



SEATTLE CITY COUNCIL

Select Budget Committee

Agenda

Thursday, November 30, 2023

9:30 AM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Teresa Mosqueda, Chair
Lisa Herbold, Vice-Chair
Debora Juarez, Member
Andrew J. Lewis, Member
Tammy J. Morales, Member
Sara Nelson, Member
Alex Pedersen, Member
Kshama Sawant, Member
Dan Strauss, Member

Chair Info: 206-684-8808; Teresa.Mosqueda@seattle.gov

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November 30, 2023 - 9:30 AM

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<http://www.seattle.gov/council/committees/budget>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at

<http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Pursuant to Council Rule VI.10., this committee meeting will broadcast members of the public in Council Chambers during the Public Comment period.

Submit written comments to Councilmembers at Council@seattle.gov

Please Note: Times listed are estimated

A. Call To Order**B. Approval of the Agenda****C. Public Comment****D. Items of Business**

1. [Res 32116](#) **A RESOLUTION** relating to the City's annual budget process; updating modified biennial budgeting processes; establishing guidelines for mid-year budget changes; establishing data sharing and reporting requirements; and superseding Resolutions 28885 and 31954.

Supporting Documents:

[Summary and Fiscal Note](#)
[Amendment 1 to RES 32116](#)

Briefing, Discussion, and Possible Vote

Presenters: Esther Handy, Director, and Aly Pennucci, Deputy Director, Council Central Staff

2. [CB 120716](#) **AN ORDINANCE** relating to the establishment of a Fiscal Transparency Program; requiring periodic and consistent reporting and monitoring of City budgetary, financial, and fiscal policy information to the City Council and the public; adding a new Chapter 3.140 to, and amending Sections 3.14.100 and 5.08.020 of, the Seattle Municipal Code; and requesting that the Code Reviser recodify Chapter 5.08 of the Seattle Municipal Code in Subchapter I of Chapter 3.14.

Supporting Documents:

[Summary and Fiscal Note](#)

Briefing, Discussion, and Possible Vote

Presenters: Esther Handy, Director, Aly Pennucci, Deputy Director, and Tom Mikesell, Council Central Staff

3. [CB 120717](#) **AN ORDINANCE relating to human services contracts that include appropriated money expressly reserved for the purpose of human services provider pay; requiring that such appropriated money be used only for wage increases for human services workers that are in addition to inflationary adjustments; establishing contracting and reporting requirements regarding use of such appropriated money; and adding a new Chapter 20.61 and Section 20.61.010 to the Seattle Municipal Code.**

Supporting Documents:

[Summary and Fiscal Note](#)

Briefing, Discussion, and Possible Vote

Presenter: Jen LaBrecque, Council Central Staff

4. [CB 120602](#) **AN ORDINANCE repealing the tax on gross income derived from the business of selling or furnishing water for hire to customers; amending Sections 5.48.050 and 5.48.060 of the Seattle Municipal Code.**

Supporting Documents:

[Summary and Fiscal Note](#)

[Amendment 1 to CB 120602](#)

Briefing and Discussion

Presenter: Brian Goodnight, Council Central Staff

5. [CB 120601](#) **AN ORDINANCE imposing an excise tax on the sale or exchange of certain capital assets in Seattle; adding a new Chapter 5.66 to the Seattle Municipal Code; and adding a new Section 5.45.050 to the Seattle Municipal Code.**

Supporting Documents:

[Summary and Fiscal Note](#)

[Amendment 1 to CB 120601](#)

Briefing and Discussion

Presenter: Tom Mikesell, Council Central Staff

E. Adjournment



Legislation Text

File #: Res 32116, **Version:** 1

CITY OF SEATTLE

RESOLUTION _____

A RESOLUTION relating to the City’s annual budget process; updating modified biennial budgeting processes; establishing guidelines for mid-year budget changes; establishing data sharing and reporting requirements; and superseding Resolutions 28885 and 31954.

WHEREAS, chapter 35.32A of the Revised Code of Washington (RCW) provides the framework for adoption

of The City of Seattle’s annual budget, further guided by Resolution 28885, adopted in 1994; and

WHEREAS, Resolution 28885 established a modified biennial budget process beginning in 1995; and

WHEREAS, since 1995, every two years the Council and Mayor have adopted a budget for the following year and endorsed a budget for the year following; and

WHEREAS, appropriations have always been adopted on an annual basis under chapter 35.32A RCW; and

WHEREAS; the City process to develop and approve the annual budget in the second year of the modified biennial budget process are similar to the first year of the biennium; and

WHEREAS, in 2020, the City Council and Mayor adopted Resolution 31954, suspending the modified biennial budget process for the 2020-2021 biennium; and

WHEREAS, via Resolution 31954, the Council requested that the City Budget Office (CBO) and the Department of Finance and Administration Services (FAS), in consultation with Council Central Staff, evaluate and report on both the near- and long-term solutions that allow for sufficient and transparent budget planning; and

WHEREAS, the City’s supplemental and carryforward budget processes have broadly utilized RCW 35.32A.060, which allows appropriating funds mid-year to meet the needs of the city “for which insufficient or no appropriations have been made due to causes which could not reasonably have been

foreseen at the time of the making of the budget”; and

WHEREAS, this broad application of the state budget act has resulted in increasingly time-intensive supplemental and carryforward budget processes; and

WHEREAS, the City has limited resources for fiscal analysis, budget monitoring, and preparing plans for how to optimally invest the City’s financial resources to address community needs; and

WHEREAS, defined guidelines for mid-year budget changes, that encourage City departments to adhere to their biennial appropriations when possible while also allowing the City to adapt to emerging community needs and circumstances when needed can help the City realize more sustainable service levels; and

WHEREAS, in 2023, the Council and the Executive, established new guidelines for the odd-year mid-biennium budget development and review processes that aligns practice to the policy outlined in Resolution 28885; and

WHEREAS, Statement of Legislative Intent (SLI) LEG-322-A-001-2023, requested recommendations from a Council Central Staff (CS) and the City Budget Office (CBO) workgroup related to the annual budget process and treatment of General Fund planning reserves; and

WHEREAS, Seattle, like all public bodies, grapples with the issue of how to appropriately reserve resources for current year and future needs when there are aspects of confidentiality and/or lack of precise cost information at the time of budgeting and Seattle’s current practice for addressing this issue is through planning reserves, for which there are no formal policies in place; and

WHEREAS the response to SLI LEG-322-A-001-2023 includes eight joint recommendations from CS and CBO intended to increase transparency in City budgeting, reporting, and use of City resources; and

WHEREAS, adopting a new resolution to guide the City’s budget processes and policies related to the planning reserves will memorialize those recommendations and the new budget processes implemented in the 2023-2024 biennium; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR

CONCURRING, THAT:

Section 1. Citywide biennial budgeting. A biennium consists of an odd-numbered year and the following even-numbered year (Year 1 and Year 2, respectively). Budget processes for Year 1 and Year 2 occur in the fall preceding each of those years. In the fall preceding the biennium, The City of Seattle will develop and deliberate on a biennial budget consisting of two one-year budgets for all City departments. The City will pass an ordinance adopting balanced appropriations for Year 1 consistent with chapter 35.32A RCW, and will adopt a resolution endorsing appropriations for Year 2, with that is balanced over the two-year period. Starting with the endorsed Year 2 budget, the City Council will consider and approve Year 2's budget. Expenditure authority will be appropriated at the budget control level.

A. For Year 1:

1. The Mayor proposes a two-year balanced budget, and then the Council reviews, modifies, and considers adjustments through the Chair of the Select Budget Committee's balancing package and/or standalone amendments.

2. The Council adopts a budget for the first year of the biennium by ordinance and endorses a budget for the second year in the biennium by resolution. The adopted and endorsed budgets will serve as the basis for departments' spending in the biennium.

B. For Year 2, the Mayor proposes adjustments to the endorsed budget, and then the Council reviews the adjustments, considers additional adjustments, and adopts a budget for Year 2. The adjustments in Year 2 should result in minimal changes.

1. Year 2 budget adjustments will address current conditions and updated assumptions that were not foreseen in Year 1. This includes, but is not limited to, adjustments that respond to:

- a. Changes to the revenue forecast necessary to balance the budget;
- b. Changes to assumptions about the cost to deliver City programs and services;

- c. Proposals to carry forward appropriations from Year 1 as necessary to carry out an essential project or program that will not be fully expended in Year 1;
- d. Emergent community needs prioritized by the Mayor and the Council;
- e. A proclaimed civil emergency pursuant to Seattle Municipal Code Chapter 10.02; or
- f. New opportunities to partner with external organizations or other governmental agencies to leverage City investments.

2. After transmittal of the Year 2 proposed budget by the Mayor, the Council may request a Select Budget Committee briefing from the Executive on the status of certain initiatives funded in Year 1, such as progress reports on implementation of programs and services newly funded in Year 1.

Section 2. Supplemental budget changes

A. Definitions

1. “Supplemental budget bill” means a bill that proposes to amend the adopted annual budget under the authority provided in chapter 35.32A RCW, such as annual carryforward legislation, mid-year and year-end supplemental budget bills, grant appropriation bills, and standalone budget bills.

2. “Standalone supplemental budget and grant bill” means a bill that proposes to amend the annual budget related to a single discrete City program or department, or to appropriate grant funds from a discrete source or a discrete program, or to appropriate multiple grants for a single department.

3. “Comprehensive supplemental budget bill” means a bill that proposes to amend the annual budget and that affects several City departments and funds in a single bill, and typically comes to the Council in the following forms:

- a. Annual carryforward: Requesting that a portion of select department’s unspent prior year budget be reappropriated in the current year to continue or complete a discrete program or project for which the funding was originally provided, but which could not be fully completed in the year it was appropriated.

b. Mid-year and year-end supplemental: Making changes across multiple departments to abrogate or decrease any unexpended allowance contained within the budget and reappropriate such unexpended allowances for other functions or programs, and appropriate funds generated through year-end fund reconciliation and revenue forecast updates.

c. First quarter, mid-year, and year-end grant acceptance: Authorize spending of those grant funds. Grant appropriations are included within the bill that authorizes the acceptance of grants across multiple departments.

B. Process

1. Standalone supplemental budget and grant bills. To the extent practicable, standalone supplemental budget and grant bills shall only be requested if necessary to address an emergency need or to comply with the terms of a grantor. The summary and fiscal note, as defined in Seattle Municipal Code Chapter 3.140 shall describe why this proposal necessitates a standalone bill and why the request cannot be considered as part of a mid-year or year-end supplemental bill.

2. Comprehensive supplemental budget bills

a. Annual carryforward: The Executive may submit carryforward legislation annually, if necessary, by April 1 of each year. City departments and offices shall only request to carry forward unspent funds from the previous year's budget if those appropriations are necessary to carry out an essential project or program approved in the previous year's budget. The Summary and Fiscal Note shall provide a detailed description of the carryforward request, including why the funds were not spent or encumbered in the year they were budgeted.

b. Mid-year and year-end supplemental budget bills: The Executive may transmit comprehensive supplemental budget bills up to two times each year: (1) a mid-year supplemental budget bill transmitted to the Council by June 20; and (2) a year-end supplemental budget bill transmitted to the Council by the last Tuesday in September. The Mayor and the Council shall consider requests for amendments to the

current year's adopted budget in the supplemental budget process if the requested amendment meets certain criteria. The summary and fiscal note shall describe how:

i. The request is necessary to meet the actual expenditures of the city for which insufficient or no appropriations were made in the annual budget due to causes which could not reasonably have been foreseen at the time of the making of the budget and cannot await the next year's budget; and

ii. The request is immediately implementable and will endeavor to be fully expended in the year, as practicable as possible, in which the funds are requested; or

iii. The request is necessary to reduce or otherwise modify appropriations to address updates to the City's revenue forecast for any City fund; or

iv. The request is of a technical nature that does not impact the delivery of City programs or services.

c. Supplemental grant appropriation bills: The Executive may transmit comprehensive supplemental grant bills up to three times each year: (1) a first quarter supplemental grant bill; (2) a mid-year supplemental grant bill; and (3) a year-end supplemental grant bill. Supplemental grant appropriation bills will authorize the acceptance and spending of grants not identified at the time the annual budget was adopted.

