

PROPOSED FINAL REPORT:
2019 TAX PREFERENCE PERFORMANCE
REVIEWS

Property Tax Exemption for Multifamily Housing in Urban Areas

LEGISLATIVE AUDITOR'S CONCLUSION:

Developers have created housing using the Multifamily Housing Tax Exemption. It is inconclusive whether this use represents a net increase in development. Cities have opportunities to maximize the impact of the exemption and improve reporting on results.

December 2019

Property tax exemption offered by cities for multifamily housing

The Multifamily Housing Tax Exemption (MFTE) is a property tax exemption program that allows eligible cities to target specific areas for multifamily housing development. Pierce County also is eligible. If a city or Pierce County chooses to create a program, it may create additional requirements or restrictions.

Property owners may apply for an 8-year or 12-year property tax exemption for building or rehabilitating multifamily housing. The 12-year exemption requires owners to offer at least 20% of their units as affordable housing, as defined by statute. Cities have the authority to approve and reject individual projects.

The preference has no expiration date.

JLARC staff reviewed a similar preference for [multifamily housing in Mason County in 2018](#).

**Estimated Biennial
Beneficiary Savings**
\$262 million in Calendar
Years 2022-23

Tax Type
Property Tax
RCW 84.14.007
Applicable Statutes

The preference is intended to encourage multifamily housing development

The preference was intended to stimulate development of new and rehabilitated multifamily housing – including affordable housing – in cities that plan under the Growth Management Act. It also aimed to allow unincorporated areas within urban growth areas to stimulate housing development near college campuses.

424

Developments have received an exemption

34,885

New housing units have been created

82%

Units located in Seattle, Tacoma, Spokane or Renton

21%

Units designated as affordable

Cities have opportunities to maximize the impact of the exemption

Cities may adopt additional requirements for the exemption so that it meets local planning goals.

- Models indicate that the preference can increase the financial performance of developments. It's unclear how often MFTE provides an incentive to projects that would not otherwise be built. At least 12 cities include financial analysis as a factor when deciding whether to offer or approve an exemption.
- Even with statutory rent limits, households earning less than 80% of the area median income (AMI) in their county could pay more than 30% of their income on housing. At least ten cities have adopted income requirements that are lower than the statutory limits (e.g., 60% instead of 80% AMI).

Without reporting improvements, the Legislature will continue to lack critical information for monitoring the program

Statute requires cities and Pierce County to report information to the Department of Commerce each year. At least 11 cities have failed to report in one or more years, while others submitted incomplete reports that make the data unreliable overall. While reports must include information such as number of housing units, rental prices, and tenant income, Commerce's required reporting, even if followed, lacks the detail needed to evaluate compliance with affordability and other requirements.

JLARC staff collected data from multiple other sources (e.g., city staff, county assessors) to provide the information in this report.

Recommendations

Legislative Auditor's Recommendation: Modify

The Legislature should modify the preference to direct cities to include analysis of profitability as a consideration in offering or approving exemptions.

The Department of Commerce should report annually to JLARC and the relevant policy committees on city compliance with the requirements, as well as the metrics in statute and affordability measures.

The Department of Revenue should report to JLARC and the relevant policy committees on which statutory ambiguities can be resolved through guidance and which require statutory changes.

Commerce and Revenue do not concur. View the Legislative Auditor's response to agency comments. More information is available on the Recommendations Tab.

Commissioners' Recommendation

The Commission endorses the Legislative Auditor's recommendation with comment. The Legislature should pay particular attention to reporting guidelines as it applies to low-income units and residents. In particular, the lack of reporting means the actual number of low-income units and associated rents are difficult to identify. This makes it impossible to analyze how the tax preference is impacting the low-income housing supply. Testimony regarding the City of Olympia's use of the preferences strongly highlights the current reporting problems.

The Legislature may want to review how rent limits for low-income households are set. In particular, the Legislature may want to include in the formula an adjustment for a low-income household's actual income, rather than relying only on a county's median income.

Finally, public testimony raised the important question of whether the introduction of MFTEs in Washington communities has had the unanticipated consequence of increasing rental costs and squeezing out existing affordable housing. More research is needed to investigate the impacts of this preference on housing affordability in Washington.

While the commission endorses the intent of the Legislative Auditor's recommendations to Commerce and Revenue to improve reporting and clarify ambiguities, both departments did not concur and cite resource and authority issues to act on this without further legislative action. However, without improvements in clarity and allowable use, the Legislature will continue having difficulty determining the preference's success. The commission suggests the Legislature could begin with a workgroup to provide options to improve reporting and consistency of use.

REVIEW DETAILS

1. Preference to stimulate multifamily housing development

Tax preference was created to stimulate multifamily housing development. Projects have been approved by Pierce County and 26 of 102 eligible cities.

The law has a broad goal: increase multifamily housing, including affordable housing, in urban centers that need it

The Multifamily Housing Property Tax Exemption (MFTE) provides an 8- or 12-year property tax exemption on new, expanded, or updated multifamily housing.

- The exemption applies only to the residential portions of newly constructed improvements, not the value of the land, retail space, or existing improvements.

- For mixed-use development, permanent housing¹ must make up at least 50% of the space.
- The housing must have at least four units, which may be rented or sold.
- The 8-year exemption does not require affordable housing, while the 12-year exemption requires that at least 20% of the units are affordable to low- and moderate-income households, as defined in statute (see Section 4 for explanation).
- Cities and one county may adopt MFTE programs.

The preference was enacted in 1995 and was modified to its present form in 2007. It is not scheduled to expire.

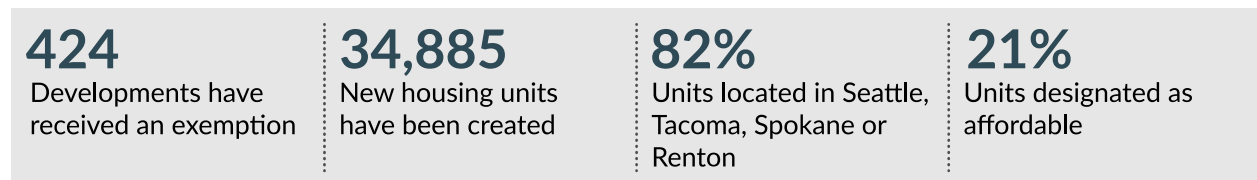
Since 2007, 26 cities and one county have approved exemptions for 424 developments

Cities that meet population thresholds set in statute are eligible to offer the exemption. Of the 102 cities that are eligible, 49 have adopted an MFTE program and 26 have approved exemptions. Pierce County also is eligible and has approved exemptions. A map and list of participating local governments are in Appendix A.

These local governments must designate a targeted area where they will offer the exemption. These areas must be within an urban center and lack housing to meet the needs of households who would likely live there. The established targeted areas range in size from 5 acres to 19 square miles. At least 22 cities have designated more than one targeted area.

Use of the preference has increased — in 2009, developments with 2,457 units were approved. There were 5,337 units approved in 2018. A development can remain eligible for the exemption for 8 to 12 years.

Exhibit 1.1: Developers have created at least 34,885 housing units, including affordable units, using the MFTE



Source: JLARC staff analysis of information compiled from the Department of Commerce, county assessors, and cities. The data is not maintained by one agency. See Section 5 for more detail.

¹owner-occupied housing or rental housing that is leased for a period of at least one month

2. Local MFTE programs vary

Local MFTE program requirements and characteristics vary

Cities may adopt additional requirements for the exemption and vary the program characteristics

State statute outlines the baseline requirements for developments built with the exemption. A development must add at least four new housing units, be in a targeted area, and comply with all local rules. In addition, to qualify for the 12-year exemption, the developments must meet affordability requirements for 20% of the units.

Statute also requires developments to meet additional requirements that the city or county deems necessary. These requirements typically come from three sources:

1. **Municipal code.** These include specifications on parking, height, density, environmental impact, amenities, and compatibility with surrounding properties. Some also have more stringent affordable housing requirements than state law.
2. **Contracts.** Statute requires owners to enter into a contract with the cities. The contract may add further requirements specific to the development.
3. **Zoning regulations.** These regulations may prohibit some types of development that would otherwise qualify for the preference. For example, while low-rise housing may qualify, it may not be allowed in certain areas based on city zoning.

Exhibit 2.1: Variations in city programs include size of targeted area, focus on affordable housing, which exemption(s) is offered, and building requirements

Program Characteristic	Examples of Variation
Size of targeted area	<ul style="list-style-type: none">• 1 property (Issaquah).• 3.9 square miles (Vancouver).• 19 square miles (Seattle).
Affordable housing focus	<ul style="list-style-type: none">• All units must be affordable (Snoqualmie).• No more than 30% of units may be affordable (Lacey).• Affordable rent limits vary by unit size and neighborhood (Bellevue).
Exemption offered	<ul style="list-style-type: none">• 8-year exemption only (Ferndale).• 12-year exemption only (Edmonds).• Both 8- and 12-year exemption (Spokane).
Building requirements	<ul style="list-style-type: none">• LEED certification required (Woodinville).• Include public civic or cultural use (Newcastle).• Invest at least \$25,000 per unit (Yakima).

Source: JLARC staff analysis of information compiled from the Department of Commerce, county assessors, and cities.

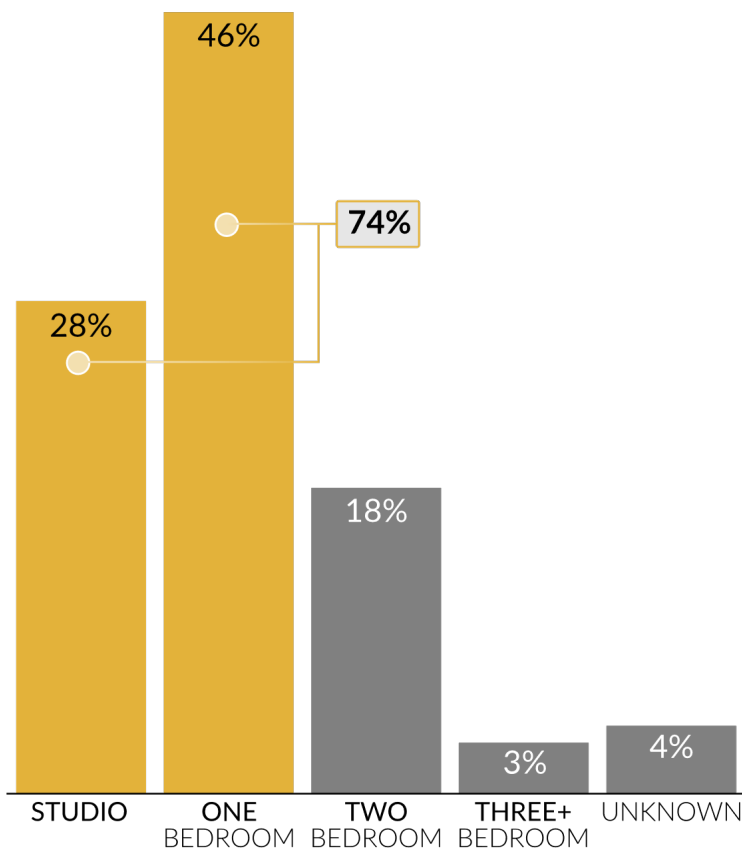
Majority of housing units appear intended for small families or individuals

State law does not limit the type or size of units that may qualify. About 75% of the units created between 2007 and 2018 are studios or one bedroom. The median Washington household is 2.6 people.

