of the oversight, implementation and evaluation plan is an implementation plan. Part two, the implementation plan, shall describe the implementation of the programs and services outlined in the Mental Illness and Drug Dependency Action Plan. This description shall include: a

schedule of the implementation of programs and services outlined in the Mental Illness and Drug Dependency Action Plan; a discussion of needed resources, including staff, information and provider contracts; and milestones for implementation of the programs. The implementation plan shall address how adult drug diversion court, one of the county's therapeutic courts, may also utilize sales tax revenue for program expansion. Additionally, because the council recognizes that there is a strong correlation between sexual assault and domestic violence victimization and subsequent mental health problems, substance abuse, homelessness, incarceration and usage of the emergency medical system, the implementation plan shall include a proposal on how to integrate programs that support specialized mental health or substance abuse counseling, therapy and support groups for victims of sexual assault, victims of domestic violence and children exposed to domestic violence, provided by or in collaboration with recognized sexual assault and domestic violence services providers. A revised 2008 spending plan and financial plan for the mental illness and drug dependency fund shall be included in part two. Part two shall be developed in collaboration with the oversight group. Part two of the oversight, implementation and evaluation plan shall be submitted to the council by June 1, 2008, for council review and approval by motion. Twelve copies of the part two implementation plan to the council shall be filed with the clerk of the council, for distribution to all councilmembers and to the lead staff the law, justice and human services committee or their successors; and

3. Part Three: Evaluation Plan. Part three of the oversight, implementation and evaluation plan is an evaluation plan. Part three, the evaluation plan, shall describe an evaluation and reporting plan for the programs funded with the sales tax revenue. Part three shall specify: process and outcome evaluation components; a proposed schedule for evaluations; performance measurements and performance measurement targets; and data elements that will be used for reporting and evaluations. Performance measures shall include, but not be limited to: the amount of funding contracted to date, the number and status of request for proposals to date, individual program status and statistics such as individuals served, data on utilization of the justice and emergency medical systems and resources needed to support the evaluation requirements identified in this

subsection C.3. Part three shall be developed in collaboration with the oversight group. Part three of the oversight, implementation and evaluation plan shall be submitted to the council by August 1, 2008, for council review and approval by motion. Twelve copies of the part three evaluation plan to the council shall be filed with the clerk of the council, for distribution to all councilmembers and to the lead staff the law, justice and human services committee or their successors.

D.1. In addition to reviewing and approving the parts one, two and three of the oversight, implementation and evaluation plan outlined in subsection C. of this section, in coordination with the oversight group, the executive shall submit four quarterly progress reports and an one annual summary report for the programs supported with the sales tax revenue to the council. The quarterly reports shall include at a minimum:

- a. performance measurement statistics;
- b. program utilization statistics;
- c. request for proposal and expenditure status updates; and
- d. progress reports on evaluation implementation.

2.a. The quarterly reports to the council are due to the council March 1, June 1, September 1 and December 1 for council review for years one and two and thereafter, every six months.

b.(1) The annual report to the council shall be submitted to the council by April 1, for council review.

The annual report shall also include:

- (a) a summary of quarterly report data;
- (b) updated performance measure targets for the following year of the programs; and
- (c) recommendations on program and/or process changes to the funded programs based on the

measurement and evaluation data.

3. Twelve copies of the quarterly reports and the annual report to the council shall be filed with the clerk of the council, for distribution to all councilmembers and to the lead staff the law, justice and human services committee or its successor.

E. Concurrent with the executive's 2009 budget proposal, and for each subsequent year that the tax exists, the executive shall submit a report on program expenditures and revenue as part of the annual budget review process. The information submitted with the executive's budget shall include an annual updated and detailed spending plan for the tax funding, as well as revenue information. The elements of an annual spending plan, at a minimum, shall include:

1. A detailed list of funded activities along with a budget and revenue for each activity;
- itap0 2. A reasonable estimate of cost per unit of service of activities;
3. The anticipated number of service units to be provided for each activity or item;
4. How many individuals are estimated to be served in each activity;
5. Whether the activity is to be completed by the county or by a contracted provider; and
6. Full time equivalent or term-limited temporary employee impact if service is provided by the county.