Section 3. Planning reserves. To increase transparency and a shared ownership of reserve decisions between the Council and Executive, the City Budget Office and Central Staff will explore and analyze the following strategies and provide options to the Select Budget Committee by June 30, 2024 for consideration in Year 1 of the 2025-2026 Biennial Budget process to develop:

A. An approach to brief the Select Labor Committee on labor reserves as they relate to current negotiations, prior to budget transmittal.

B. An appropriated Risk Reserve for the operating budget as a combined reserve for items with confidentiality considerations like labor reserves and reserves for the Judgment & Claims Fund.

Section 4. Fees and rates. The City intends to adopt rates and fees only in Year 1. The rate or fee

structures may include changes to take effect in Year 2 of a biennium or beyond the biennium. Other rate changes may be made if necessary in the case of emergencies or other unanticipated events.

Section 5. Position lists. The City will adopt department-wide position lists. At the time of adopting the Year 1 budget, the Mayor and Council will adopt the Year 1 position list and endorse the Year 2 position list that will be reviewed, adjusted as necessary, and adopted in Year 2. The endorsed Year 2 position list will anticipate additions, abrogations, and reclassifications resulting from reorganizations.

Section 6. Financial reporting. To increase monitoring of the City’s financial position during the year and to develop an additional a tool that informs budget development, the City Budget Office in collaboration with the Office of City Finance will provide mid-year and year-end updates on the performance of all financials by department and budget control level, comparing budget versus actual and narrative descriptions on significant under/over spending within departments beginning third quarter 2025. The Fiscal Transparency Program financial monitoring pilot program will review spending variances greater than five percent or \$100,000. As these reporting thresholds are refined and by second quarter of 2025, the City Budget Office will report to the Finance Committee the proposed reporting thresholds for financial monitoring and timing of the reports submitted to the Council.

Adopted by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its adoption this _____ day of _____, 2023.

President _____ of the City Council

The Mayor concurred the _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

Attachments (if any):

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
LEG	Esther Handy	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: A RESOLUTION relating to the City’s annual budget process; updating modified biennial budgeting processes; establishing guidelines for mid-year budget changes; establishing data sharing and reporting requirements; and superseding Resolutions 28885 and 31954.

Summary and Background of the Legislation:

This legislation would define and update the City’s practices for biennial budgeting and mid-year budget changes. Specifically, it would:

- Set the City’s biennial budgeting process, in which the Mayor develops and the Council deliberates on a biennial budget consisting of two one-year budgets. The Council passes an ordinance adopting the budget for Year 1 consistent with chapter 35.32A RCW and endorses appropriations for Year 2. In Year 2, the Mayor’s proposes adjustments to the endorsed budget and the Council reviews those adjustments, considers additional adjustments, and adopts a budget for Year 2.
- Define the cadence of mid-year budget changes through an Annual Carryforward, Mid-year and Year-End Supplementals and up to three Supplemental Grant Appropriations Bills per year.
- Explore new practices for the planning reserves including an approach to brief the Select Labor Committee on labor reserves and the creation of an appropriated Risk Reserve for items with confidentiality considerations.
- Maintain requirements for the City to adopt department-wide position lists in each year of the biennium.
- Establish a current-year financial reporting program consisting of mid-year and year-end updates on the performance of all financials by department and BCL, beginning in the third quarter 2025, and asks the City Budget Office (CBO) to propose thresholds, format and timing for the reporting.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?

Yes No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

The legislation updates the City's practices for biennial budgeting, mid-year budget changes and financial reporting, that are currently being completed with existing staff at CBO, the Office of City Finance and Council Central Staff, with participation from all City Departments. It is expected the requirements can be sustained in the long term with existing staff resources.

In the short term, in 2024, as the Executive strives to work collaboratively with the City Council to address the projected General Fund deficit and develop a balanced 2025-2026 biennial budget, CBO has competing demands for their existing resources. CBO may reach a capacity limit to complete all projects in 2024, including the financial reporting required in this resolution.

Are there financial costs or other impacts of *not* implementing the legislation?

The current year financial reporting program will provide an additional tool and information about year-to-date spending, to inform budget decisions. Not implementing this legislation would leave the City with fewer tools to inform decisions, and may result in less sustainable budget decisions.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

Yes, CBO, the Office of City Finance, and Central Staff team at the Legislative Department are responsible for implementing the requirements of this ordinance. All City Departments will participate in budget development, mid-year budget changes and financial monitoring.

b. Is a public hearing required for this legislation?

No

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No

d. Does this legislation affect a piece of property?

No

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

Equitable budgeting is a core strategy defined in the City's current RSJI strategic plan to embed racial equity into City of Seattle policies and process. This Resolution does not directly address racial disparities in the City but may indirectly increase capacity and tools to focus on the impact of city services.

Updating City practices for biennial budgeting are designed to:

- Create sustainable budgets, which maintain appropriate service levels and enable City Departments, and the contracted partners that deliver city services, to focus on service performance.
- Shift second-year budget process goals towards financial monitoring and planning, to improve the City's financial management and the information available to budget decision-makers.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

Summary Attachments (if any):

Amendment 1 Version 1 to Resolution 32116 – Request

Sponsor: Councilmember Pedersen

Request that the Executive provide enhanced reporting on all Central Service costs

Effect: This amendment adds a new section to Resolution 32116 to request that by April 30, 2024, the City Budget Office (CBO), Department of Finance and Administrative Services (FAS), Seattle Information Technology Department (Seattle IT), and the Seattle Department of Human Resources (SDHR), provide a detailed briefing to the Council’s Finance Committee on the City’s cost allocation plan and estimates of central rates and indirect cost changes for the 2025-2026 biennium.

Background:

Indirect costs, commonly referred to as “overhead” or central services, are costs that account for support services that are provided by multiple departments, including Department of Finance and Administrative Services (FAS), Seattle Information Technology Department (Seattle IT), and the Seattle Department of Human Resources (SDHR), and centrally managed cost for healthcare, retirement, and industrial insurance charges for the City. Through a cost allocation plan, the City identifies and distributes these central service costs across all departments and funds to ensure that the departments and funds are fairly and accurately paying for the services they are projected to receive.

Some central cost changes in the budget are simpler, and therefore easier to track and present (i.e., retirement and healthcare related costs), while a comprehensive analysis of all central rates is complex. In particular, it is difficult for the Council and the public to track and tie central rates to the budget changes in individual departments and City funds and to understand the budget impacts and cost implications of some internal service costs. Improving Council’s understanding of these internal rates, will help the Council determine if the appropriate funding levels necessary to support the delivery of City services.

Add a new Section 7 to RES 32116 as follows:

Section 7. The Council requests that by April 30, 2024, the City Budget Office (CBO), Department of Finance and Administrative Services (FAS), Seattle Information Technology Department (Seattle IT), and the Seattle Department of Human Resources (SDHR), provide a detailed joint briefing to the Council’s Finance and Housing Committee on the City’s cost

allocation plan, estimates of central rates, and indirect cost changes, for the 2025-2026 biennium.

The purpose of this request is to enhance transparency through greater understanding for the public and the Council on the central rate process, including understanding central costs by department and by fund, amount charged, and how that amount is determined. By requesting this briefing, the Council states its intent to understand and assess all central service costs to determine the appropriate level of funding to support the delivery of City services and identify cost-saving opportunities. This could include reprioritization and consolidation of services to free up resources and help address the projected deficit in the General Fund.

This briefing should provide details on the proposed central cost allocation plan, including:

1. A non-technical but detailed presentation of the internal services and programs funded through central rates, and assumptions identified to date about proposed changes to the rates for the 2025-2026 biennium budget.

2. The methodology used to develop rates and cost allocations, including sharing the models, with all formulas embedded, used to determine the annual rate and the charges by department.

3. Estimates developed to date about potential citywide adjustments for standard cost changes that may be reflected in the 2025-2026 Proposed Budget.



Legislation Text

File #: CB 120716, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to the establishment of a Fiscal Transparency Program; requiring periodic and consistent reporting and monitoring of City budgetary, financial, and fiscal policy information to the City Council and the public; adding a new Chapter 3.140 to, and amending Sections 3.14.100 and 5.08.020 of, the Seattle Municipal Code; and requesting that the Code Reviser recodify Chapter 5.08 of the Seattle Municipal Code in Subchapter I of Chapter 3.14.

WHEREAS, a review of state fiscal note practices by the Center for Budget and Policy Priorities finds that preparing fiscal notes for all legislation, projecting long term fiscal impacts of proposed legislation, revising the estimates as needed, and posting fiscal notes online are best practices in the preparation and presentation of fiscal estimates for proposed legislation; and

WHEREAS, the Government Finance Officers Association recommends that “all governments establish a formal set of processes for comparing budget to actual results to monitor financial performance. Budget monitoring should include analysis of a diverse set of indicators to best inform the analysis and facilitate evaluation of a government's overall performance. Establishing and conducting regular budget monitoring provides organizations the opportunity to promptly adjust for any significant variances to ensure continuity of program/service delivery”; and

WHEREAS, the City has a fiscal note practice that describes current-year fiscal impacts that is periodically updated to incorporate new information such as about capital, climate, and race and social justice impacts, to meet the needs of the City and its policy makers; and

WHEREAS, the City Budget Office (CBO) launched a new fiscal monitoring program in 2023 that engages City departments, including staff from the Office of City Finance and CBO in consistent analysis about

budget-to-actual spending; and

WHEREAS, the City is projecting a structural General Fund (Fund 00100) deficit of more than \$200 million per year starting in 2025, and regular fiscal monitoring, reporting, and planning will provide an additional tool to assess the City's financial position, aid in addressing projected deficits and make sustainable budget decisions; and

WHEREAS, Resolution 31954 requested that the City Budget Office (CBO) and the Department of Finance and Administration Services (FAS), in consultation with Council Central Staff (CS), evaluate and report on both the near- and long-term solutions that allow for sufficient and transparent budget planning; and

WHEREAS, Statement of Legislative Intent (SLI) LEG-322-A-001-2023, requested recommendations from a CS and CBO workgroup related to the annual budget process and treatment of General Fund planning reserves; and

WHEREAS, the response to the SLI includes eight recommendations from CS and CBO intended to increase transparency in City budgeting, reporting, and use of City resources; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 3.140 is added to the Seattle Municipal Code as follows:

Chapter 3.140 FISCAL TRANSPARENCY PROGRAM

3.140.010 Establishment and purpose

There is established a Fiscal Transparency Program created by the City Budget Office of the Executive Department. The City Budget Director shall develop and implement the Fiscal Transparency Program, in consultation with the Central Staff Director. The purpose of the Fiscal Transparency Program is to increase and sustain transparency in City budgeting, reporting, and use of City resources, including historical trends, current performance, and future projections, and to foster sustainable budgets that maintain appropriate service levels and enable City departments, and the contracted partners that deliver City services, to focus on service performance.