At least four cities have enacted local policies to encourage larger units:

- Bellevue requires at least 15% of units to have two or more bedrooms.
- Seattle, Bellingham, and Shoreline encourage large units by applying stricter affordability requirements for smaller units:
 - All three require that units with fewer than two bedrooms be affordable at lower income thresholds. This has the effect of lowering the maximum monthly rental price for smaller units.
 - Seattle also requires that a development that does not have at least four larger units² out of every hundred must include more affordable units overall.

Exhibit 2.2: 75% of the 34,885 units created are studios or one bedroom



Source: JLARC staff analysis. Total may not equal 100% due to rounding.

²2 or more bedrooms

3. MFTE has inconclusive effect on development

MFTE's effect on the decision to build varies by development.

All cities should include an analysis of a development's profitability as one of the factors they consider when determining whether to approve an exemption.

Real estate economists developed a model to evaluate how the preference might affect a hypothetical development's profitability

The Multifamily Housing Property Tax Exemption (MFTE) aims to stimulate housing development by lowering operating costs and thereby improving profitability. JLARC staff did not have access to approved developments' actual costs and rental income needed to test this. Given this limitation, JLARC staff sought assistance from consultants with housing finance expertise at Community Attributes, Inc. (CAI).

The consultants developed a model to test the potential impact the preference may have on profitability for a variety of potential development types, costs, and rents charged in local markets where the preference is used.

The premise is that a given development would be built only if it is sufficiently profitable, as measured by the rate of return on investment. The model assumed that most developments must generate a rate of return between 15-20% to be financially feasible.

Model indicates that MFTE can improve a development's financial performance, as measured by the rate of return on investment

The model identified a range of possible increases in profitability for each category of exemption (blue shading in the exhibit below). The range varied depending on the development type, and was a function of land acquisition costs and local market rental prices.

Consultants modeled scenarios with varying rental income and land costs

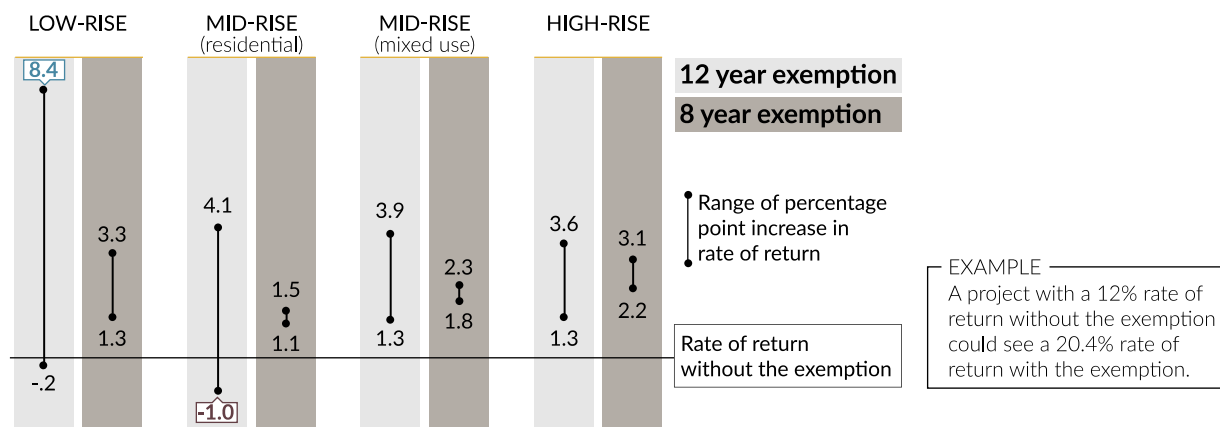
Detailed information about the methods and definitions are in Appendix B.

For the rental models:

- Four multifamily development types are considered in the model: low-rise, mid-rise (residential), mid-rise (mixed use), and high-rise.
- The consultant developed scenarios that represent a combination of development type, land cost, and rental income.
- Each scenario was tested without the MFTE, with the 8-year exemption, and with the 12-year exemption as described in statute (i.e., not reflecting city-level variation).

- **8-year exemption (market rate units):** The model showed that overall, the 8-year exemption increases rate of return by between 1.1 and 3.3 percentage points.
- **12-year exemption (market rate and affordable units):** Overall, the 12-year exemption changes rate of return by between -1.0 and 8.4 percentage points. For each development type, this exemption increases profitability most at lower rent levels where operating income would be lowest.
- Which exemption is more attractive depends on rental prices. When affordable rent limits are close to market rate rent, the 12-year exemption is more profitable than the 8-year exemption. As market rent increases, the 12-year exemption becomes less profitable.

Exhibit 3.1: Rate of return may change between -1.0 and 8.4 percentage points with MFTE



Source: JLARC staff analysis of CAI multifamily housing development financial models.

The model indicates it is inconclusive how often the increase in profitability made developments feasible

Assuming that most developments must generate a rate of return between 15-20% to be financially feasible:

- If a development had a 12% rate of return without the exemption, the 8-year exemption could increase it to 13.1-15.3%. On the low end of this range, the project may be financially infeasible, but on the high end it may be feasible.
- For a similar development, the 12-year exemption could change the rate of return to 11-20.4%. On the low end of this range, the project would also likely be financially infeasible, but on the high end it may be feasible.
- In both of these examples, it is possible the preferences made the project feasible. However, it is also possible that it was insufficient to spur the development to take place.

- The model also indicated examples where development in the eligible areas may already be financially feasible without the incentive.

The model found enough variation across these examples in each jurisdiction that a definitive answer on feasibility is inconclusive. Without more specific information on the actual projects built in the eligible areas, it's not possible to be more conclusive about the effect the preference has had on causing an increase in development that would not otherwise occur.

At least 12 cities use financial analysis when offering or approving exemptions

Statute does not require that cities analyze the impact of the exemption on a development's profitability. However, some cities incorporate the evaluation into their approval process. In interviews with JLARC staff, city planners reported the following:

- Lakewood performs a detailed analysis on each proposed project. The analysis uses assumptions similar to those used by the consultants on this report.
- Seattle recognizes that many projects would be built without the preference, so it uses MFTE to improve the profitability of developments that will include affordable housing units.
- Cities that are part of A Regional Coalition for Housing (ARCH) assess the tax benefit in comparison to the reduction in rent.
- Auburn requires audited expense records before granting the exemption.

As noted in Section 2, cities have different requirements for MFTE programs. Other considerations also may influence either a developer's decision to build or a city's decision to approve an exemption.

- A city may need to offer the exemption to attract development to the targeted area. For example, some locations may be perceived as riskier for development, and therefore require greater profitability to attract developers.
- Housing markets differ in zoning restrictions and city planning goals. For instance, some cities and some markets require developers to include parking. This can increase building costs and affect a developer's decision to build.

In 2018 JLARC staff reviewed a similar preference for Mason County and found no multifamily construction had occurred since that preference had been enacted in 2013. Staff noted at the time that this review may provide further information. CAI included the city of Shelton in their modeling work and found market rents were too low to support any of their modeled development types, with or without the MFTE.

4. Statutory rent limits may not improve affordability

The statutory rent limits may not improve affordability for low- and moderate-income households. Ten cities have adopted lower rent limits.

Statutory affordable rent limit is based on each county's area median income, adjusted for household size

The statutory affordable rent limit is a formula that sets the maximum rental price for an affordable housing unit.

The limit states that the maximum rental price of an affordable housing unit may not exceed 30% of the monthly income of a

hypothetical low- or moderate-income household. To qualify for these units, a household's income must be at or below these qualifying levels:

- Low-income level: 80% of the county's area median income (AMI) or 100% of AMI in high cost counties³.
- Moderate-income level: 115% of the county AMI, or 150% of AMI in high cost counties.

The Department of Housing and Urban Development (HUD) calculates each county's AMI and adjusts it for family size.

Statutory affordable rent limits are based on a county's median income and are not adjusted down to an individual household's actual income

Within a county, all low-income households have the same affordable rent limit, adjusted for family size. Continuing the example from Exhibit 4.1, this means that in a housing unit designated for low-income households, a family making 60% AMI (\$3,230 per month) has the same maximum rental price as a family of the same size making 80% AMI (\$4,307 per month). The same is true for moderate-income households. As a result, the maximum rental price calculated in statute can exceed 30% of income for certain low- and moderate-income renters. A household

Exhibit 4.1: Sample Affordable Rent Calculations

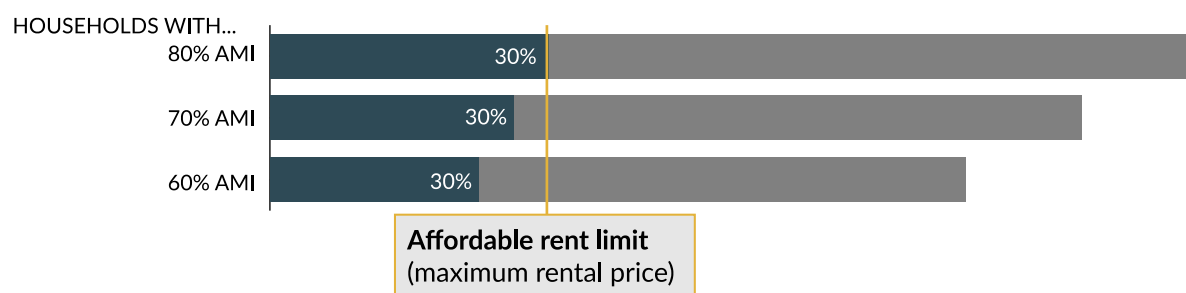
	AREA MEDIAN INCOME (AMI) \$64,600	
	Low income	Moderate income
Qualifying annual income level	\$51,680	\$74,290
Maximum rental price (30% monthly income)	\$1,290	\$1,860

Source: JLARC staff analysis. Calculations reflect a 3-person household in Spokane County.

³Counties with particularly high median housing prices, as reported by the Washington Center for Real Estate Research

earning less than 60% AMI may be eligible for other housing assistance programs. It is unclear the degree to which this affects renters in the targeted areas.