NEW SECTION. SECTION 4. A. For the purpose of providing funding for the delivery of new or expanded mental health and chemical dependency services, and new or expanded therapeutic courts, an additional sales and use tax of one-tenth of one percent is hereby levied, fixed and imposed on all taxable events within King County as defined in chapter 82.08, 82.12 or 82.14 RCW, except as provided in subsection B. of this section. The tax shall be imposed upon and collected from those persons from whom sales tax or use tax is collected in accordance with chapter 82.08 or 82.14 RCW, and shall be so collected at the rate of one-tenth of 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. This additional sales and use tax shall be in addition to all other existing sales and use taxes currently imposed by the county.

B. If, as a result of the imposition of the additional sales and use tax authorized in subsection A. of this section, the county imposes an additional sales and use tax upon sales of lodging in excess of the limits contained in RCW 82.14.410, the sales shall be exempt from the imposition of that additional sales and use tax.

NEW SECTION. SECTION 5. A. The proceeds of the tax imposed under section 3 of this ordinance shall be used solely for the purpose of providing new or expanded chemical dependency or mental health treatment services and for the operation of new or expanded therapeutic court programs.

B. The proceeds of the tax authorized and imposed under section 4 of this ordinance may not be used to supplant existing funding.

C. For the purposes of this section, "proceeds" means the moneys raised by the additional sales and use tax authorized by this chapter and any interest thereon.

SECTION 6. The tax authorized and imposed under section 4 of this ordinance shall take effect in accordance with RCW 82.14.055 and section 7 of this ordinance.

SECTION 7. A. No proceeds of the tax authorized and imposed under section 4 of this ordinance shall be provided to any contractor providing, annually, more than three million dollars in mental health treatment services through the King County regional support network unless that contractor has executed a binding partnership agreement covering employees performing community mental health services funded by public moneys with a bona fide labor organization and that:

1. Such an agreement has been implemented and has been in effect for at least three months; and
2. The labor organization and provider representatives have certified to the county executive that the agreement is operative with no significant deficiencies.

B. In the binding partnership agreement described in subsection A. of this section, providers and the labor organization shall, at a minimum, commit to:

1. Not use any funds received for its work on contracts with the county for the provision of mental health services to assist, promote or deter union organizing. For the purposes of this section, "assist, promote or deter union organizing" includes any attempt by an employer to influence the decision of its employees regarding whether to support or oppose a labor organization that represents or seeks to represent those employees;

2. Provide a current roster of employees to the county regional support network, including name, job title, department, work location and most recent date of hire;
3. Provide access to nonwork areas of provider facilities to union representatives for the purpose of allowing them to communicate with staff on nonwork time;
4. Agree to an expedited union recognition process through a National Labor Relations Board consent election agreement or a community election agreement;
5. Agree to an expedited collective bargaining process, if a majority of employees voting in an election choose union representation, that provides for interest arbitration of unresolved issues four months following certification of the bargaining unit;
6. Agree to include in such a collective bargaining agreement binding arbitration of grievances and a no-strike/no-lockout clause; and
7. Agree to binding arbitration of disputes concerning the interpretation and implementation of the partnership agreement.

SECTION 8. If any provision of this ordinance, or the application of such provision to any person or circumstance is held invalid, each and every of said provisions of this ordinance shall not be deemed severable from the other provisions of this ordinance and this ordinance shall be held invalid in its entirety, prospectively only, and shall be deemed to be severable retrospectively, it being the legislative intent that the additional sales and use tax authorized in this ordinance not continue to be collected in the absence of any provision of this ordinance, but it also being the legislative intent that this ordinance as a whole would not have been enacted had any provision of the ordinance not been included but that any taxes already lawfully collected pursuant to section 4 of this ordinance shall be used for the purposes authorized by state law and as set forth in section 5 of this ordinance.

SECTION 9. This ordinance expires January 1, 2017.

official paper 10 days prior

Newspaper: Seattle Times

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Public hearing: Tuesday, November 13, 2007