3.140.020 Definitions

“City Budget Office” means the division of the Executive Department created by Section 3.14.100.

“Council Central Staff” means the division of the Legislative Department that provides independent and objective policy and fiscal analysis to the City Council and helps facilitate the exchange of information between the City Council, the Executive, and the City Attorney’s Office.

“Summary and fiscal note” means a written description of the purpose and potential effects of proposed legislation, including an estimate of the potential expenditure, revenue, and staffing impacts.

3.140.030 Fiscal reporting requirements

To provide for transparent monitoring of the annual budget throughout the year, the Executive shall produce the regular reports listed in this Chapter 3.140 on past, current, and future fiscal performance. Council Central Staff shall review the reports, and it may present analysis to the Finance Committee at the discretion of the Central Staff Director in consultation with the Chair of the Finance Committee.

3.140.040 Reports on past activities

A. Citywide financial condition reports, covering information on the City's financial condition as of the end of the prior fiscal year and historical trends on City financial indicators, to be provided by the Director of Finance beginning September 2022 and biennially thereafter, as required by subsection 3.39.035.J.

B. Debt report covering the status of City debts, debt service, debt capacity, and debt guarantees, to be provided by the Director of Finance not less than annually, as required by subsection 3.39.035.H.

3.140.050 Reports on current activities

A. Revenues. Written reports on the performance of all forecasted revenues, to be provided by the Director of the Office of Economic and Revenue Forecasts not less than quarterly as required by subsection 3.44.030.J.

B. Cash balances and investments. Cash, investment and interfund loan reports covering the cash position of each City Fund, performance of investments in the common investment portfolio, and the status of

all interfund loans authorized by ordinance, to be provided by the Director of Finance not less than quarterly as required by Section 3.39.035.

3.140.060 Reports on future fiscal projections

A. Economic and revenue forecasts. As required by Section 3.44.040, the Director of the Office of Economic and Revenue Forecasts shall provide unofficial economic forecasts both of City revenues and for the Seattle region for the current fiscal year and the next five fiscal years. Each forecast will include three scenarios and assign probabilities to their occurrence: baseline; optimistic; and pessimistic. Forecasts shall be presented to the Economic and Revenue Forecast Council.

B. General Fund financial plan. Following the presentation of each economic and revenue forecast, and concurrent with the submittal of the Mayor's proposed budget for the next year, a financial plan for the City's General Fund shall be provided to the City Council. Each plan shall:

1. Provide estimates of actual revenue and expenditures for the prior year and, revised, and projected revenue and expenditures estimates and expenditures for the prior year, for the current year (including adopted budget and revised estimates), and three future years.
2. Be informed by best available data about revenues and spending and include a publicly available table that defines discussion of the assumptions used to make projections.
3. Reflect current law or proposed changes in law transmitted with the budget.

3.140.070 Summary and fiscal notes

A. Process. All Council Bills and resolutions shall include a summary and fiscal note. The initial note shall be prepared by the department or office initially proposing the legislation. Updates shall be prepared by Council Central Staff as necessary to reflect the impacts of amendments adopted during the City Council's deliberations. Summary and fiscal notes will be:

1. Published concurrent with the introduction and referral date of the proposed legislation;
2. Updated and republished prior to final City Council deliberation on the legislation, as

necessary to reflect the impacts of adopted amendments.

3. Updated and republished after final City Council approval, if additional amendments are adopted at the time the City Council takes final action on legislation, as necessary to reflect the final Council approved version of legislation.

B. Form. A template for summary and fiscal notes will be jointly developed and reviewed biennially or as needed by the Central Staff Director and the City Budget Director, and shall include at a minimum:

1. A descriptive summary of the background, effect, and purpose of the proposed legislation;

2. Estimates of the current year and four future years of the potential revenue, expenditure, and staffing impacts by City fund of the proposed legislation. Where necessary, impacts to non-General Fund resources may be aggregated into a combined “Other Funds” category.

3. Questions and other related content necessary to gather information about capital projects requested in Resolution 31203.

4. Questions and other related content necessary to gather information about climate and environmental impacts requested in Resolution 31933.

5. Questions and other related content necessary to gather information, studies, and supporting details to fully describe the legislation and its impacts.

Section 2. Section 3.14.100 of the Seattle Municipal Code, enacted by Ordinance 123361, is amended as follows:

3.14.100 City Budget Office created-Functions, powers, and authority((:))

There is established a City Budget Office in the Executive Department to direct City budgeting functions and oversee its fiscal policy and financial planning activities unless law or ordinance vests such power elsewhere.

The head of the City Budget Office shall be the City Budget Director. The City Budget Director's functions and powers include the following:

A. Subject to the City's personnel ordinances and rules, appoint, assign, supervise, and control all

officers and employees in the Office;

B. Manage the preparation of the proposed budget for the Office, authorize appropriate expenditures, monitor, and carry out the adopted budget, develop and manage programs, and undertake authorized activities;

C. Be the Budget Director ((as)) referenced in ((Chapter)) chapter 35.32A RCW and prepare the Mayor's proposed budgets for submission to the City Council, giving guidance as appropriate to other City departments, offices, boards, and commissions in the preparation of their proposed budgets;

D. Provide strategic financial analysis, including analysis that relates to the use of revenues, debt, long term financial planning, and special trends and events;

E. Be the Mayor's agent with regard to the acceptance of Council Bills that have been passed by the City Council and are presented for mayoral action;

F. Provide technical assistance, training, and support to City departments in performing financial functions;((and))

G. Perform such other activities as may be assigned by ordinance from time to time((-)); and

H. Provide written expenditure performance reports as required by Resolution 32116.

Section 3. Section 5.08.020 of the Seattle Municipal Code, last amended by Ordinance 124921, is amended as follows:

5.08.020 Transfer between budget control levels

A. The City Budget Director may approve only transfers of appropriations that meet all of the following criteria:

1. The appropriation was made for the same department to which the City Budget Director allows the appropriation to be transferred. For purposes of this subsection 5.08.020.A.1, a board or commission whose budget is not provided within the budget of a City department shall be deemed a department.

2. The amount of the appropriation transferred, together with all previous transfers during the same budget year to that budget control level, does not exceed ten percent, or \$250,000, whichever is greater,

of the original budgeted allowance for the budget control level to which the transfer is made.

3. The transfer will not result in a cumulative annual net transfer of more than \$500,000 of appropriation into the budget for any one budget control level.
4. The amount of the appropriation transferred, together with all previous transfers during the same budget year from that budget control level, does not exceed 25 percent of the original budget allowance for the budget control level from which the transfer is made.
5. The new purpose of the appropriation must be a legal use of that fund source, must comply with terms, conditions, and restrictions controlling the expenditure of the appropriation so transferred, and must not infringe any covenants or any obligations, agreements, or ordinances by which the City received the moneys.
6. The ordinance making the appropriation did not state that transfer of the appropriation is prohibited.

* * *

Section 4. The City Council requests that the Code Reviser recodify provisions of Seattle Municipal Code Chapter 5.08 into Subchapter I of Chapter 3.14, to consolidate powers and duties of the City Budget Office.

Section 5. Section 1 of this ordinance shall take effect on January 1, 2024.

Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this ____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
LEG	Esther Handy	

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the establishment of a Fiscal Transparency Program; requiring periodic and consistent reporting and monitoring of City budgetary, financial, and fiscal policy information to the City Council and the public; adding a new Chapter 3.140 to, and amending Sections 3.14.100 and 5.08.020 of, the Seattle Municipal Code; and requesting that the Code Reviser recodify Chapter 5.08 of the Seattle Municipal Code in Subchapter I of Chapter 3.14.

Summary and Background of the Legislation:

This legislation would establish a Fiscal Transparency Program to increase and sustain transparency in City budgeting. To support the Program, the legislation:

- Consolidates existing financial reporting requirements on past activities, current activities, and future fiscal projections into a single section of the code;
- Adds a requirement for updates to the General Fund Financial Plan after each economic and revenue forecast;
- Establishes new and updated requirements for Summary and Fiscal notes to be prepared with legislation, updated and re-published priority to final City Council action and updated and published again after final City Council approval of legislation; and requires the City Budget Office (CBO) and Central staff (CS) to maintain a fiscal note template that includes a bill summary, fiscal impact estimates for the current year and four future years, and meet information requirements for capital projects and environmental impacts; and
- Updates the CBO Director’s authority to transfer between Budget Control Levels (BCL) mid-year to allow transfers between BCLs where the transfer does not exceed 10% of the total appropriations of receiving BCL or \$250,000. It maintains the requirement that the transfer may never result in a cumulative annual net transfer of more than \$500,000 for any one BCL.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

The legislation formalizes and updates financial reporting and analysis practices that are currently being completed with existing staff at CBO, the Office of City Finance, the Office of Economic Revenue Forecasts (Forecast Office), and Council Central Staff. It is expected the requirements can be sustained in the long term with existing staff resources.

In the short term, in 2024, as the Executive strives to work collaboratively with the City Council to address the projected General Fund deficit and develop a balanced 2025-2026 biennial budget, CBO has competing demands for their existing resources. CBO may reach a capacity limit to complete all projects in 2024, including the financial reporting required in this ordinance.

Are there financial costs or other impacts of *not* implementing the legislation?

The Fiscal Transparency Program will provide additional tools and information to inform decisions about the fiscal impacts of city policy and budget decisions. Not implementing this legislation would leave the City with fewer tools to inform decisions, and may result in less sustainable budget decisions.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

Yes, CBO, the Office of City Finance, the Forecast Office, and Central Staff team at the Legislative Department are responsible for implementing the requirements of this ordinance. All City Departments will participate in financial monitoring and planning.

b. Is a public hearing required for this legislation?

No

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No

d. Does this legislation affect a piece of property?

No

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

Equitable budgeting is a core strategy defined in the City's current RSJI strategic plan to embed racial equity into City of Seattle policies and process. Increasing transparency about the fiscal impact of policy and budget decisions in current and future years, enables the public and decision-makers to better understand the trade-offs when committing to an investment of city resources, and will inform discussion about racial equity impacts of a policy or budget decision.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

Summary Attachments (if any):



Legislation Text

File #: CB 120717, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to human services contracts that include appropriated money expressly reserved for the purpose of human services provider pay; requiring that such appropriated money be used only for wage increases for human services workers that are in addition to inflationary adjustments; establishing contracting and reporting requirements regarding use of such appropriated money; and adding a new Chapter 20.61 and Section 20.61.010 to the Seattle Municipal Code.