Exhibit 4.2: The maximum rental price does not change, so households earning less than the qualifying income level could pay a greater percentage of income for housing



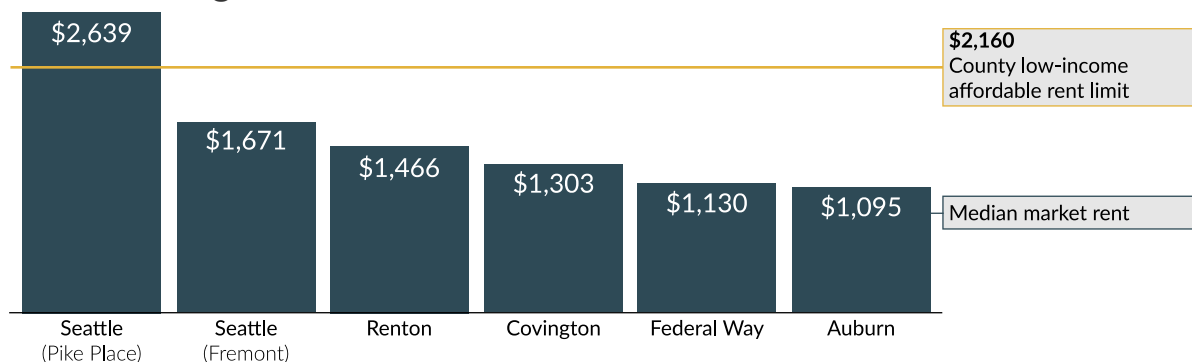
Source: JLARC staff analysis of RCW 84.14.020 and HUD guidance.

Statutory maximum rental prices may be higher than median market rents

To qualify for the 12-year exemption, 20% of new units must be affordable to low- and moderate-income households. Because of the way affordable rent limits are calculated, some property owners are receiving the preference for units that can be rented at or above median market rent.

Cities in King County offer a clear example. The higher household income in Seattle increases the county median income. As a result, median market rents in other communities are below the statutory affordable rent limits. The below exhibit details the low-income affordable rent limit and median market rent of a two-bedroom unit by zip code in 2017, the most recent year for which data was available. The rent limit for a two-bedroom unit is calculated for a three-person household.

Exhibit 4.3: Example of how high-cost cities increase the maximum rent limits for surrounding communities



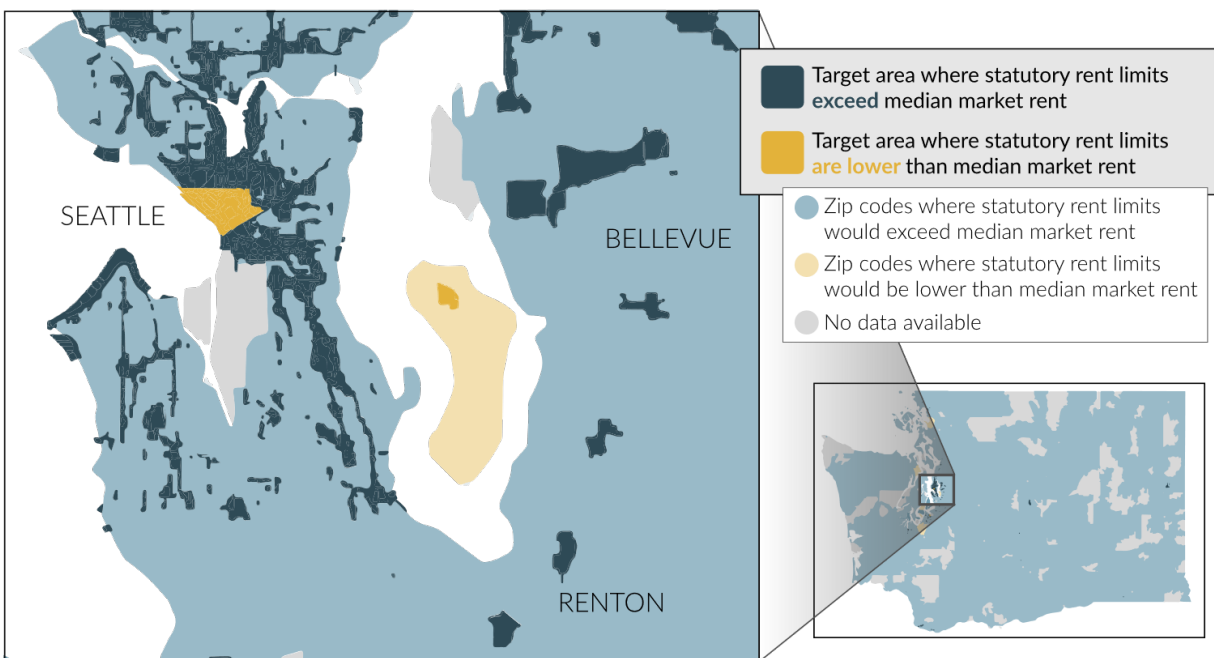
Source: JLARC staff analysis of American Community Survey (ACS) data, HUD 2017 Income Limits, and city ordinances.

The statutory maximum rental price for low-income households exceeded market rent in all targeted areas except downtown Seattle, downtown Tacoma, and Mercer Island

Data does not exist to determine how frequently this occurs across the entire state. However, JLARC staff analysis of American Community Survey (ACS) data shows the potential for this situation in targeted areas and statewide, including cities that have not yet adopted an MFTE program. Data was available for 512 of the 685 zip codes in Washington.

- The statutory maximum rental price for **low-income households** was higher than the median market rent in at least 498 zip codes statewide.
- The statutory maximum rental price for **moderate-income households** was higher than the median market rent in all targeted areas and at least 512 zip codes.

Exhibit 4.4: The statutory maximum rental price for low-income households was higher than median market rent in at least 498 zip codes statewide, including all but three targeted areas



Source: JLARC staff analysis of ACS data 2017, HUD 2017 income limits and city ordinances.

Ten cities in King County use lower qualifying income levels than those in statute

Of the 19 King County cities with an MFTE program, 10 have adopted stricter income requirements that allow fewer households to qualify for affordable housing. For example:

- Seattle uses a range of income limits, depending on the number of bedrooms. The lowest limit is 40% of AMI for a small efficiency dwelling unit⁴, while the highest is 90% of AMI for a three bedroom unit.
- Kirkland also uses a range of income limits. Its lowest limit is 50% of AMI and its highest is 100% of AMI.
- Bellevue uses a range of income limits, between 45% of AMI and 70% of AMI depending on the location of the project and unit size.
- Bellingham, Issaquah, Mercer Island, Redmond, Shoreline, Snoqualmie, and Woodinville also have income requirements lower than 80% of AMI.

However, statute also allows cities in counties with high median housing prices to use higher qualifying income levels (e.g., 100% AMI for low-income households). Ten cities — Marysville, Snoqualmie, Tukwila, Auburn, Burien, Everett, Federal Way, Lynnwood, SeaTac, and Covington — have incorporated this provision into their programs.

5. Tax savings may be shifted to other taxpayers

Savings are estimated to grow from \$80 million to \$137 million by 2023 as cities exempt more developments. The amount shifted to other taxpayers ranged from 0% to 100% depending on levy limits and differing county assessor practices.

In calendar year 2018, beneficiaries saved \$19 million in state property taxes and \$61 million in local property taxes

The owners of exempt multifamily housing properties are the direct beneficiaries of this preference. JLARC staff estimate their savings in calendar year 2018 was \$80 million. As shown in the table below, this amount is expected to increase each year. Over the past four years, an average of \$1.1 billion in new property value became exempt each year. In 2020, approximately \$232 million in property value will lose the exemption and become taxable. If the development trend continues, JLARC staff expect new exemptions to outpace expiring exemptions.

Exhibit 5.1: Estimated beneficiary savings are expected to increase annually

Calendar Year	Est. Direct Beneficiary Savings (State)	Est. Direct Beneficiary Savings (Local)	Total Direct Beneficiary Savings
2018	\$19 million	\$61 million	\$80 million

⁴Also known as micro-housing, with a minimum size of 150 square feet

Calendar Year	Est. Direct Beneficiary Savings (State)	Est. Direct Beneficiary Savings (Local)	Total Direct Beneficiary Savings
2019	\$20 million	\$70 million	\$90 million
2020	\$25 million	\$79 million	\$105 million
2021	\$28 million	\$88 million	\$116 million
2022	\$30 million	\$95 million	\$125 million
2023	\$32 million	\$105 million	\$137 million

Source: JLARC staff analysis of county assessor data.

The beneficiary savings per housing unit varies by city, depending on policy choices and the size and type of developments.

As shown above, most of the beneficiary savings comes from local property taxes. Statewide, on developments that are fully market rate, beneficiaries save an average of \$2,096 per unit, per year for the life of the exemption. For developments that include affordable housing, beneficiaries save an average of \$10,651 per affordable housing unit per year. The amount varies widely by city. For example, the savings per affordable unit in Spokane is \$2,269 while the savings per unit in Tacoma is \$6,091. This is due in part to the different proportions of market rate and affordable units. See Appendix C for detail on each city.

Beneficiary savings could result in a property tax shift or forgone revenue

- A property tax shift means that the amount that would have been collected on the exempt property is paid by other taxpayers.
- Forgone revenue means that the tax is not collected from any taxpayers.

Until 2021, the state portion of the beneficiary savings will be forgone revenue. This is due to temporary legislative changes in school funding that changed state property taxes to a rate-based system for four years. After 2021, state property tax will shift back to a budget-based system and some of the savings will increase taxes paid by other property owners.

The amount of local tax savings that will be shifted to other taxpayers cannot be determined

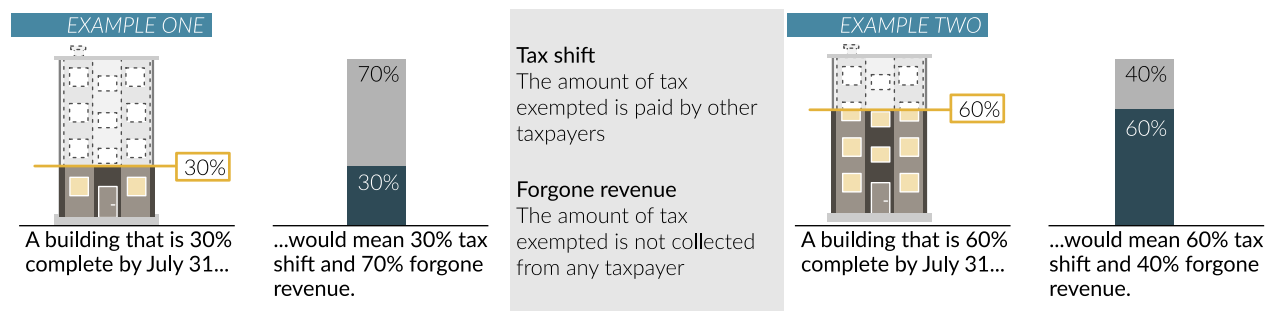
The degree to which this preference led to a local tax shift or a revenue loss depends on multiple factors including local levy limits and the timing of assessment.

- **Local levy limits:** State law limits both the levy amount and levy rate that a taxing district may impose. It also limits the amount by which a taxing jurisdiction may increase its levy each year, excluding new construction values. If a jurisdiction is already at its highest possible levy rate, the exemption results in forgone revenue rather than a tax shift.