WHEREAS, in 2019, the City enacted Ordinance 125865 establishing Seattle Municipal Code Section 3.20.060

to require annual inflationary adjustments for Human Services Department (HSD)-administered human services contracts to reflect actual operating costs (including wages), unless explicitly prohibited by or otherwise incompatible with requirements of the funding source, because the City found that human services agencies have challenges maintaining services due to vacancies, turnover rates, low wages, and increasing costs; and

WHEREAS, the University of Washington published the Wage Equity Study in February 2023; and

WHEREAS, the Wage Equity Study found that holding constant worker characteristics such as education level or age, median annual pay for human services workers in the non-profit sector is 37 percent lower than in non-care industries; and closing a 37 percent wage equity gap would require a 59 percent increase in wages; and

WHEREAS, the Wage Equity Study found that workers who leave the human services industry for a job in a different industry see a net pay increase of seven percent a year later (relative to workers who stay in human services) after accounting for observable worker and employer characteristics; and

WHEREAS, the Wage Equity Study included a job evaluation that demonstrated that the gaps revealed in the

market analysis between human services workers and workers in other industries do not reflect lower pay because human services work is easier, less skilled, or less demanding than other jobs; and

WHEREAS, the Wage Equity Study found that just under half (48 percent) of human services workers in King County were employed in the non-profit sector and much of this work is performed under contracts with local, county, and state governments to deliver services to residents; and

WHEREAS, the Wage Equity Study recommended that by 2025 non-profit human services organizations and their governmental and non-governmental funders should increase human services workers' wages by at least seven percent beginning in the next one to two years, in addition to any inflationary adjustment, as this amount represents a starting point for the minimum increase needed immediately to reduce the number of workers leaving human services posts for significantly higher-paying jobs in other industries; and

WHEREAS, the Wage Equity Study also recommended that non-profit human services organizations and their governmental and non-governmental funders should make adjustments for inflation separate from wage equity adjustments; and

WHEREAS, City Council passed Resolution 32094 in 2023, stating City Council's intent to consider increasing HSD administered contracts by seven percent by 2025, in addition to inflationary adjustments, for purposes of advancing wage equity in collaboration with other funders; and

WHEREAS, Resolution 32094 also acknowledged that other City departments may administer human services contracts and requests those departments to consider wage equity increases and inflationary adjustments when renewing or renegotiating human services contracts, as well as requested a report from the Executive by April 1, 2024 on the total number and amount of human services contracts administered by other departments outside of HSD; and

WHEREAS, the 2024 Proposed Budget Adjustments contained an appropriation for a two percent increase for human services provider pay to all HSD-administered contracts receiving a required inflationary

adjustment under Seattle Municipal Code Section 3.20.060, one contract administered by the Department of Neighborhoods, and eight contracts administered by the Department of Education and Early Learning;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 20.61, consisting of Section 20.61.010, is added to the Seattle Municipal Code as follows:

Chapter 20.61 CONTRACTING BUDGETS

20.61.010 Provider pay funds for human services contracts

For human services contracts that include appropriated money expressly reserved for the purpose of human services provider pay, such appropriated money:

- A. Shall only be used to increase the wages of human services workers, including the workers hired by both prime contractors and subcontractors; and
- B. Must be in addition to any inflationary adjustments.

Section 2. The Human Services Department shall provide a report to City Council annually by June 30, covering the prior year's contracts that were subject to Seattle Municipal Code Section 20.61.010, including those administered by other departments. The report shall provide information on:

- A. A list of all organizations whose contracts include appropriated money expressly reserved for human services provider pay, including the prime contracts and their sub-contracted organizations;
- B. The amount of such appropriated money included in each of the organizations' contracts;
- C. A list of any organizations that declined such appropriated money and the reason why it was declined;
- D. A narrative on how such appropriated money was used by providers, including which positions had wage increases due in part or in whole to the appropriated money;

E. A description of other funding sources that contributed to increases in human services worker wages at contracting organizations during the same time period; and

F. A description of inflationary adjustments provided to staff, including the amount of the inflationary adjustment and, if applicable, the extent to which inflationary adjustments provided under Seattle Municipal Code Section 3.20.060 was used to pay for staff inflationary adjustments.

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
LEG	Jennifer LaBrecque	N/A

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to human services contracts that include appropriated money expressly reserved for the purpose of human services provider pay; requiring that such appropriated money be used only for wage increases for human services workers that are in addition to inflationary adjustments; establishing contracting and reporting requirements regarding use of such appropriated money; and adding a new Chapter 20.61 and Section 20.61.010 to the Seattle Municipal Code.

Summary and Background of the Legislation: The 2024 Proposed Budget Adjustments include \$4.3 million for a two percent increase to some City-administered human services contracts for purposes of provider pay. Four proposed Council Budget Actions (CBA) bring the total proposed amount for human services provider pay up to \$5.1 million.

The [2024 Proposed Budget Adjustments](#) included \$4.3 million for a two percent increase to human services contracts for purposes of provider pay in the Human Services Department (HSD), the Department of Education and Early Learning (DEEL) and the Department of Neighborhoods (DON).¹ [HSD-809-A](#) provides an additional \$324,000 in order to calculate the two percent increase on the higher, inflationary adjusted base. [HSD-001-A](#) provides \$360,000 for a two percent increase to contracts funded through the Department of Housing and Urban Development’s Continuum of Care (CoC) grants, which are administered by the King County Regional Homelessness Authority (KCRHA).² [HSD-002-A](#) provides \$501,000 of funding for 2024 KCRHA contracts to be funded through 2023 KCRHA underspend, with \$112,000 of that for a two percent provider pay increase.

The purpose of this legislation is to require that any human services contracts that include appropriated money expressly reserved for the purpose of human services provider pay be used only for wage increases for human services workers and that those increases be in addition to inflationary adjustments. Additionally, the legislation establishes contracting and reporting requirements regarding use of such appropriated money and adds a new Chapter 20.61 and Section 20.61.010 to the Seattle Municipal Code (SMC).

In order to expressly reserve funds for the purposes of human services provider pay and activate the requirements found in this legislation, provisos have been imposed in HSD-809-A, HSD-001-A, HSD-002-A requiring that a portion of HSD’s 2024 budget be appropriated solely for

¹ Includes all HSD-administered contracts receiving a required inflationary adjustment under SMC 3.20.060, one contract administered by DON, and eight contracts administered by DEEL.

² CoC grants were administered by the Human Services Department until 2021; in 2022 the King County Regional Homelessness Authority began receiving and administering the funds directly from HUD.

provider pay to increase human services worker wages in addition to inflationary adjustments and may be spent for no other purpose. The proviso in HSD-809-A includes the \$4.3 million for provider pay in the 2024 Proposed Adjustments.

If there is proposed funding for human services provider pay in future years, whether through the Executive’s proposed budget or through a CBA, Council would need to impose provisos expressly reserving the funds for this purpose in order to activate the requirements found in this legislation.

Proposed Statement of Legislation Intent HSD-012S-A-2 requests a report from the Human Services Department on how the department will implement the requirements in this legislation.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? ___ Yes X No

If yes, please fill out the table below and attach a new (if creating a project) or marked-up (if amending) CIP Page to the Council Bill. Please include the spending plan as part of the attached CIP Page. If no, please delete the table.

Project Name:	Project I.D.:	Project Location:	Start Date:	End Date:	Total Project Cost Through 2028:

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? ___ Yes X No

If there are no changes to appropriations, revenues, or positions, please delete the table below.

Appropriation change (\$):	General Fund \$		Other \$	
	2023	2024	2023	2024
Estimated revenue change (\$):	Revenue to General Fund		Revenue to Other Funds	
	2023	2024	2023	2024
Positions affected:	No. of Positions		Total FTE Change	
	2023	2024	2023	2024

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?

This legislation would increase contract monitoring and reporting responsibilities for HSD staff, which could potentially impact the staff resources needed for HSD to fulfill these functions. HSD will need to monitor contracts to ensure that money appropriated for provider pay is used to increase human services worker wages and that such increases are in addition to inflationary adjustments. HSD will be required to submit a report to City Council annually

by June 30, covering the prior year’s contracts that were subject to the ordinance, including contracts administered by other departments. The report must provide information on the list of all organizations whose contracts included funding expressly reserved for human services provider pay, the amount of appropriated money provided in each contract, a list of organizations that declined the appropriated money, a narrative on how the appropriated much was used by providers, including which positions had wage increases due in part or whole to the appropriated money, a description of other fund sources contributing to human services worker wage increases and a description of any inflationary adjustment provided to staff, including if applicable the extent to which the inflationary adjustments provided under SMC 3.20.060 was used to pay for staff inflationary adjustments.

While DEEL and DON will also have the same monitoring and reporting requirements, the highest impact will be on HSD, who would administer approximately 200 contracts with funding for this purpose, as compared to one contract at DON and eight contracts at DEEL. Additionally, the legislation will require HSD to compile information on contracts subject to the legislation from all departments and submit one report annually to City Council. Additional resources may be requested in the future if HSD is unable to meet this requirement with existing resources.

Are there financial costs or other impacts of *not* implementing the legislation?

Without this legislation, money appropriated for human services provider pay could be used for other purposes, such as inflationary adjustments, operating costs, or increased services. This legislation, including the contracting and reporting requirements, provide a way to monitor that contract increases for purposes of provider pay are being utilized as intended.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

3.a. Appropriations

No This legislation adds, changes, or deletes appropriations.

Fund Name and Number	Dept	Budget Control Level Name/Number*	2023 Appropriation Change	2024 Estimated Appropriation Change
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Appropriations Notes:

3.b. Revenues/Reimbursements

No This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
TOTAL				

Revenue/Reimbursement Notes:

3.c. Positions

No This legislation adds, changes, or deletes positions.
Total Regular Positions Created, Modified, or Abrogated through This Legislation, Including FTE Impact:

Position # for Existing Positions	Position Title & Department*	Fund Name & Number	Program & BCL	PT/FT	2023 Positions	2023 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

* List each position separately.

Position Notes:

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

This legislation will impact any department that is administering a human services contract that includes appropriated money expressly reserved for the purpose of human services provider pay. In the 2024 Proposed Budget Adjustments and four CBAs related to provider pay, impacted departments are HSD, DEEL and DON.

b. Is a public hearing required for this legislation?

No

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No

d. Does this legislation affect a piece of property?

No

- e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

Women comprise almost 80 percent of workers in human services. Black workers are almost three times as likely to work in human services as they are to work in non-care industries. This legislation would require that appropriations for wage equity be used to increase worker wages in addition to inflationary adjustments – helping to ensure that the monry appropriated for this purpose results in progress on wage equity, raising the wages and significantly benefiting workers of color and women who are overrepresented in this industry.

- f. Climate Change Implications**

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way? No

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No

- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?**

N/A

Summary Attachments (if any):



Legislation Text

File #: CB 120602, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE repealing the tax on gross income derived from the business of selling or furnishing water for hire to customers; amending Sections 5.48.050 and 5.48.060 of the Seattle Municipal Code.

WHEREAS, the Institute for Taxation and Economic Policy consistently ranks Washington State as one of the most unfair tax systems in the country, where lower-income residents pay a higher percentage of their household earnings for taxation; and

WHEREAS, the non-partisan Municipal Research Services Center defines a regressive tax as a tax burden (as a percent of income) that falls hardest upon low-income households, who have to spend a large portion of their income on retail goods and basic needs; and

WHEREAS, there are currently no tax rate limits prescribed by State law for water utilities operated by Seattle Public Utilities; and

WHEREAS, The City of Seattle most recently adjusted the water utility tax rate to 15.54 percent in 2011, which is in addition to the cost of providing water; and

WHEREAS, it is estimated the City will collect approximately \$38 million in regressive water utility taxes in 2024; and

WHEREAS, signed by the Governor on May 4, 2021, Engrossed Substitute Senate Bill 5096 imposed a state excise tax on capital gains in excess of \$250,000, with exemptions for retirement accounts and real estate sales; and

WHEREAS, implementing a local capital gains excise tax that conforms to State law is a more progressive

method of taxation to replace revenues from regressive taxes no longer collected by The City of Seattle including, but not limited to, the tax on water within Seattle’s geographical boundaries; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.48.050 of the Seattle Municipal Code, last amended by Ordinance 124912, is amended as follows:

5.48.050 Occupations subject to tax-Amount

There are levied upon, and shall be collected from everyone, including The City of Seattle, on account of certain business activities engaged in or carried on, annual license fees or occupation taxes in the amount to be determined by the application of rates given against gross income as follows:

A. Upon everyone engaged in or carrying on a telecommunications service or telephone business, a fee or tax equal to six percent of the total gross income from such business provided to customers within the City. The tax liability imposed under this Section 5.48.050 shall not apply for that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for telecommunication service or telephone business that is purchased for the purpose of resale. (Such charges, except for interstate service, shall be taxed under Chapter 5.45.) The total gross income shall also include all charges by the provider of cellular or cellular mobile telephone services provided to its customers in any taxing jurisdiction (intrastate or interstate), which are billed to a “place of primary use” located in Seattle by or for the home service provider, irrespective of whether the services are provided by the home service provider.

B. Upon everyone engaged in or carrying on the business of selling, brokering, or furnishing gas for hire, a fee or tax equal to six percent of the total gross income from such business in the City.

~~((C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or~~

~~furnishing water for hire to consumers, a fee or tax equal to the total gross income from such retail business in the City multiplied by the following rates:~~

~~Effective through March 30, 2009, a rate of 15.54 percent;~~

~~Effective March 31, 2009 through December 31, 2010, a rate of 19.87 percent; and~~

~~Effective January 1, 2011, a rate of 15.54 percent;~~

~~Provided that as to The City of Seattle in the conduct of its municipal water utility, such tax shall be applicable to the business of such utility done without, as well as within, the City.~~

~~D)) C. Upon everyone, including The City of Seattle, engaged in or carrying on the business of selling or furnishing electric light and power to consumers, a fee or tax equal to six percent of the total gross income from such business in the City. The fee or tax imposed upon the municipal light and power system of the City shall be applicable to the business of such system both within and without the City.~~

~~((E)) D. Upon everyone conducting or engaged in the business of supplying steam heat or power to consumers, a fee or tax equal to six percent of the total gross income from such business in the City.~~

~~((F)) E. Upon The City of Seattle and any port district, in respect to the conduct, maintenance, and operation of a drainage system as a public utility, a fee or tax equal to 11.5 percent of the total gross income from drainage charges. For purposes of this Section 5.48.050, “drainage charges” means, for The City of Seattle, the drainage charges provided for under City ordinances; and for any port district, the gross income from the conduct, maintenance, and operation of a drainage system as a public utility in the City.~~

~~((G)) F. Upon The City of Seattle and any port district, in respect to the conduct, maintenance, and operation of a wastewater system as a public utility, a fee or tax equal to 12 percent of the total gross income from wastewater charges. For purposes of this Section 5.48.050, “wastewater charges” means, for The City of Seattle, the wastewater charges provided for under City ordinances; and for any port district, the gross income from the conduct, maintenance, and operation of a wastewater system as a public utility in the City.~~

~~((H)) G. As to solid waste, see Section 5.48.055.~~

~~(F)~~ H. Upon everyone engaged in the business of operating or conducting a cable television system (CATV), a fee or tax equal to ten percent of the total gross income from gross subscriber revenues. For purposes of this Chapter 5.48, “gross subscriber revenues” means and includes those revenues derived from the supplying of subscription service, that is, installation fees, disconnect and reconnect fees, fees for regular cable benefits including the transmission of broadcast signals, and access and origination channels and per-program or per-channel charges; however, the tax liability imposed under this Section 5.48.050 shall not include leased channel revenue, advertising revenues, or any other income derived from the system, which shall be taxed under Chapter 5.45. The business of operating or conducting a cable television system (CATV) does not include the provision of interactive two-way communications over cable. Such activities shall be reported under the telecommunication service or telephone business classification.

Section 2. Section 5.48.060 of the Seattle Municipal Code, last amended by Ordinance 120668, is amended as follows:

5.48.060 City of Seattle subject to tax ((-))

Subsections ~~((5.48.050 C, D, and F))~~ 5.48.050.C, 5.48.050.E, and 5.55.050.C, Section 5.48.055, ~~((and Sections 5.55.050 C, 5.55.090 A and B))~~ subsections 5.55.090.A and 5.55.090.B, and Section 5.55.110 shall, so far as permitted by law, be applicable to The City of Seattle, except that the City shall not, as a taxpayer, be required to conform to the other provisions of this ~~((chapter))~~ Chapter 5.48.

Section 3. Sections 1 and 2 of this ordinance shall take effect on January 1, 2025.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this ____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Legislative	Tom Mikesell	n/a

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE repealing the tax on gross income derived from the business of selling or furnishing water for hire to customers; amending Sections 5.48.050 and 5.48.060 of the Seattle Municipal Code.

Summary and Background of the Legislation: This council bill would repeal, on January 1, 2025, the tax imposed on the gross income from the sale or exchange of water in the city (water utility tax). The current tax rate, effective since 2011, is 15.54 percent. Based on the April 2023 forecast from the Office of Economic and Revenue Forecasts (OERF), the tax is projected to generate General Fund (GF) revenue totaling \$37.2 million in 2023 and \$37.7 million in 2024.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
Since the tax would be repealed on January 1, 2025, GF revenues from the tax would be reduced in full beginning in 2025 and continuing in future years.

Are there financial costs or other impacts of *not* implementing the legislation?
No.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

3.a. Appropriations

This legislation adds, changes, or deletes appropriations.

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:

3.b. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Est Revenue	2025 Est Revenue	2026 Est Revenue
General Fund 001000	n/a	B&O Tax-Water Utility	\$0	\$0	(\$39,402,994)	(\$41,380,609)
TOTAL			\$0	\$0	(\$39,402,994)	(\$41,380,609)

Revenue/Reimbursement Notes:

Under a January 2025 repeal, revenues from the tax would be reduced in 2025 and beyond. Based on OERF’s April 2023 forecast this would represent a \$39.4 GF revenue reduction in 2025, and a \$41.4 million reduction in 2026 and beyond.

3.c. Positions

This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

- a. **Does this legislation affect any departments besides the originating department?**
 Changes to the water utility tax would require Seattle Public Utilities to revise materials and systems to reflect the repeal of the tax.
- b. **Is a public hearing required for this legislation?**
 No.
- c. **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
 No.
- d. **Does this legislation affect a piece of property?**
 No.
- e. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**
 This tax is built into the water rates paid by all SPU customers. While there is an existing Utility Discount Program, which provides a 50% discount on water utility payments depending on household income thresholds (70% of state median income), the tax still applies to the remainder of utility payments paid by households having incomes below the threshold.

Repealing the tax would provide a measure of tax relief to all water customers in Seattle. Those residents for which the tax payment represents a larger relative portion of annual income would receive a disproportionate benefit. As stated in “Taxes and Racial Equity: An Overview of State and Local Policy Impacts” published by the Institute on Taxation and Economic Policy, “Over-reliance on consumption taxes like sales and excise taxes are hallmarks of the most regressive state tax codes, or tax codes that require a greater share from low-income households than from high-income households.”¹

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?

N/A

Summary Attachments (if any):

¹ <https://itep.org/taxes-and-racial-equity/>

Amendment 1 Version 1 to CB 120602 – Water Tax Repeal

Sponsor: Councilmember Pedersen

Request that Seattle Public Utilities propose revised retail water rates for 2025 and 2026

Effect: This amendment requests that Seattle Public Utilities (SPU) transmit legislation to the Council to revise the retail water rates for 2025 and 2026 in recognition of reduced system expenses for SPU resulting from the repeal of the water utility tax.

In September 2023, the Council passed ORD 126909 establishing retail water rates for 2024 through 2026. These rates assumed the continuation of the water utility tax and incorporated this assumption into the resource needs for the utility. In order for SPU customers to receive a financial benefit from the elimination of the water utility tax, retail water rates need to be adjusted.

Add a new Section 4 to CB 120602 as follows and renumber subsequent sections as appropriate:

Section 4. The Council requests that Seattle Public Utilities transmit legislation to the Council proposing revised rates and charges for retail water services in 2025 and 2026 in recognition of the elimination of the water utility tax.



Legislation Text

File #: CB 120601, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE imposing an excise tax on the sale or exchange of certain capital assets in Seattle; adding a new Chapter 5.66 to the Seattle Municipal Code; and adding a new Section 5.45.050 to the Seattle Municipal Code.

WHEREAS, the Institute for Taxation and Economic Policy consistently ranks Washington State as one of the most unfair tax systems in the country, where lower-income residents pay a higher percentage of their household earnings for taxation; and

WHEREAS, the non-partisan Municipal Research Services Center defines a regressive tax as a tax burden (as a percent of income) that falls hardest upon low-income households, who have to spend a large portion of their income on retail goods and basic needs; and

WHEREAS, there are currently no tax rate limits prescribed by State law for water utilities operated by Seattle Public Utilities; and

WHEREAS, The City of Seattle most recently adjusted the water utility tax rate to 15.54 percent in 2011, which is in addition to the cost of providing water; and

WHEREAS, it is estimated the City will collect approximately \$38 million in regressive water utility taxes in 2024; and

WHEREAS, Chapter 196, Laws of 2021, imposed a state excise tax on capital gains in excess of \$250,000, with exemptions for retirement accounts and real estate sales; and

WHEREAS, implementing a local capital gains excise tax that conforms to state law is a more progressive method of taxation to replace revenues from regressive taxes no longer collected by The City of Seattle

including, but not limited to, the tax on water within Seattle’s geographical boundaries; NOW,
THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.66 is added to the Seattle Municipal Code as follows:

Chapter 5.66 CAPITAL GAINS EXCISE TAX

5.66.010 Administrative provisions

All of the provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under the provisions of this Chapter 5.66 except as may be expressly stated to the contrary.

5.66.020 Definitions

The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.66 except as may be expressly stated to the contrary. The following additional definitions apply throughout this Chapter 5.66:

“Adjusted capital gain” means federal net long-term capital gain:

1. Plus any amount of long-term capital loss from a sale or exchange that is exempt from the tax imposed in this Chapter 5.66, to the extent such loss was included in calculating federal net long-term capital gain;
2. Plus any amount of long-term capital loss from a sale or exchange that is not allocated to Seattle under Section 5.66.090, to the extent such loss was included in calculating federal net long-term capital gain;
3. Plus any amount of loss carryforward from a sale or exchange that is not allocated to Seattle under Section 5.66.090, to the extent such loss was included in calculating federal net long-term capital gain;
4. Less any amount of long-term capital gain from a sale or exchange that is not allocated to Seattle under Section 5.66.090, to the extent such gain was included in calculating federal net long-term capital gain;
5. Less any amount of long-term capital gain from a sale or exchange that is exempt from the tax imposed in this Chapter 5.66, to the extent such gain was included in calculating federal net long-term capital gain.

“Capital asset” has the same meaning as provided by 26 United States Code (U.S.C.) Section 1221 and also includes any other property if the sale or exchange of the property results in a gain that is treated as a long-term capital gain under 26 U.S.C. Section 1231 or any other provision of the Internal Revenue Code.

“Department” means the Department of Finance and Administrative Services.