- **Assessment timing:** Per RCW 84.14.020, the exemption begins on January 1 after the year in which the city approves it. The Department of Revenue (DOR) notes that RCW 36.21.080 requires county assessors to value all new construction each year. Under the DOR's interpretation of these statutes, assessors should value the completed portions of the property as new construction, as of July 31, and add them to the tax rolls for calculating levy limits for the year. After the exemption is approved, the beneficiary savings would include both forgone revenue and a tax shift.

Because many local taxing jurisdictions extend beyond city limits, some of the impact—both shift and loss—happens outside the cities granting exemptions.

Exhibit 5.2: The tax savings shifted onto other taxpayers depends on the timing of construction and assessment for each development



Source: JLARC staff analysis.

6. Reporting improvements needed for accountability

Without reporting improvements, the Legislature will continue to lack critical information for monitoring the program (e.g., exemption value, units created, participating cities)

Reporting does not meet statutory requirements and is unreliable for program evaluation and compliance monitoring

RCW 84.14.100(2) requires that Pierce County and cities report information to the Department of Commerce each year. However, because of inconsistent reporting and unclear forms, Commerce lacks the information required by statute.

JLARC staff conducted independent data collection

Due to the data problems identified in this section, JLARC staff did not rely solely on Commerce reports for this report.

Additional collection methods include:

- **Phone interviews** with county assessors and city staff.
- **Compiling data** from assessor and apartment web sites.
- **Requesting MFTE-related data** from county assessors, cities, and Commerce.

- At least five cities have not submitted a report during the period reviewed, and at least 11 failed to report in one or more years. Statute does not grant Commerce the authority to compel cities to submit reports, and it cannot identify all participating jurisdictions.
- Most reports were incomplete. Cities used different calculations in the reports, making the overall data unreliable. As a result, Commerce cannot provide reliable information about the number of exempt properties, the number of affordable units, the total value of exemptions granted, or other metrics listed in statute.
- The reporting form created by Commerce lacks some of the detail required by statute (e.g., monthly rent by unit).

Because of these reporting problems, Commerce cannot report critical information to the Legislature such as confirmation that affordable housing units were rented or sold to qualifying households.

Exhibit 6.1: Commerce lacks information required by statute

Cities must report	Data status	JLARC analysis
Number of tax exemptions granted	Partial	At least 11 of the 26 cities have failed to report at some point.
Total number and type of units produced or to be produced	Partial	At least 11 of the 26 cities have failed to report at some point.
Number and type of units meeting affordable housing requirements	Partial	Form does not provide for unit type.
Income of each renter household for each unit	Partial	Form asks only for income on affordable units and some cities did not report this information.
Value of tax exemption for each development	Unreliable	Some cities report for one year, others for the length of the exemption. Four cities reported they did not know the value of the exemption.
Actual development cost of each unit	Unreliable	Some cities reported by unit and others by development. The methodologies vary and it is unclear what costs are included.
Total monthly rent or total sale amount of each unit	Not available	Form allows for only one rent/sale amount per development.

Source: RCW 84.14.100; JLARC staff analysis.

The state lacks detailed data to monitor the program and ensure compliance

Statute does not require cities to report detailed data that would be needed to monitor the program or assess compliance with affordability requirements. For example:

- Cities must report tenant incomes. However, whether the income reported satisfies affordability requirements depends on household size and unit size, which is not reported.
- Cities are not required to link their data to records in the county assessors' offices. As a result, the data used to evaluate the tax impact of the exemption is difficult to compare with the housing impact. JLARC staff relied on internet searches and property sales histories to connect the records.

In 2010, Commerce produced a report to the Governor's office that identified some of these issues.

Local government oversight of the programs varies

Statute grants cities and Pierce County the authority to implement and manage their programs. Local oversight varies. For example:

- After an internal audit in 2012 revealed a lack of internal controls and cases of noncompliance with state and city policies, Seattle established a compliance and monitoring programs that requires substantial documentation and on-site audits. The city's audit report found that 8 of the 16 properties it reviewed were not renting the required number of affordable units, and 9 of the 9 properties it reviewed had inconsistencies between their annual property certification reports and the documents used to assess renters' income.
- In contrast, at least one city has never collected the compliance reports that property owners are required to file annually.
- Longview requires on-site verification of compliance annually.

Cities and Pierce County have implemented some provisions of the exemption in ways that may differ from statutory intent or state guidance

Both Commerce and the Department of Revenue (DOR) provide guidance to cities and county assessors upon request. Some statutory provisions have been interpreted differently by cities.

- To qualify for a twelve-year exemption, a project must make at least 20% of its units affordable to "low- and moderate-income households." According to DOR, the requirement may be satisfied if at least one unit is affordable to low-income households, as long as the rest of the 20% are affordable to moderate-income households. However,

at least one city allows the requirement to be satisfied if units are affordable only to moderate-income households.

- According to DOR, assisted living facilities are not eligible for the exemption. At least two properties that provide assisted living are receiving the exemption.
- Exempt rental housing must provide “permanent residential occupancy,” excluding hotels and motels that provide daily or weekly rental accommodations. At least one property claiming the exemption has rented out units on Airbnb, the short-term rental platform. At the time of this report, the city stated it was investigating the matter and that the question of short-term rentals was not clearly addressed by statute.

7. Applicable statutes

RCW 84.14

Findings

84.14.005

The legislature finds:

- (1) That in many of Washington's urban centers there is insufficient availability of desirable and convenient residential units, including affordable housing units, to meet the needs of a growing number of the public who would live in these urban centers if these desirable, convenient, attractive, affordable, and livable places to live were available;
- (2) That the development of additional and desirable residential units, including affordable housing units, in these urban centers that will attract and maintain a significant increase in the number of permanent residents in these areas will help to alleviate the detrimental conditions and social liability that tend to exist in the absence of a viable mixed income residential population and will help to achieve the planning goals mandated by the growth management act under RCW 36.70A.020; and
- (3) That planning solutions to solve the problems of urban sprawl often lack incentive and implementation techniques needed to encourage residential redevelopment in those urban centers lacking a sufficient variety of residential opportunities, and it is in the public interest and will benefit, provide, and promote the public health, safety, and welfare to stimulate new or enhanced residential opportunities, including affordable housing opportunities, within urban centers through a tax incentive as provided by this chapter.

[2007 c 430 § 1; 1995 c 375 § 1.]

Purpose

84.14.007

It is the purpose of this chapter to encourage increased residential opportunities, including affordable housing opportunities, in cities that are required to plan or choose to plan under the

growth management act within urban centers where the governing authority of the affected city has found there is insufficient housing opportunities, including affordable housing opportunities. It is further the purpose of this chapter to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers having insufficient housing opportunities that will increase and improve residential opportunities, including affordable housing opportunities, within these urban centers. To achieve these purposes, this chapter provides for special valuations in residentially deficient urban centers for eligible improvements associated with multiunit housing, which includes affordable housing. It is an additional purpose of this chapter to allow unincorporated areas of rural counties that are within urban growth areas to stimulate housing opportunities and for certain counties to stimulate housing opportunities near college campuses to promote dense, transit-oriented, walkable college communities.

[2014 c 96 § 2; 2012 c 194 § 1; 2007 c 430 § 2; 1995 c 375 § 2.]

Definitions

84.14.010

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households.

(2) "Campus facilities master plan" means the area that is defined by the University of Washington as necessary for the future growth and development of its campus facilities for campuses authorized under RCW 28B.45.020.

(3) "City" means either (a) a city or town with a population of at least fifteen thousand, (b) the largest city or town, if there is no city or town with a population of at least fifteen thousand, located in a county planning under the growth management act, or (c) a city or town with a population of at least five thousand located in a county subject to the provisions of RCW 36.70A.215.

(4) "County" means a county with an unincorporated population of at least three hundred fifty thousand.

(5) "Governing authority" means the local legislative authority of a city or a county having jurisdiction over the property for which an exemption may be applied for under this chapter.

(6) "Growth management act" means chapter 36.70A RCW.

(7) "High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington center for real estate research at Washington State

University is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

(8) "Household" means a single person, family, or unrelated persons living together.

(9) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "low-income household" means a household that has an income at or below one hundred percent of the median family income adjusted for family size, for the county where the project is located.

(10) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "moderate-income household" means a household that has an income that is more than one hundred percent, but at or below one hundred fifty percent, of the median family income adjusted for family size, for the county where the project is located.

(11) "Multiple-unit housing" means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

(12) "Owner" means the property owner of record.

(13) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(14) "Rehabilitation improvements" means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.

(15) "Residential targeted area" means an area within an urban center or urban growth area that has been designated by the governing authority as a residential targeted area in accordance with this chapter. With respect to designations after July 1, 2007, "residential targeted area" may not include a campus facilities master plan.

(16) "Rural county" means a county with a population between fifty thousand and seventy-one thousand and bordering Puget Sound.

(17) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

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

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

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

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

[2017 c 52 § 16; 2014 c 96 § 3. Prior: 2012 c 194 § 2; prior: 2007 c 430 § 3; 2007 c 185 § 1; 2002 c 146 § 1; 2000 c 242 § 1; 1997 c 429 § 40; 1995 c 375 § 3.]

Exemption - Duration - Valuation.

84.14.020

(1)(a) The value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows:

(i) For properties for which applications for certificates of tax exemption eligibility are submitted under chapter 84.14 RCW before July 22, 2007, the value is exempt for ten successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate; and

(ii) For properties for which applications for certificates of tax exemption eligibility are submitted under chapter 84.14 RCW on or after July 22, 2007, the value is exempt:

(A) For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate; or

(B) For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under chapter 84.14 RCW and meets the conditions in this subsection (1)(a)(ii)(B). For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection (1)(a)(ii)(B) may be satisfied solely through housing affordable to moderate-income households.

(b) The exemptions provided in (a)(i) and (ii) of this subsection do not include the value of land or nonhousing-related improvements not qualifying under this chapter.

(2) When a local government adopts guidelines pursuant to RCW 84.14.030(2) and includes conditions that must be satisfied with respect to individual dwelling units, rather than with respect to the multiple-unit housing as a whole or some minimum portion thereof, the exemption

may, at the local government's discretion, be limited to the value of the qualifying improvements allocable to those dwelling units that meet the local guidelines.

(3) In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to the submission of the application required under this chapter. The incentive provided by this chapter is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

(4) This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(5) At the conclusion of the exemption period, the new or rehabilitated housing cost shall be considered as new construction for the purposes of chapter 84.55 RCW.

[2007 c 430 § 4; 2002 c 146 § 2; 1999 c 132 § 1; 1995 c 375 § 5.]

Application - Requirements

84.14.030

An owner of property making application under this chapter must meet the following requirements:

(1) The new or rehabilitated multiple-unit housing must be located in a residential targeted area as designated by the city or county;

(2) The multiple-unit housing must meet guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents or sale prices, and other adopted requirements indicated necessary by the city or county. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(3) The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty percent of the space for permanent residential occupancy. In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional multifamily units;

(4) New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application;

(5) Property proposed to be rehabilitated must fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995. If the property proposed to be rehabilitated is not vacant, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate; and

(6) The applicant must enter into a contract with the city or county approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

[2012 c 194 § 3; 2007 c 430 § 5; 2005 c 80 § 1; 1997 c 429 § 42; 1995 c 375 § 6.]

Designation of residential targeted area—Criteria—Local designation—Hearing—Standards, guidelines.

84.14.040

(1) The following criteria must be met before an area may be designated as a residential targeted area:

- (a) The area must be within an urban center, as determined by the governing authority;
- (b) The area must lack, as determined by the governing authority, sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center, if the affordable, desirable, attractive, and livable places to live were available;
- (c) The providing of additional housing opportunity, including affordable housing, in the area, as determined by the governing authority, will assist in achieving one or more of the stated purposes of this chapter; and
- (d) If the residential targeted area is designated by a county, the area must be located in an unincorporated area of the county that is within an urban growth area under RCW 36.70A.110 and the area must be: (i) In a rural county, served by a sewer system and designated by a county prior to January 1, 2013; or (ii) in a county that includes a campus of an institution of higher education, as defined in RCW 28B.92.030, where at least one thousand two hundred students live on campus during the academic year.

(2) For the purpose of designating a residential targeted area or areas, the governing authority may adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the governing authority to consider the designation of the area and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority must give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city or county where the proposed residential targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a residential targeted area.

(4) Following the hearing, or a continuance of the hearing, the governing authority may designate all or a portion of the area described in the resolution of intent as a residential targeted area if it

finds, in its sole discretion, that the criteria in subsections (1) through (3) of this section have been met.

(5) After designation of a residential targeted area, the governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under RCW 84.14.060. The standards and guidelines must establish basic requirements for both new construction and rehabilitation, which must include:

(a) Application process and procedures;

(b) Requirements that address demolition of existing structures and site utilization; and

(c) Building requirements that may include elements addressing parking, height, density, environmental impact, and compatibility with the existing surrounding property and such other amenities as will attract and keep permanent residents and that will properly enhance the livability of the residential targeted area in which they are to be located.

(6) The governing authority may adopt and implement, either as conditions to eight-year exemptions or as conditions to an extended exemption period under RCW 84.14.020(1)(a)(ii)(B), or both, more stringent income eligibility, rent, or sale price limits, including limits that apply to a higher percentage of units, than the minimum conditions for an extended exemption period under RCW 84.14.020(1)(a)(ii)(B). For any multiunit housing located in an unincorporated area of a county, a property owner seeking tax incentives under this chapter must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households. In the case of multiunit housing intended exclusively for owner occupancy, the minimum requirement of this subsection (6) may be satisfied solely through housing affordable to moderate-income households.

[2014 c 96 § 4; 2012 c 194 § 4; 2007 c 430 § 6; 1995 c 375 § 7.]

NOTES:Tax preference performance statement—2014 c 96: "This section is the tax preference performance statement for the tax preference contained in RCW 84.14.040 and 84.14.060. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to stimulate the construction of new multifamily housing in urban growth areas located in unincorporated areas of rural counties where housing options, including affordable housing options, are severely limited. It is the legislature's intent to provide the value of new housing construction, conversion, and rehabilitation improvements qualifying under chapter 84.14 RCW an exemption from ad valorem property taxation for eight to twelve years, as provided for in RCW 84.14.020, in order to provide incentives to developers to construct new multifamily housing thereby increasing the number of affordable housing units for low to moderate-income residents in certain rural counties.

(3) If a review finds that at least twenty percent of the new housing is developed and occupied by households making at or below eighty percent of the area median income, at the time of occupancy, adjusted for family size for the county where the project is located or where the housing is intended exclusively for owner occupancy, the household may earn up to one hundred fifteen percent of the area median income, at the time of sale, adjusted for family size for the county where the project is located, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to data provided by counties in which beneficiaries are utilizing the preference, the office of financial management, the department of commerce, the United States department of housing and urban development, and other data sources as needed by the joint legislative audit and review committee." [2014 c 96 § 1.]

Application - Procedures

84.14.050

An owner of property seeking tax incentives under this chapter must complete the following procedures:

- (1) In the case of rehabilitation or where demolition or new construction is required, the owner must secure from the governing authority or duly authorized representative, before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building and housing codes;
- (2) In the case of new and rehabilitated multifamily housing, the owner must apply to the city or county on forms adopted by the governing authority. The application must contain the following:
 - (a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;
 - (b) A description of the project and site plan, including the floor plan of units and other information requested;
 - (c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;
- (3) The applicant must verify the application by oath or affirmation; and
- (4) The application must be accompanied by the application fee, if any, required under RCW 84.14.080. The governing authority may permit the applicant to revise an application before final action by the governing authority.

[2012 c 194 § 5; 2007 c 430 § 7; 1999 c 132 § 2; 1997 c 429 § 43; 1995 c 375 § 8.]

Approval - Required findings

84.14.060

- (1) The duly authorized administrative official or committee of the city or county may approve the application if it finds that:
- (a) A minimum of four new units are being constructed or in the case of occupied rehabilitation or conversion a minimum of four additional multifamily units are being developed;
 - (b) If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in RCW 84.14.020;
 - (c) The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;
 - (d) The owner has complied with all standards and guidelines adopted by the city or county under this chapter; and
 - (e) The site is located in a residential targeted area of an urban center or urban growth area that has been designated by the governing authority in accordance with procedures and guidelines indicated in RCW 84.14.040.
- (2) An application may not be approved after July 1, 2007, if any part of the proposed project site is within a campus facilities master plan, except as provided in RCW 84.14.040(1)(d).
- (3) An application may not be approved for a residential targeted area in a rural county on or after January 1, 2020.

[2014 c 96 § 5; 2012 c 194 § 6. Prior: 2007 c 430 § 8; 2007 c 185 § 2; 1995 c 375 § 9.]

Processing - Approval - Denial - Appeal

84.14.070

- (1) The governing authority or an administrative official or commission authorized by the governing authority must approve or deny an application filed under this chapter within ninety days after receipt of the application.
- (2) If the application is approved, the city or county must issue the owner of the property a conditional certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in RCW 84.14.060.
- (3) If the application is denied by the authorized administrative official or commission authorized by the governing authority, the deciding administrative official or commission must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.
- (4) Upon denial by a duly authorized administrative official or commission, an applicant may appeal the denial to the governing authority within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's decision. The decision of the governing body in denying or approving the application is final.

[2012 c 194 § 7; 1995 c 375 § 10.]

Fees

84.14.080

The governing authority may establish an application fee. This fee may not exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee must be paid at the time the application for limited exemption is filed. If the application is approved, the governing authority shall pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

[1995 c 375 § 11.]

Filing requirements for owner upon completion—Determination by city or county—Notice of intention by city or county not to file—Extension of deadline—Appeal.

84.14.090

(1) Upon completion of rehabilitation or new construction for which an application for a limited tax exemption under this chapter has been approved and after issuance of the certificate of occupancy, the owner must file with the city or county the following:

- (a) A statement of the amount of rehabilitation or construction expenditures made with respect to each housing unit and the composite expenditures made in the rehabilitation or construction of the entire property;
- (b) A description of the work that has been completed and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption under this chapter;
- (c) If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020; and
- (d) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the authorized representative of the city or county must determine whether the work completed, and the affordability of the units, is consistent with the application and the contract approved by the city or county and is qualified for a limited tax exemption under this chapter. The city or county must also determine which specific improvements completed meet the requirements and required findings.

(3) If the rehabilitation, conversion, or construction is completed within three years of the date the application for a limited tax exemption is filed under this chapter, or within an authorized extension of this time limit, and the authorized representative of the city or county determines that improvements were constructed consistent with the application and other applicable requirements, including if applicable, affordable housing requirements, and the owner's property is qualified for a limited tax exemption under this chapter, the city or county must file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The authorized representative of the city or county must notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(a) The rehabilitation or new construction was not completed within three years of the application date, or within any authorized extension of the time limit;

(b) The improvements were not constructed consistent with the application or other applicable requirements;

(c) If applicable, the affordable housing requirements as described in RCW 84.14.020 were not met; or

(d) The owner's property is otherwise not qualified for limited exemption under this chapter.

(5) If the authorized representative of the city or county finds that construction or rehabilitation of multiple-unit housing was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority or the city or county official authorized by the governing authority may extend the deadline for completion of construction or rehabilitation for a period not to exceed twenty-four consecutive months.

(6) The governing authority may provide by ordinance for an appeal of a decision by the deciding officer or authority that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city or county officer authorized by the governing authority to hear the appeal in accordance with such reasonable procedures and time periods as provided by ordinance of the governing authority. The owner may appeal a decision by the deciding officer or authority that is not subject to local appeal or a decision by the local appeal authority that the owner is not entitled to a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city or county to the owner of the decision being challenged.

[2012 c 194 § 8; 2007 c 430 § 9; 1995 c 375 § 12.]

Report - Filing

84.14.100

(1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for the tax exemption period, the owner of the rehabilitated or newly constructed property must

file with a designated authorized representative of the city or county an annual report indicating the following:

- (a) A statement of occupancy and vacancy of the rehabilitated or newly constructed property during the twelve months ending with the anniversary date;
- (b) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the certificate approved by the city or county;
- (c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and
- (d) Any additional information requested by the city or county in regards to the units receiving a tax exemption.

(2) All cities or counties, which issue certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, must report annually by December 31st of each year, beginning in 2007, to the department of commerce. The report must include the following information:

- (a) The number of tax exemption certificates granted;
- (b) The total number and type of units produced or to be produced;
- (c) The number and type of units produced or to be produced meeting affordable housing requirements;
- (d) The actual development cost of each unit produced;
- (e) The total monthly rent or total sale amount of each unit produced;
- (f) The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption and a summary of these figures for the city or county; and
- (g) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

[2012 c 194 § 9; 2007 c 430 § 10; 1995 c 375 § 13.]

Cancellation of exemption—Notice by owner of change in use—Additional tax—Penalty—Interest—Lien—Notice of cancellation—Appeal—Correction of tax rolls.