“Domiciled” means a place where a natural person has a true, fixed, and permanent home, to which the person intends to return after being away for temporary or transitory purposes, including but not limited to vacation, business assignment, educational leave, or military assignment.

“Federal net long-term capital gain” means the net long-term capital gain reportable for federal income tax purposes determined as if 26 U.S.C. Sections 55 through 59, 1400Z-1, and 1400Z-2 did not exist.

“Individual” means a natural person.

“Internal Revenue Code” means the United States Internal Revenue Code of 1986 (codified as Title 26 U.S.C.), as amended, as of the effective date of this ordinance, or such subsequent date as the Director may provide by rule consistent with the purpose of this Chapter 5.66.

“Long-term capital asset” means a capital asset that is held for more than one year.

“Long-term capital gain” means gain from the sale or exchange of a long-term capital asset.

“Long-term capital loss” means a loss from the sale or exchange of a long-term capital asset.

“Permanent place of abode” means a building or structure where a natural person can live that the person permanently maintains, whether the person owns it or not, and is suitable for year-round use.

“Real estate” means land and fixtures affixed to land. “Real estate” also includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land.

“Resident” means an individual:

1. Who is domiciled in Seattle during the taxable year, unless the individual:
 - a. Maintained no permanent place of abode in Seattle during the entire taxable year;
 - b. Maintained a permanent place of abode outside of Seattle during the entire taxable year; and

c. Spent in the aggregate not more than 30 days of the taxable year in Seattle;

2. Who is not domiciled in Seattle during the taxable year but maintained a place of abode and was physically present in Seattle for more than 183 days during the taxable year.

For purposes of this definition, “day” means a calendar day or any portion of a calendar day. An individual who is a resident under this definition is a resident for that portion of a taxable year in which the individual was domiciled in Seattle or maintained a place of abode in Seattle.

“Seattle capital gains” means an individual’s adjusted capital gain, as modified in Section 5.66.050, for each return filed under this Chapter 5.66.

“Taxable year” means the taxpayer’s taxable year as determined under the Internal Revenue Code.

“Taxpayer” means an individual subject to tax under this Chapter 5.66.

5.66.030 Tax imposed-Rate

A. Beginning January 1, 2024, a capital gains excise tax is imposed on the sale or exchange of long-term capital assets. Only individuals are subject to payment of the tax.

B. The amount of the capital gains excise tax due shall be an individual’s Seattle capital gains, multiplied by two percent.

C. If an individual’s Seattle capital gains are less than zero for a taxable year, no tax is due under this Section 5.66.030 and no such amount is allowed as a carryover for use in the calculation of that individual’s adjusted capital gain, as defined in Section 5.66.020, for any taxable year. To the extent that a loss carryforward is included in the calculation of an individual’s federal net long-term capital gain and that loss carryforward is directly attributable to losses from sales or exchanges allocated to Seattle under Section 5.66.090, the loss carryforward is included in the calculation of that individual’s adjusted capital gain for the purposes of this Chapter 5.66. An individual may not include any losses carried back for federal income tax purposes in the calculation of that individual’s adjusted capital gain for any taxable year.

D. The tax imposed in this Section 5.66.030 applies to the sale or exchange of long-term capital assets

owned by the taxpayer, whether the taxpayer was the legal or beneficial owner of such assets at the time of the sale or exchange. The tax applies when the Seattle capital gains are recognized by the taxpayer in accordance with this Chapter 5.66.

E. For the purposes of this Chapter 5.66:

1. An individual is considered to be a beneficial owner of long-term capital assets held by an entity that is a pass-through or disregarded entity for federal tax purposes, such as a partnership, limited liability company, S corporation, or grantor trust, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes.

2. A nongrantor trust is deemed to be a grantor trust if the trust does not qualify as a grantor trust for federal tax purposes, and the grantor's transfer of assets to the trust is treated as an incomplete gift under 26 U.S.C. Section 2511 and its accompanying regulations. A grantor of such trust is considered the beneficial owner of the capital assets of the trust for purposes of the tax imposed in this Section 5.66.030 and must include any long-term capital gain or loss from the sale or exchange of a capital asset by the trust in the calculation of that individual's adjusted capital gain, if such gain or loss is allocated to Seattle under Section 5.66.090.

5.66.040 Exemptions from the capital gains excise tax

The following are exempt from the capital gains excise tax:

A. All real estate transferred by deed, real estate contract, judgment, or other lawful instruments that transfer title to real property and are filed as a public record with the counties where real property is located;

B. 1. An interest in a privately held entity only to the extent that any long-term capital gain or loss from such sale or exchange is directly attributable to the real estate owned directly by such entity;

2. a. Except as provided in subsections 5.66.040.B.2.b and 5.66.040.B.2.c, the value of the exemption under this subsection 5.66.040.B is equal to the fair market value of the real estate owned directly by the entity less its basis, at the time that the sale or exchange of the individual's interest occurs, multiplied by the percentage of the ownership interest in the entity which is sold or exchanged by the individual;

b. If a sale or exchange of an interest in an entity results in an amount directly attributable to real property and that is considered as an amount realized from the sale or exchange of property other than a capital asset under 26 U.S.C. Section 751, such amount must not be considered in the calculation of an individual's exemption amount under subsection 5.66.040.B.2.a;

c. Real estate not owned directly by the entity in which an individual is selling or exchanging the individual's interest must not be considered in the calculation of an individual's exemption amount under this subsection 5.66.040.B;

3. Fair market value of real estate may be established by a fair market appraisal of the real estate or an allocation of assets by the seller and the buyer made under 26 U.S.C. Section 1060, as amended. However, the City is not bound by the parties' agreement as to the allocation of assets, allocation of consideration, or fair market value, if such allocations or fair market value do not reflect the fair market value of the real estate. The assessed value of the real estate for property tax purposes may be used to determine the fair market value;

4. The value of the exemption under this subsection 5.66.040.B may not exceed the individual's long-term capital gain or loss from the sale or exchange of an interest in an entity for which the individual is claiming this exemption;

C. Assets held under a retirement savings account under 26 U.S.C. Section 401(k), a tax-sheltered annuity or custodial account described in 26 U.S.C. Section 403(b), a deferred compensation plan under 26 U.S.C. Section 457(b), an individual retirement account or individual retirement annuity described in 26 U.S.C. Section 408, a Roth individual retirement account described in 26 U.S.C. Section 408A, an employee defined contribution program, an employee defined benefit plan, or a similar retirement savings vehicle;

D. Assets pursuant to, or under imminent threat of, condemnation proceedings by the United States, the state or any of its political subdivisions, or a municipal corporation;

E. Cattle, horses, or breeding livestock if for the taxable year of the sale or exchange, more than 50

percent of the taxpayer's gross income for the taxable year, including from the sale or exchange of capital assets, is from farming or ranching;

F. Property depreciable under 26 U.S.C. Section 167(a)(1), or that qualifies for expensing under 26 U.S.C. Section 179;

G. Timber, timberland, or the receipt of Seattle capital gains as dividends and distributions from real estate investment trusts derived from gains from the sale or exchange of timber and timberland. "Timber" means forest trees, standing or down, on privately or publicly owned land, and includes Christmas trees and short-rotation hardwoods. The sale or exchange of timber includes the cutting or disposal of timber qualifying for capital gains treatment under 26 U.S.C. Section 631(a) or (b);

H. Commercial fishing privileges. For the purposes of this subsection 5.66.040.H, "commercial fishing privilege" means a right, held by a seafood harvester or processor, to participate in a limited access fishery.

"Commercial fishing privilege" includes and is limited to:

1. In the case of federally managed fisheries, quota and access to fisheries assigned pursuant to individual fishing quota programs, limited entry and catch share programs, cooperative fishing management agreements, or similar arrangements; and

2. In the case of state-managed fisheries, quota and access to fisheries assigned under fishery permits, limited entry and catch share programs, or similar arrangements; and

3. In the case of state-managed fisheries, quota and access to fisheries assigned under fishery permits, limited entry and catch share programs, or similar arrangements; and

I. Goodwill received from the sale of an auto dealership licensed under chapter 46.70 of the Revised Code of Washington (RCW) whose activities are subject to chapter 46.96 RCW.

5.66.050 Deductions from the capital gains excise tax

In computing tax for a taxable year, a taxpayer may deduct from their Seattle capital gains:

A. A standard deduction of \$250,000, plus 100 percent of the applicable adjustment calculated pursuant

to RCW 82.87.150, as published on the website of the Washington State Department of Revenue on or before December 31, 2023, per individual, or in the case of spouses or domestic partners, their combined standard deduction is limited to \$250,000, regardless of whether they file joint or separate returns. The amount of the standard deduction shall be adjusted pursuant to Section 5.66.120;

B. Amounts that the City is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

C. The amount of adjusted capital gain derived from the sale or transfer of the taxpayer's interest in a qualified family-owned small business pursuant to Section 5.66.060; and

D. Charitable donations deductible under Section 5.66.070.

5.66.060 Qualifying family-owned small business deduction

In computing tax under this Chapter 5.66 for a taxable year, a taxpayer may deduct from their Seattle capital gains the amount of adjusted capital gain derived in the taxable year from the sale of substantially all of the fair market value of the assets of, or the transfer of substantially all of the taxpayer's interest in, a qualified family-owned small business, to the extent that such adjusted capital gain would otherwise be included in the taxpayer's Seattle capital gains. For purposes of this Section 5.66.060:

A. "Assets" means real property and personal property, including tangible personal property and intangible property.

B. "Family" means the same as "member of the family" in RCW 83.100.046.

C. "Materially participated" means an individual was involved in the operation of a business on a basis that is regular, continuous, and substantial. "Materially participated" shall be interpreted consistently with the applicable Treasury regulations for 26 U.S.C. Section 469, to the extent that such interpretation does not conflict with any provision of this Section 5.66.060.

D. "Qualified family-owned small business" means a business:

1. In which the taxpayer held a qualifying interest for at least five years immediately preceding

the sale or transfer described in this Section 5.66.060;

2. In which either the taxpayer or members of the taxpayer's family, or both, materially participated in operating the business for at least five of the ten years immediately preceding the sale or transfer described in this Section 5.66.060, unless such sale or transfer was to a qualified heir; and

3. That had worldwide gross revenue of \$10,000,000, plus 100 percent of the applicable adjustment calculated pursuant to RCW 82.87.150, as published on the website of the Washington State Department of Revenue on or before December 31, 2023, or less in the 12-month period immediately preceding the sale or transfer described in this Section 5.66.060. The worldwide gross revenue amount under this subsection 5.66.060.D.3 shall be adjusted annually as provided in Section 5.66.120.

E. "Qualified heir" means a member of the taxpayer's family.

F. "Qualifying interest" means:

1. An interest as a proprietor in a business carried on as a sole proprietorship; or

2. An interest in a business if at least:

a. Fifty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both;

b. Thirty percent of the business is owned, directly or indirectly, by any combination of the taxpayer or members of the taxpayer's family, or both, and at least:

1) Seventy percent of the business is owned, directly or indirectly, by members of two families; or

2) Ninety percent of the business is owned, directly or indirectly, by members of three families.

G. "Substantially all" means at least 90 percent.

5.66.070 Additional deduction for charitable donations

A. In computing tax under this Chapter 5.66 for a taxable year, a taxpayer may deduct from their Seattle

capital gains the amount donated by the taxpayer to one or more qualified organizations during the same taxable year in excess of the minimum qualifying charitable donation amount. For the purposes of this Section 5.66.070, the minimum qualifying charitable donation amount equals \$250,000, plus 100 percent of the applicable adjustment calculated pursuant to RCW 82.87.150, as published on the website of the Washington State Department of Revenue on or before December 31, 2023. The minimum qualifying charitable donation amount under this subsection 5.66.070.A shall be adjusted pursuant to Section 5.66.120.

B. The deduction authorized under subsection 5.66.070.A may not exceed \$100,000, plus 100 percent of the applicable adjustment calculated pursuant to RCW 82.87.150, as published on the website of the Washington State Department of Revenue on or before December 31, 2023, for the taxable year. The maximum amount of the available deduction under this subsection 5.66.070.B shall be adjusted pursuant to Section 5.66.120.

C. The deduction authorized under subsection 5.66.070.A may not be carried forward or backward to another tax reporting period.

D. For the purposes of this Section 5.66.070:

1. “Nonprofit organization” means an organization exempt from tax under 26 U.S.C. Section 501(c)(3).
2. “Qualified organization” means a nonprofit organization, or any other organization, that is:
 - a. Eligible to receive a charitable deduction as defined in 26 U.S.C. Section 170(c); and
 - b. Principally directed or managed within Seattle.

5.66.080 Tax in addition to other license fees or taxes

The tax imposed by this Chapter 5.66 shall be in addition to any license fee or tax imposed or levied under any other law, statute, or ordinance whether imposed or levied by the City, the State, or other governmental entity or political subdivision.

5.66.090 Allocations of gains and losses

A. For purposes of the tax imposed under this Chapter 5.66, long-term capital gains and losses are allocated to Seattle as follows:

1. Long-term capital gains or losses from the sale or exchange of tangible personal property are allocated to Seattle if the property was located in Seattle at the time of the sale or exchange. Long-term capital gains or losses from the sale or exchange of tangible personal property are also allocated to Seattle even though the property was not located in Seattle at the time of the sale or exchange if:

- a. The property was located in Seattle at any time during the taxable year in which the sale or exchange occurred or the immediately preceding taxable year;
- b. The taxpayer was a resident at the time the sale or exchange occurred; and
- c. The taxpayer is not subject to the payment of an income or excise tax legally imposed on the long-term capital gains or losses by another taxing jurisdiction.

2. Long-term capital gains or losses derived from intangible personal property are allocated to Seattle if the taxpayer was domiciled in Seattle at the time the sale or exchange occurred.

B. 1. A credit is allowed against the tax imposed in Section 5.66.030 equal to the amount of any legally imposed income or excise tax paid by the taxpayer to another taxing jurisdiction on capital gains derived from capital assets within the other taxing jurisdiction to the extent such capital gains are included in the taxpayer's Seattle capital gains. The amount of credit under this subsection 5.66.090.B may not exceed the total amount of tax due under this Chapter 5.66, and there is no carryback or carryforward of any unused credits.

2. As used in this Section 5.66.090, "taxing jurisdiction" means a state of the United States other than the state of Washington, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country, or a political subdivision of the State of Washington, a state of the United States other than the state of Washington, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, or a foreign country.

5.66.100 Filing of returns

A. Except as otherwise provided in this Section 5.66.100 or RCW 82.32.080, taxpayers owing tax under this Chapter 5.66 must file, on forms prescribed by the Director, a return with the Department on or before the date the taxpayer's state capital gains excise tax return for the taxable year is required to be filed.

B. In addition to the Seattle return required to be filed under subsection 5.66.100.A, taxpayers owing tax under this Chapter 5.66 must file with the Department on or before the date the federal return is required to be filed a copy of the Washington State capital gains excise tax return along with all schedules and supporting documentation.

C. Each taxpayer required to file a return under this Section 5.66.100 must, without assessment, notice, or demand, pay any tax due thereon to the Department on or before the date fixed for the filing of the return, regardless of any filing extension. The tax must be paid by forms as may be prescribed by the Director. If any tax due under this Chapter 5.66 is not paid by the due date, interest and penalties as provided in Section 5.66.150 apply to the deficiency.

D. 1. In addition to the Seattle return required to be filed under subsection 5.66.100.A, an individual claiming an exemption under Section 5.66.040 must file documentation substantiating the following:

- a. The fair market value and basis of the real estate held directly by the entity in which the interest was sold or exchanged;
- b. The percentage of the ownership interest sold or exchanged in the entity owning real estate; and
- c. The methodology, if any, established by the entity in which the interest was sold or exchanged, for allocating gains or losses to the owners, partners, or shareholders of the entity from the sale of real estate.

2. The Director may by rule prescribe additional filing requirements to substantiate an individual's claim for an exemption under Section 5.66.040.

E. If a taxpayer has obtained an extension of time for filing the federal income tax return for the taxable

year, the taxpayer is entitled to the same extension of time for filing the return required under this Section 5.66.100 if the taxpayer provides the Department, before the due date provided in subsection 5.66.100.A, the extension confirmation number or other evidence satisfactory to the Department confirming the federal extension. An extension under this subsection 5.66.100.E for the filing of a return under this Chapter 5.66 is not an extension of time to pay the tax due under this Chapter 5.66.

F. 1. If any return due under subsection 5.66.100.A, along with a copy of the state capital gains excise tax return, is not filed with the Department by the due date or any extension granted by the Director, the Department must assess a penalty in the amount of five percent of the tax due for the taxable year covered by the return for each month or portion of a month that the return remains unfiled. The total penalty assessed under this subsection 5.66.100.F may not exceed 25 percent of the tax due for the taxable year covered by the delinquent return. The penalty under this subsection 5.66.100.F is in addition to any penalties assessed for the late payment of any tax due on the return.

2. The Director may waive or cancel the penalty imposed under this subsection 5.66.100.F if:

a. The Director is persuaded that the taxpayer's failure to file the return by the due date was due to circumstances beyond the taxpayer's control; or

b. The taxpayer has not been delinquent in filing any return due under this Section 5.66.100 during the preceding five calendar years.

5.66.110 Joint filers

A. If the federal income tax liabilities of both spouses are determined on a joint federal return for the taxable year, they must file a joint return under this Chapter 5.66.

B. Except as otherwise provided in this Section 5.66.110, if the federal income tax liability of either spouse is determined on a separate federal return for the taxable year, they must file separate returns under this Chapter 5.66. State registered domestic partners may file a joint return under this Chapter 5.66 even if they filed separate federal returns for the taxable year.

C. The liability for tax due under this Chapter 5.66 of each spouse or state registered domestic partner is joint and several, unless:

1. The spouse is relieved of liability for federal tax purposes as provided under 26 U.S.C.

Section 6015; or

2. The Director determines that the domestic partner qualifies for relief as provided by rule of the Director. Such rule, to the extent possible without being inconsistent with this Chapter 5.66, must follow 26 U.S.C. Section 6015.

5.66.120 Adjustments for inflation

Beginning December 2024 and each December thereafter, the Director must adjust the applicable amounts by multiplying the current applicable amounts by one plus the percentage by which the most current consumer price index available on December 1 of the current year exceeds the consumer price index for the prior 12-month period, and rounding the result to the nearest \$1,000. If an adjustment under this Section 5.66.120 would reduce the applicable amounts, the Director must not adjust the applicable amounts for use in the following year. The Director must publish the adjusted applicable amounts on its public website by December 31. The adjusted applicable amounts calculated under this Section 5.66.120 take effect for taxes due and distributions made, as the case may be, in the following calendar year.

A. For purposes of this Section 5.66.120, the following definitions apply:

1. “Applicable amounts” means:

- a. The standard deduction amount in Section 5.66.020 and subsection 5.66.050.A.1;
- b. The worldwide gross revenue amount under subsection 5.66.060.D;
- c. The minimum qualifying charitable donation amount under subsection 5.66.070.A;

and

- d. The maximum qualifying charitable donation amount under subsection 5.66.070.B.

2. “Consumer price index” means the consumer price index for all urban consumers, all items,

for the Seattle area as calculated by the United States Bureau of Labor Statistics or its successor agency.

3. “Seattle area” means the geographic area sample that includes Seattle and surrounding areas.

5.66.130 Rules and regulations

The Director shall adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.66 for the purpose of carrying out the provisions of this Chapter 5.66.

5.66.140 Ancillary authority of Director

The Director is authorized to enter into agreements with any other taxing jurisdiction, including the Internal Revenue Service of the United States and state and other local jurisdictions that impose taxes on capital gains:

A. To acquire such taxpayer information necessary to most effectively collect the taxes imposed by this Chapter 5.66, determine whether taxpayers are or are not required to file a return for taxes under this Chapter 5.66, determine the amount of taxes due under this Chapter 5.66, conduct audits, and otherwise enact the provisions of this Chapter 5.66; or

B. To conduct an audit or a joint audit of a taxpayer by using an auditor employed by The City of Seattle, another public entity, or a contract auditor; provided that such contract auditor’s pay is not in any manner based upon the amount of tax assessed.

5.66.150 Monetary penalties

A. A taxpayer who fails to pay tax owed under this Chapter 5.66 when due is liable, in addition to interest, to a penalty of one percent of the amount of the unpaid tax for each month or fraction of a month, not to exceed a total penalty of 25 percent of the unpaid tax. If any part of any underpayment of tax owed under this Chapter 5.66 is due to intentional disregard of this Chapter 5.66 or rules or regulations adopted by the Director under Section 5.66.130, but without intent to defraud, an additional penalty of \$10 or ten percent of the total amount of the deficiency in the tax, whichever is greater, shall be added. If any part of the underpayment is due to fraudulent intent to evade the tax imposed under this Chapter 5.66, an additional penalty of 100 percent of the deficiency shall be added.

B. Any taxpayer who fails to file a return with the Director on or before the due date, who fails to include all of the information required to be shown on the return, or who includes incorrect information on a return shall pay a penalty of \$250 for each return with respect to which such a failure occurs; provided, however, the penalty shall be waived if the failure to include all of the information required or the inclusion of incorrect information is corrected by the taxpayer within 30 days of written notice from the Director as provided for under subsection 5.66.150.D. If the act or omission is due to intentional disregard of this Chapter 5.66 or rules or regulations adopted by the Director under Section 5.66.130, but without intent to defraud, an additional penalty of \$500 shall be added. If the act or omission is due to fraudulent intent to evade the tax imposed under this Chapter 5.66, an additional penalty of \$1,000 shall be added.

C. If a claim for refund or credit under this Chapter 5.66 is made for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the taxpayer making such claim shall be liable for a penalty in an amount equal to 20 percent of the excessive amount. For purposes of this Section 5.66.150, the term “excessive amount” means, in the case of any taxpayer, the amount of the claim for refund or credit for any tax year exceeds by at least 50 percent the amount of such claim allowable under this Chapter 5.66 for such tax year.

D. The Director shall notify a taxpayer by mail of any penalties, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Director may provide in writing.

E. Upon demonstration to the Director that a penalty has been imposed on an innocent spouse, the Director is authorized to cancel such penalty with respect to the innocent spouse.

5.66.170 Cancellation of penalties

A. The Director may cancel any penalties assessed under subsection 5.66.150.A or 5.66.150.B if the taxpayer shows that the act or omission giving rise to the penalty was due to reasonable cause and not willful neglect. Willful neglect is presumed unless the taxpayer shows that they exercised ordinary care and prudence in making arrangements to complete and file an accurate return and pay the tax owed by the due date but,

nevertheless, failed to do so due to circumstances beyond their control.