84.14.110

(1) If improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under RCW 84.14.020, so long as they are not converted to another use and continue to satisfy all applicable conditions. If the owner intends to convert the multifamily development to another use, or if applicable, if the owner intends to discontinue

compliance with the affordable housing requirements as described in RCW 84.14.020 or any other condition to exemption, the owner must notify the assessor within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the authorized representative of the governing authority discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements, including, if applicable, affordable housing requirements, as previously approved or agreed upon by contract between the city or county and the owner and that the multifamily housing, or a portion of the housing, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonmultifamily use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from multifamily use or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(2) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority or authorized representative must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

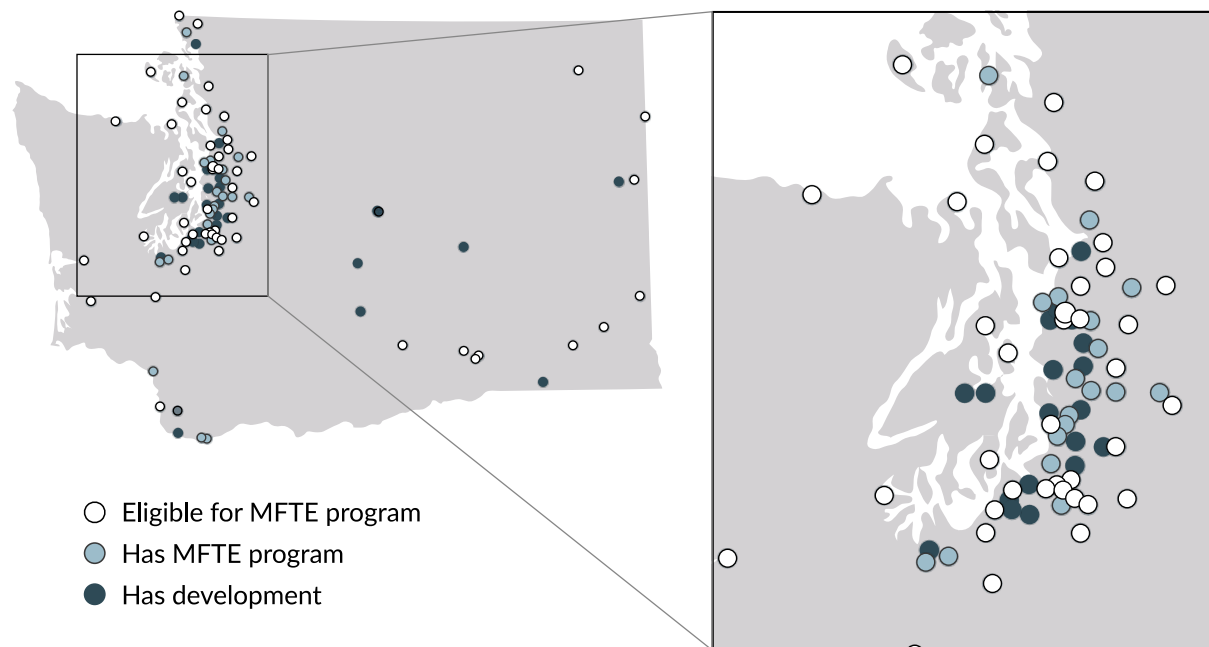
(3) Upon determination by the governing authority or authorized representative to terminate an exemption, the county officials having possession of the assessment and tax rolls must correct the rolls in the manner provided for omitted property under RCW 84.40.080. The county assessor must make such a valuation of the property and improvements as is necessary to permit the correction of the rolls. The value of the new housing construction, conversion, and rehabilitation improvements added to the rolls is considered as new construction for the purposes of chapter 84.55 RCW. The owner may appeal the valuation to the county board of equalization under chapter 84.48 RCW and according to the provisions of RCW 84.40.038. If there has been a failure to comply with this chapter, the property must be listed as an omitted assessment for assessment years beginning January 1 of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

[2012 c 194 § 10; 2007 c 430 § 11; 2002 c 146 § 3; 2001 c 185 § 1; 1995 c 375 § 14.]

Appendix A. Overview of MFTE Programs

Of the 102 cities that are eligible, 49 have adopted an MFTE program and 26 have approved exemptions. Pierce County also is eligible and has approved exemptions.

Exhibit A.1: Pierce County and 27 cities have approved (exempt) developments (2019 data)



Source: JLARC staff analysis.

Exhibit A.2: Sortable list of cities eligible to create MFTE programs

City Name	Has MFTE program?	Has Development?	City Name	Has MFTE program?	Has Development?
Seattle	Yes	Yes	Edgewood	No	No
Aberdeen	No	No	Edmonds	Yes	No
Anacortes	Expired in 2015	No	Ellensburg	Yes	Yes
Arlington	No	No	Enumclaw	No	No
Auburn	Yes	Yes	Everett	Yes	Yes
Bainbridge Island	No	No	Federal Way	Yes	No
Battle Ground	No	No	Ferndale	Yes	No
Bellevue	Yes	Yes	Fife	No	No
Bellingham	Yes	Yes	Fircrest	No	No
Blaine	No	No	Friday Harbor	No	No
Bonney Lake	No	No	Gig Harbor	No	No
Bothell	No	No	Issaquah	Yes	No
Bremerton	Yes	Yes	Kenmore	Yes	Yes
Brier	No	No	Kennewick	No	No
Burien	Yes	Yes	Kent	Yes	Yes
Camas	Yes	No	Kirkland	Yes	Yes
Centralia	No	No	Lacey	Yes	No
Colville	No	No	Lake Forest Park	No	No
Covington	Yes	Yes	Lake Stevens	No	No
Dayton	No	No	Lakewood	Yes	Yes
Des Moines	Yes	No	Longview	Yes	No
DuPont	No	No	Lynden	No	No
Duvall	No	No	Lynnwood	Yes	No
East Wenatchee	No	No	Maple Valley	No	No

City Name	Has MFTE program?	Has Development?
Marysville	Expired in 2018	No
Mercer Island	Yes	No
Mill Creek	No	No
Milton	No	No
Monroe	Yes	No
Moses Lake	Yes	Yes
Mount Vernon	No	No
Mountlake Terrace	Yes	Yes
Mukilteo	No	No
Newcastle	Yes	No
Newport	No	No
Normandy Park	No	No
North Bend	No	No
Oak Harbor	No	No
Olympia	Yes	Yes
Orting	No	No
Pacific	No	No
Pasco	No	No
Pierce County	Yes	Yes
Pomeroy	No	No
Port Angeles	No	No
Port Orchard	Yes	Yes
Port Townsend	Yes	No
Poulsbo	No	No
Pullman	No	No

City Name	Has MFTE program?	Has Development?
Puyallup	Yes	No
Raymond	No	No
Redmond	Yes	No
Renton	Yes	Yes
Richland	No	No
Ridgefield	No	No
Sammamish	No	No
SeaTac	Yes	No
Shelton	No	No
Shoreline	Yes	Yes
Snohomish	No	No
Snoqualmie	Yes	No
Spokane	Yes	Yes
Spokane Valley	No	No
Stanwood	No	No
Steilacoom	No	No
Sultan	No	No
Sumner	No	No
Sunnyside	No	No
Tacoma	Yes	Yes
Tukwila	Yes	Yes
Tumwater	Yes	No
University Place	Yes	Yes
Vancouver	Yes	Yes
Walla Walla	Yes	Yes
Washougal	Yes	No

City Name	Has MFTE program?	Has Development?	City Name	Has MFTE program?	Has Development?
Wenatchee	Yes	Yes	Yakima	Yes	Yes
Woodinville	Yes	No	Yelm	No	No

Source: JLARC staff analysis.

Appendix B. Methodology

JLARC staff worked with real estate economists to determine the effect of the MFTE on development

JLARC staff contracted with Community Attributes, Inc. (CAI) to conduct an analysis of the effect of the multifamily tax exemption on a development's financial performance as measured by the rate of return on investment. The consultants developed financial models that estimated the rate of return for different development types, in different markets across the state.

Download

[Link to CAI methodology](#)

[Link to CAI assumptions and limitations](#)

Appendix C. Interactive project statistics

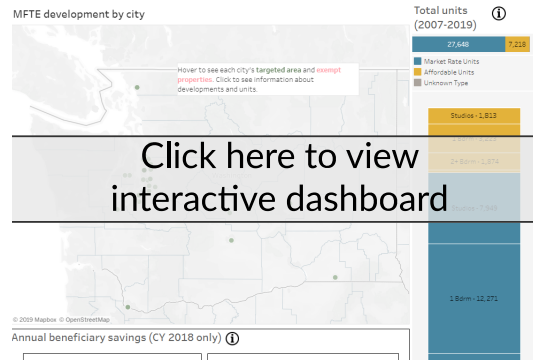
JLARC staff compiled data from the Department of Commerce, cities, and county assessors

This interactive dataset allows users to see:

- Where housing has been built in participating cities.
- The size of units created.
- The number of affordable units created.
- The savings per unit.

As noted in the report, cities have discretion in how they implement the program. The interactive data shows the variation between cities in each of the factors listed above. While this dataset represents the most complete accounting of housing created by MFTE, not all data is available for all cities due to the data problems reported in Tab 6.

Click on image to enable interactive data filtering (clicking on image will take you to another website called Tableau Public).



Source: JLARC staff analysis of data from Commerce, cities, and county assessors.

RECOMMENDATIONS & RESPONSES

Legislative Auditor's Recommendation

Legislative Auditor recommends modifying the preference to direct cities to include analysis of profitability as a consideration in offering or approving exemptions

This will help ensure the exemption targets developments that fulfill state and local housing objectives and minimize unnecessary subsidization. The appropriate type of analysis may vary depending on the city, and should include:

- Analysis of a development's profitability with and without the exemption.
- For affordable housing, city-specific income and rent limits.

The Department of Commerce should report annually to JLARC and the relevant policy committees on city compliance with the requirements, as well as the metrics in statute and affordability measures. The report should include the metrics needed to assess affordability, such as income, household size and rent at the per unit level. In its first report in July 2020, in addition to providing data on compliance and metrics, if Commerce believes it needs additional resources or authority to ensure this takes place, Commerce should report back to the Legislature on what it needs.

The Department of Revenue should report to JLARC and the relevant policy committees on which statutory ambiguities can be resolved through guidance and which require statutory changes. These include items such as the timing of new construction, eligibility of assisted living facilities, composition of low- and moderate-income households in affordable units, and inclusion of short-term rental units.

Legislation Required: Yes

Fiscal Impact: Depends on Legislation

Agency Responses: Commerce and Revenue do not concur

View the Legislative Auditor's response to agency comment

Letter from Commission Chair

State of Washington Citizen Commission for Performance Measurement of Tax Preferences

COMMISSION MEMBERS

Dr. Grant Forsyth Chair
Avista Corp.
Ronald Bueing Vice Chair
Diane Lourdes Dick
Seattle University School of Law

Dr. Justin Marlowe
Evans School of Public Policy and Governance
University of Washington
Andi Nofziger-Meadows
Edmonds Education Association

NON-VOTING MEMBERS

Senator Mark Mullet
Chair, Joint Legislative Audit and Review Committee
Pat McCarthy
State Auditor

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E-mail: JLARC@leg.wa.gov | Website: www.citizen taxpref.wa.gov | Twitter: @WALegAuditor

October 30, 2019

The Honorable Representative Timm Ormsby
The Honorable Representative Drew Stokesbary
The Honorable Representative Cindy Ryu
The Honorable Representative Bill Jenkin
The Honorable Representative Zack Hudgins
The Honorable Representative Norma Smith
The Honorable Representative Gael Tarleton

The Honorable Representative Ed Orcutt
The Honorable Senator Patty Kuderer
The Honorable Senator Hans Zeiger
The Honorable Senator Mark Mullet
The Honorable Senator Lynda Wilson
The Honorable Senator Christine Rolfes
The Honorable Senator John Braun

Re: 2019 Tax Preference Reviews

Dear Senators and Representatives,

I am pleased to forward to you the comments that the Citizen Commission for Performance Measurement of Tax Preferences unanimously adopted for this year's review of tax preferences. The Citizen Commission consists of five voting members, with a member appointed by each of the four caucuses and the Governor's office. Notably, reviews this year included the \$569M aerospace preferences that were expanded and extended in 2013, as well as a \$262M preference to encourage development of multifamily and affordable housing.

We adopted positions similar to the Legislative Auditor for eight of the nine recommendations issued this year. I would like to call your attention to a recommendation from the Citizen Commission to the Legislature to form a taskforce to improve the information available to the Legislature on the use and consistency of the multifamily tax preference.

The full text of our Commissioner recommendations, summaries of the JLARC staff's analysis and recommendations, and brief video summaries of each preference are available on the 2019 Tax Preference Reviews overview page linked [here](#).

Tax preference reviews provide valuable information as the Legislature considers whether specific preferences are meeting the Legislature's policy objectives. With this year's report, there are now 13 years of tax preference evaluations available to the Legislature, comprising over 296 individual reviews.

I urge you to consider this year's and previous years' recommendations and comments on tax preference statutes in the upcoming legislative session. An interactive summary of legislative action on prior reviews is available [here](#).

As Chair of the Citizen Commission, I would be pleased to discuss the Commission's position and comments with you and any interested legislators. Please feel free to contact me (grant.forsyth@leg.wa.gov) or the Legislative Auditor, Keenan Konopaski (keenan.konopaski@leg.wa.gov or 360-786-5187).

Sincerely,



Grant D. Forsyth, Chair
Citizen Commission for Performance Measurement of Tax Preferences

Commissioners' Recommendation

The Commission endorses the Legislative Auditor's recommendation with comment. The Legislature should pay particular attention to reporting guidelines as it applies to low-income units and residents. In particular, the lack of reporting means the actual number of low-income units and associated rents are difficult to identify. This makes it impossible to analyze how the tax preference is impacting the low-income housing supply. Testimony regarding the City of Olympia's use of the preferences strongly highlights the current reporting problems.

The Legislature may want to review how rent limits for low-income households are set. In particular, the Legislature may want to include in the formula an adjustment for a low-income household's actual income, rather than relying only on a county's median income.

Finally, public testimony raised the important question of whether the introduction of MFTEs in Washington communities has had the unanticipated consequence of increasing rental costs and squeezing out existing affordable housing. More research is needed to investigate the impacts of this preference on housing affordability in Washington.

While the commission endorses the intent of the Legislative Auditor's recommendations to Commerce and Revenue to improve reporting and clarify ambiguities, both departments did not concur and cite resource and authority issues to act on this without further legislative action. However, without improvements in clarity and allowable use, the Legislature will continue having difficulty determining the preference's success. The commission suggests the Legislature could begin with a workgroup to provide options to improve reporting and consistency of use.

Department of Commerce



STATE OF WASHINGTON DEPARTMENT OF COMMERCE

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www.commerce.wa.gov

September 19, 2019

Via email: keenan.konopaski@leg.wa.gov
Keenan Konopaski, Legislative Auditor
Joint Legislative Audit and Review Committee
106 11th Avenue Southwest Suite 2500
PO Box 40910
Olympia, WA 98504-0910

Re: JLARC 2019 Tax Preference Reviews

Dear Mr. Konopaski:

Thank you for the letter of August 29, 2019 regarding the Joint Legislative Audit and Review Committee's (JLARC) 2019 Tax Preference Reviews. We appreciate the opportunity to respond to JLARC's recommendations for Commerce.

We concur that an annual report could be a useful tool to help share information around the state about the use of the multifamily tax exemption (MFTE) program. Such a report could help cities understand where the program is being used and under what circumstances. It could also help inform programs to be more effective. However, our response to the JLARC recommendation is as follows.

RECOMMENDATION/AGENCY	AGENCY POSITION	COMMENTS
<i>Commerce should report annually to the JLARC and relevant policy committees on city compliance with the (multi-unit tax exemption) requirements, as well as metrics in statute and affordability measures. The report should include the metrics needed to assess affordability, such as income, household size and rent at the per unit level. In first report, in July 2020, in addition to providing data</i>	At this time, we do not concur with the recommendation. Commerce will need additional resources and authority to provide the recommended report.	Although RCW 84.14.100 states that cities "must report annually" to Commerce, we have no authority to compel local governments to submit complete reports each year. RCW 84.14 does not currently require Commerce to create annual reports summarizing this information, and no funding is currently available to do so. An

Keenan Konopaski
September 19, 2019
Page 2

RECOMMENDATION/AGENCY (continued)	AGENCY POSITION (continued)	COMMENTS (continued)
<i>on compliance and metrics, if Commerce believes it needs additional resources or authority to ensure this takes place, Commerce should report back to the Legislature on what it needs.</i>		annual report to JLARC and the legislature represents a significant body of work, especially in the first year. Commerce would need to identify additional staff resources (approximately 0.2 FTE) to compile and review the data, develop the draft report, coordinate external and internal review as required, and issue the report.

In summary, we currently lack the authorization and funding to support the development of an annual report. For now, Commerce is considering revisions to the MFTE reporting form to request additional information from reporting cities for the 2019 reports. Should the Legislature consider amendments to the MFTE program in the upcoming legislative session, Commerce will work to engage and build understanding about a path forward on this issue.

Thank you again for the opportunity to comment. If you have questions, please contact Ike Nwankwo at (360) 725-3056 or Anne Fritzel at (360) 725-3064.

Sincerely,



Connie Robins
Deputy Director

cc: Mark Barkley, Assistant Director, Local Government
Diane Klontz, Assistant Director, Community Services and Housing
Jasmine Vasavada, Legislative Director
Dave Andersen, Managing Director, Growth Management Services, Commerce
Ike Nwankwo, Financial and Technical Assistance Manager, Growth Management Services
Anne Fritzel, Senior Planner, Growth Management Services
David Duvall, Department of Revenue
John Ryse, Department of Revenue
Kathy Oline, Department of Revenue
Marc Baldwin, Office of Financial Management
Jim Schmidt, Office of Financial Management
Rachel Murata, Research Analyst, JLARC
Josh Karas, Research Analyst, JLARC
Aaron Cavin, Research Analyst, JLARC
Eric Thomas, Audit Coordinator, JLARC

Department of Revenue



STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR

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September 11, 2019

TO: Keenan Konopaski, Legislative Auditor
Joint Legislative Audit & Review Committee

FROM: Vikki Smith, Director
Department of Revenue *VKS*

SUBJECT: JLARC Preliminary Report on the 2019 Tax Preference Performance Reviews

The Washington State Department of Revenue (Department) appreciates the opportunity to review and comment on the Joint Legislative Audit and Review Committee's (JLARC) 2019 Tax Preference Reviews.

We believe that continuous review of state tax preferences is important to help the state of Washington maintain a fair and equitable tax system. However, because of the limited time provided for the review, this response is limited to JLARC's request that the Department formally respond to its recommendation regarding the property tax exemption for multifamily housing in urban areas (MFTE).

RECOMMENDATION/AGENCY	AGENCY POSITION	COMMENTS
The Department of Revenue should report to JLARC and the relevant policy committees on which statutory ambiguities can be resolved through guidance and which require statutory changes. These include items such as the timing of new construction, eligibility of assisted living facilities, composition of low- and moderate-income households in affordable units, and inclusion of short-term rental units.	The Department does not concur with JLARC's recommendation.	The Department believes local jurisdictions that have implemented the MFTE are in the best position to report to JLARC and the Legislature on which statutory ambiguities can be resolved through guidance and which require statutory changes. Responsibility for implementing the MFTE lies solely with eligible local jurisdictions. While the Department, upon request, will

		<p>provide guidance to local jurisdictions and county assessors regarding the MFTE, we do not approve applications, audit taxpayers' claiming this exemption, or audit the local authority's administration of the exemption program.</p> <p>For these reasons, the Department suggests that JLARC recommend local authorities report on any interpretive or administrative issues they have encountered and the best methods for resolving them.</p>
--	--	---

Thank you again for the opportunity to review and comment on JLARC's recommendation regarding the MFTE program.

Sincerely,

Vikki Smith
Director

cc: David Schumacher, Director, Office of Financial Management
Lisa Brown, Director, Department of Commerce
David Duvall, Legislative and External Affairs Liaison, Department of Revenue
Jasmine Vasavada, Legislative Director, Department of Commerce

Association of Washington Cities



1076 Franklin Street SE • Olympia, WA 98501-1346

September 20, 2019

Keenan Konopaski
Legislative Auditor
Joint Legislative Audit and Review Committee
Washington State Legislature

Mr. Konopaski,

Thank you for the invitation to provide comments in response to the preliminary 2019 Tax Preference Performance Review for the Property Tax Exemption for Multifamily Housing in Urban Areas. We appreciate the efforts of your office and your staff to evaluate the effectiveness of this program, and your recommendations for areas of potential improvement.

As the citizen's commission and ultimately the legislature considers their response to the report and potential changes to the operation of this program, we wanted to share some thoughts based on feedback over the years from our members on multifamily tax exemption (MFTE) program.

We have consistently heard support for this program as a critical tool for cities to influence housing development. There has been much conversation in recent years about the role of cities in promoting housing development and a desire for cities to do more, through revisiting zoning, regulations, fees etc. Those approaches can only go so far. As you know, as much as cities may crave and attempt to set the table for development – we are generally dependent on the private sector to choose to build in our cities.

Despite some of the lowest vacancy rates in the country, Washington has a number of cities that struggle to attract even market rate multifamily development, let alone rent-restricted affordable housing. As the report notes, there are cities where rents will not support multifamily development even with this property tax abatement. In cities on the margins, we hear statements like: "We have permitted about 1,200 housing units with the program, and each developer has indicated they could not have built the project without it." As an illustrative example of how many cities feel about this tool, the multifamily tax exemption program was described to us by one member as the most effective tool that the legislature has provided cities to promote housing development.

It is important to cities that we do not lose access or make impossible to utilize one of the few tools we have to directly affect the bottom line of housing development and therefore make it more likely that building will occur. It is also important to our members that this program remain, as it was originally created, eligible to promote market-rate development.