B. A request for cancellation of penalties must be received by the Director within 30 days after the date the Director mails the notice that the penalties are due. The request must be in writing and contain competent proof of all pertinent facts supporting a reasonable cause determination. In all cases the burden of proving the facts rests upon the taxpayer.

5.66.180 Amnesty

The Director may from time to time declare periods of amnesty in which penalties assessed under subsections 5.66.150.A, 5.66.150.B, or 5.66.150.C, or any combination thereof, may be waived. Such periods of amnesty and the terms thereof may be established upon a finding by the Director that they are likely to have the effect of increasing revenues to the City.

Section 2. A new Section 5.45.060 is added to the Seattle Municipal Code as follows:

5.45.060 Capital gains excise tax credit

A. To avoid taxing the same sale or exchange under both the business and occupation tax and capital gains tax, a credit is allowed against taxes due under this Chapter 5.45 on a sale or exchange that is also subject to the tax imposed under Chapter 5.66. The credit is equal to the amount of tax imposed under Chapter 5.66 on such sale or exchange.

B. The credit may be used against any tax due under Section 5.45.050.

C. The credit under this Section 5.45.060 is earned in regards to a sale or exchange, and may be claimed against taxes due under this Chapter 5.45, for the tax reporting period in which the sale or exchange occurred. The credit claimed for a tax reporting period may not exceed the tax otherwise due under Section 5.45.050 for that tax reporting period. Unused credit may not be carried forward or backward to another tax reporting period. No refunds may be granted for unused credit under this Section 5.45.060.

Section 3. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its

application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 4. Sections 1 and 2 of this ordinance shall take effect on January 1, 2024.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE*

Department:	Dept. Contact:	CBO Contact:
Legislative	Tom Mikesell/ 4-8735	N/A

** Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

1. BILL SUMMARY

Legislation Title: AN ORDINANCE imposing an excise tax on the sale or exchange of certain capital assets in Seattle; adding a new Chapter 5.66 to the Seattle Municipal Code; and adding a new Section 5.45.050 to the Seattle Municipal Code.

Summary and Background of the Legislation: This council bill would impose a two percent excise tax on the annual gains to individuals from the sale of non-exempt capital assets (more commonly referred to as a capital gains tax). The first \$250,000 of capital gains are excluded, and any gains from the following types of asset sales would be exempt:

- Real estate sales and/or exchanges;
- Retirement accounts;
- Condemnations;
- Livestock in the conduct of a farming and ranching business;
- Timber;
- Commercial fishing privileges; and,
- Goodwill from the sale of auto dealerships.

In addition to the \$250,000 standard deduction for each single or joint tax return, additional deductions would apply, including:

- Any amounts prohibited from taxation under the state or federal constitution;
- Gains from the sale of a qualified family-owned small business; and,
- Up to \$100,000 of charitable donations above a \$250,000 minimum qualifying charitable deduction.

The deductions, and other specified thresholds, are 2023 dollar amounts that will be adjusted in 2024, and annually thereafter, for inflation, consistent with provisions in RCW 82.87.150, which adjusts the same thresholds for the state's capital gains excise tax.

This tax is structured identically to the state's capital gains excise tax, which was affirmed to be a legal exercise of public taxing authority by the Washington State Supreme Court in *Quinn v. State of Washington*. This parallel structure would support ease of administration and taxpayer compliance.

The capital gains excise tax would be imposed beginning January 1, 2024, and, based on estimates developed by the City's Office of Economic and Revenue Forecasts (Forecast Office) using available state government data and forecasts, a two percent tax would generate approximately \$38 million in the first year. Additional details and caveats about this estimate are provided in Section 3.b.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? Yes No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?
 Implementing this council bill would require one-time rulemaking and systems development work, and ongoing administration and auditing work in the Department of Finance and Administrative Services (FAS). Based on a review of the last three taxes implemented by FAS, additional upfront costs could range from \$800,000 to \$1.6 million, though these are merely rough estimates that will be better informed through any budget requests the Executive determines to be necessary to implement the tax.

Are there financial costs or other impacts of *not* implementing the legislation?
 No.

If there are no changes to appropriations, revenues, or positions, please delete sections 3.a., 3.b., and 3.c. and answer the questions in Section 4.

3.a. Appropriations

This legislation adds, changes, or deletes appropriations.

3.b. Revenues/Reimbursements

This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from This Legislation:

Fund Name and Number	Dept	Revenue Source	2023 Revenue	2024 Estimated Revenue
General Fund 001000		Capital Gains Excise Tax	\$0	\$0
TOTAL			\$0	\$0

Revenue/Reimbursement Notes:

The capital gains excise tax would be imposed January 1, 2024, and, based on estimates provided by the City’s Office of Economic and Revenue Forecasts (Forecast Office) using state Department of Revenue (DOR) collections and forecast data, a two percent tax would generate approximately \$38 million in its first year, with moderate growth thereafter. This estimate was derived by applying the percentage of state capital gains collections from Seattle addresses (15.84 percent of the total) to the DOR revenue forecast for the state’s tax and does not include any explicit assumptions of future taxpayer avoidance of the tax, which is impossible to reliably estimate.

Additional Considerations:

The Forecast Office’s analysis of the DOR’s state collections data shows that 85 percent of the 2023 collections from Seattle taxpayers was from 163 taxpayers, which indicates an extremely concentrated tax base. Such a concentration likely also implies a high degree of year-to-year variance in tax payments, because a change in financial circumstances of relatively few individuals could have a significant impact on overall revenue collections.

The Forecast Office also notes that the approach used assumes that each of the taxpayers included as ‘Seattle- based’ in the DOR data would pay Seattle’s tax. However, for taxpayers with multiple domiciles in Washington state, the Forecast Office indicates there may be cases where the taxpayer would not have Seattle tax liability due to not meeting the standard for having a domicile in Seattle, or purposefully shifting their domicile in response to imposition of the tax. In other words, a taxpayer who reported a Seattle address for the purposes of calculating their recent state tax liability, might choose an official domicile outside the City going forward. The proposed legislation establishes specific thresholds regarding how much time one must reside at a specific location to establish it as a domicile, but how effectively these issues can be enforced for individuals with multiple Washington residences is unclear. Though it is impossible to accurately quantify the potential impact this could have, it is important to note in understanding the revenue estimate.

In addition, the Forecast Office reviewed 15 years of historical federal Internal Revenue Service (IRS) net capital gains data for insights into the stability of the tax. Though the IRS gains data includes real estate gains, which are explicitly exempt from the proposed tax, and is based on all capital gains, not just those above the \$250,000 standard deduction in the proposed bill, the historical review showed high levels of tax base sensitivity to economic expansions and contractions, likely due to reliance on stock and bond sales in capital gains.

Given the concentration of the tax base to a very small number of taxpayers, the possibility of avoidance through tax planning and multiple in-state residences, and the tax base’s sensitivity to cyclical economic trends, the annual revenue from the tax could fluctuate widely above and below the estimates provided. By way of additional insight to inform decisions about the use of potential proceeds from this tax, the Forecast Office has noted that there is an unusually high degree of uncertainty in this estimate.

3.c. Positions

_____ This legislation adds, changes, or deletes positions.

4. OTHER IMPLICATIONS

a. Does this legislation affect any departments besides the originating department?

Yes, FAS will be responsible for the implementation and administration of the capital gains tax if this legislation is approved. This will require both one-time setup and ongoing administrative efforts. (See details on potential fiscal impacts in response to question 3 above).

b. Is a public hearing required for this legislation?

No.

c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

d. Does this legislation affect a piece of property?

No.

e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?

An excise tax on large financial gains from sales of assets, which, as noted above, would be paid from a very small number of residents, is at its core a progressive tax that does not impact disadvantaged communities.

f. Climate Change Implications

1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?

No.

2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.

No.

g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?

This legislation does not implement a new program.

Summary Attachments (if any):

Amendment 1 Version 1 to CB 120601 – Increase Capital Gains Excise Tax Rate

Sponsor: Councilmember Herbold

Increase the Capital Gains Excise Tax rate to increase General fund revenues for deficit reduction

Effect: This amendment increases the proposed capital gains excise tax rate by 1%, to generate additional General Fund (GF) revenue to offset a portion of the projected GF deficit beginning in 2025. As introduced, Council Bill (CB) 120601 would impose a 2% capital gains excise tax; this amendment increases that to 3%.

Estimates generated by the Office of Economic and Revenue Forecasts (Forecast Office) for CB 120601 indicate a 1 percent tax could generate \$19 million annually. The Forecast Office has noted that there is an unusually high degree of uncertainty in this estimate. Due to several factors, including the concentration of the tax base to a very small number of taxpayers, the possibility of avoidance through tax planning and multiple in-state residences, and the tax base's sensitivity to cyclical economic trends, the annual revenue from the tax could fluctuate widely above and below the estimates provided.

Amend Section 1 of CB 120601 as follows:

Section 1. A new Chapter 5.66 is added to the Seattle Municipal Code as follows:

Chapter 5.66 CAPITAL GAINS EXCISE TAX

* * *

5.66.030 Tax imposed—Rate

A. Beginning January 1, 2024, a capital gains excise tax is imposed on the sale or exchange of long-term capital assets. Only individuals are subject to payment of the tax.

B. The amount of the capital gains excise tax due shall be an individual's Seattle capital gains, multiplied by ~~((two))~~ three percent.

C. If an individual's Seattle capital gains are less than zero for a taxable year, no tax is due under this Section 5.66.030 and no such amount is allowed as a carryover for use in the calculation of that individual's adjusted capital gain, as defined in Section 5.66.020, for any

taxable year. To the extent that a loss carryforward is included in the calculation of an individual's federal net long-term capital gain and that loss carryforward is directly attributable to losses from sales or exchanges allocated to Seattle under Section 5.66.090, the loss carryforward is included in the calculation of that individual's adjusted capital gain for the purposes of this Chapter 5.66. An individual may not include any losses carried back for federal income tax purposes in the calculation of that individual's adjusted capital gain for any taxable year.

D. The tax imposed in this Section 5.66.030 applies to the sale or exchange of long-term capital assets owned by the taxpayer, whether the taxpayer was the legal or beneficial owner of such assets at the time of the sale or exchange. The tax applies when the Seattle capital gains are recognized by the taxpayer in accordance with this Chapter 5.66.

E. For the purposes of this Chapter 5.66:

1. An individual is considered to be a beneficial owner of long-term capital assets held by an entity that is a pass-through or disregarded entity for federal tax purposes, such as a partnership, limited liability company, S corporation, or grantor trust, to the extent of the individual's ownership interest in the entity as reported for federal income tax purposes.

2. A nongrantor trust is deemed to be a grantor trust if the trust does not qualify as a grantor trust for federal tax purposes, and the grantor's transfer of assets to the trust is treated as an incomplete gift under 26 U.S.C. Section 2511 and its accompanying regulations. A grantor of such trust is considered the beneficial owner of the capital assets of the trust for purposes of the tax imposed in this Section 5.66.030 and must include any long-term capital gain or loss from

Tom Mikesell
Select Budget Committee
11/30/2023
D1

the sale or exchange of a capital asset by the trust in the calculation of that individual's adjusted capital gain, if such gain or loss is allocated to Seattle under Section 5.66.090.

* * *