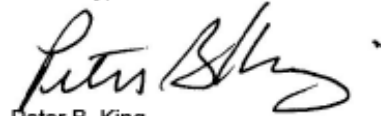
We appreciate the identification of possible areas of improvement in this program, and the thorough review of how different cities have chosen to operate their programs within the statute. One challenge that cities always face is developing and maintaining the staffing capacity and expertise to effectively operate programs. Different cities have varying capacity, both financial and institutional, to administer all programs and these are no different. Providing access to a profitability assessment tool would allow for greater information for local decisionmakers when deploying this program. How to make that available for cities who would like that information is worthy of further conversation. We believe it would be most effective and most likely to be utilized if the state assisted cities by developing and promulgating the means to assess these factors.

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We would like to be involved in conversations about how to improve consistency and accuracy of reporting under this program. Over the years we have also wished that there was more readily available information on these programs. There may be opportunities to improve and provide clarity to the reporting process.

We appreciate the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter B. King". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Peter B. King
Chief Executive Officer
Association of Washington Cities

Legislative Auditor's Response to Agency Comment

I am disappointed that the Departments of Commerce and Revenue did not concur with my recommendations to them for improving the information available to the Legislature on the use and consistency of the MFTE program. That said, I am encouraged that Revenue has noted they will provide advice to cities upon their request.

Both Departments cited resource and authority issues. In spite of these concerns, increasing housing accessibility and ensuring consistency in local property tax assessments are central to the missions of these departments. Without improvements in information and consistency, the Legislature cannot monitor how much housing has been developed or whether the program is applied consistently. While this program is administered by local jurisdictions, the state has policy and financial interests as well. Beneficiaries saved \$19 million in state property taxes in calendar year 2018, in addition to \$61 million in local property taxes.

The Citizen Commission offers a path forward by suggesting that the Legislature convene a workgroup to propose ways to improve reporting and consistency of use for MFTE. That workgroup should include Commerce, Revenue, and the Association of Cities. Without such action, the Legislature will continue to lack critical information to monitor this program, which is estimated to grow to over \$100 million per year.

MORE ABOUT THIS REVIEW

Study questions



Proposed Study Questions: Property Tax Exemption for Multifamily Housing in Urban Areas

State of Washington Joint Legislative Audit and Review Committee

7/23/2018

Citizen Commission scheduled a JLARC study of the property tax exemption for multifamily housing in urban areas

The 2006 Legislature directed the staff of the Joint Legislative Audit and Review Committee (JLARC) to conduct performance audits of tax preferences. This preference is included in the 10-year review schedule set by the Citizen Commission for Performance Measurement of Tax Preferences.



The Multifamily Housing Tax Exemption (MFTE) is a property tax exemption program that allows eligible cities and counties to target specific areas for more multifamily housing development. Eligibility is based on population and certain urban planning requirements. Property owners may apply for an 8-year or 12-year property tax exemption for building or rehabilitating multifamily housing. The 12-year exemption requires owners to offer at least 20% of their units as affordable housing (i.e., costs no more than 30% of a household's income). The 8-year exemption may or may not require affordable housing, depending on the jurisdiction. If a city or county chooses to create a program, it may create additional requirements or restrictions.

Property tax exemption to encourage multifamily housing development or redevelopment

The preference has three stated public policy objectives for eligible jurisdictions:

1. Encourage more residential options by stimulating development of new and rehabilitated multifamily housing in jurisdictions that plan under the Growth Management Act.
2. Encourage affordable housing in areas where local jurisdictions have found a need for it.
3. Allow unincorporated areas within urban growth areas to stimulate housing development near college campuses.

At this time, 102 cities and one county are eligible to create programs using the preference. Twenty cities reported that at least one project was built using the program.

Study Questions

This study will seek answers to the following questions:

1. How much multifamily housing has been created using the program, where is it located, and how much of it meets affordability requirements?

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Keenan Konopaski, Washington State Legislative Auditor

Proposed Study Questions: Multifamily Property Tax Exemption in Urban Areas

2. In jurisdictions where the program is used, how much estimated multifamily housing would exist without the program?
3. Do the new units meet the housing needs of the local population?
4. Why is the MFTE program used in some cities but not in others?
5. What is the value of the exemption, and how does it impact state and local tax revenue and the tax burden on other property owners?

Study Timeframe

Preliminary Report: July 2019

Proposed Final Report: December 2019

Study Team

Team Lead:	Rachel Murata	360-786-5293	rachel.murata@leg.wa.gov
Research Analyst:	Joshua Karas	360-786-5298	joshua.karas@leg.wa.gov
Project Coordinator:	Eric Thomas	360-786-5182	eric.thomas@leg.wa.gov

JLARC Study Process



More about 2019 reviews

Audit authority

The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in [Chapter 44.28 RCW](#), requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

Timeframe for the study

A preliminary audit report will be presented at the July 2019 JLARC meeting and at the August 2019 meeting of the Commission. A final report will be presented to JLARC in December 2019.

More about 2019 reviews

Study process

What is a tax preference?

Tax preferences are defined in statute (RCW [43.136.021](#)) as exemptions, exclusions, or deductions from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. Washington has approximately 600 tax preferences.

Why a review of tax preferences?

Legislature creates a process to review tax preferences

In 2006, the Legislature stated that periodic reviews of tax preferences are needed to determine if their continued existence or modification serves the public interest. The Legislature enacted Engrossed House Bill 1069 to provide for an orderly process for the review of tax preferences (RCW [43.136](#)).

Statute assigns specific roles to two different entities:

- The Citizen Commission for Performance Measurement of Tax Preferences ("The Commission") creates a schedule for reviews, holds public hearings, and comments on the reviews.

- Staff to the Joint Legislative Audit and Review Committee (JLARC) conduct the reviews.

Citizen Commission sets the schedule

The Legislature directed the Commission to develop a schedule to accomplish an orderly review of most tax preferences over ten years. The Commission is directed to omit certain tax preferences from the schedule, such as those required by constitutional law. The Commission may also exclude preferences from review that the Commission determines are a critical part of the tax structure.

The Commission conducts its reviews based on analysis prepared by JLARC staff. In addition, the Commission may elect to rely on information supplied by the Department of Revenue.

In 2019, JLARC staff reviewed 17 preferences compiled into nine reports (similar preferences may be combined into one report). The Commission's website includes analysis of preferences completed in previous years: See <http://www.citizentaxpref.wa.gov/>.

JLARC staff's approach to the tax preference reviews

Statute guides the main topics typically covered in the reviews.

Public policy objectives:

1. What are the public policy objectives that provide a justification for the tax preference? Is there any documentation on the purpose or intent of the tax preference? (RCW 43.136.055(b))
2. What evidence exists to show that the tax preference has contributed to the achievement of any of these public policy objectives? (RCW 43.136.055(c))
3. To what extent will continuation of the tax preference contribute to these public policy objectives? (RCW 43.136.055(d))
4. If the public policy objectives are not being fulfilled, what is the feasibility of modifying the tax preference for adjustment of the tax benefits? (RCW 43.136.055(g))

Beneficiaries:

5. Who are the entities whose state tax liabilities are directly affected by the tax preference? (RCW 43.136.055(a))
6. To what extent is the tax preference providing unintended benefits to entities other than those the Legislature intended? (RCW 43.136.055(e))

Revenue and economic impacts:

7. What are the past and future tax revenue and economic impacts of the tax preference to the taxpayer and to the government if it is continued? (This includes an analysis of the general effects of the tax preference on the overall state economy, including the effects on consumption and expenditures of persons and businesses within the state.) (RCW 43.136.055(h))

8. If the tax preference were to be terminated, what would be the negative effects on the taxpayers who currently benefit from the tax preference and the extent to which the resulting higher taxes would have an effect on employment and the economy? (RCW 43.136.055(f))
9. If the tax preference were to be terminated, what would be the effect on the distribution of liability for payment of state taxes? (RCW 43.136.055(i))
10. For those preferences enacted for economic development purposes, what are the economic impacts of the tax preference compared to the economic impacts of government activities funded by the tax? (RCW 43.136.055(j))

Other states:

11. Do other states have a similar tax preference and what potential public policy benefits might be gained by incorporating a corresponding provision in Washington? (RCW 43.136.055(k))

JLARC staff's analysis process

JLARC staff carefully analyze a variety of evidence in conducting these reviews:

- Legal and public policy history of the tax preferences.
- Beneficiaries of the tax preferences.
- Government and other relevant data pertaining to the utilization of these tax preferences.
- Economic and revenue impact of the tax preferences.
- Other states' laws to identify similar tax preferences.

Key: understanding the purpose of the preference

The Legislature now requires that any legislation creating a new preference, or expanding or extending an existing preference, must include a tax preference performance statement. The performance statement must contain a statement of legislative purpose as well as metrics to evaluate the effectiveness of the preference (RCW [82.32.808](#)).

Some of the preferences included in this report were passed before the 2013 legislation that requires performance statements. When a preference's purpose or objective is identified in statute, staff are able to affirmatively state the public policy objective. Sometimes the objective may be found in intent statements or in other parts of statute if there is no tax preference performance statement.

When the Legislature did not state the public policy objective of a preference, JLARC staff may be able to infer what the implied public policy objective might be. To arrive at this inferred policy objective, staff review the following:

- Legislative history, including
 - Final bill reports for any statements on the intent or public policy objectives.

- Bills prior to the final version and legislative action on bills related to the same topic.
- Bill reports and testimony from various versions of the bill.
- Records of floor debate.
- Relevant court cases that provide information on the objective.
- Department of Revenue information on the history of tax preferences, including rules, determinations, appeals, audits, and taxpayer communication.
- Press reports during the time of the passage of the bill which may indicate the intention of the preference.
- Other historic documents, such as stakeholder statements, that may address the issue addressed by the tax preference.

JLARC staff also interview the agencies that administer the tax preferences or are knowledgeable of the industries affected by the tax. Agencies may provide data on the value and usage of the tax preference and the beneficiaries. If the beneficiaries of the tax are required to report to other state or federal agencies, JLARC staff will also obtain data from those agencies.

If there is sufficient information in this evidence to infer a policy objective, JLARC staff state that in the reviews. In these instances, the purpose may be a more generalized statement than when there is explicit statutory language.

More about 2019 reviews

Contact information

JLARC staff members

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Eric Thomas, Audit Coordinator

Keenan Konopaski, Legislative Auditor

JLARC members on publication date

Senators

Bob Hasegawa
Mark Mullet, *Chair*
Rebecca Saldaña
Shelly Short
Dean Takko
Lynda Wilson, *Secretary*
Keith Wagoner

Representatives

Jake Fey
Noel Frame
Larry Hoff
Christine Kilduff
Vicki Kraft
Ed Orcutt, *Vice Chair*
Gerry Pollet, *Assistant Secretary*
Drew Stokesbary

Citizen Commission for Performance Measurement of Tax Preferences

Voting members

Dr. Grant D. Forsyth
Ronald L. Bueing
Diane Lourdes Dick
Dr. Justin Marlowe
Andi Nofziger-Meadows

Non-voting members

Mark Mullet, JLARC Chair
Pat McCarthy, State Auditor

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