	<p><b>City Council Study Session Finance - Econ Dev SFA</b>  <b>August 13, 2018 - 5:30 PM</b>  <b>Council Chambers - City Hall</b>  <b>AGENDA</b>  <b>Watch the meeting LIVE!</b></p> <p><b>Watch the meeting video</b>  Meeting videos are not available until 72  hours after the meeting has concluded.</p>
---	--

- I. CALL TO ORDER
  - A. Roll Call
- II. ANNOUNCEMENTS, REPORTS, AND PRESENTATIONS
- III. AGENDA ITEMS FOR COUNCIL DISCUSSION
  - A. Airport Management Discussion (Gaub) (10 Minute Presentation)
  - B. Proposed Ordinance Adopting New Criminal Law Provisions (Legal) (10 Minute Presentation)
  - C. EHB 2005 State Business Licensing (Tate) (15 Minute Presentation)  
An overview of state legislation that requires all cities to incorporate their business license programs into the State business licensing system
  - D. Digital Parity Update (Riggs) (15 Minute Presentation)
- IV. FINANCE AND ECONOMIC DEVELOPMENT DISCUSSION ITEMS
  - A. Budget Review Update (Coleman) (10 Minute Presentation)
- V. OTHER DISCUSSION ITEMS
- VI. NEW BUSINESS
- VII. MATRIX
  - A. Matrix
- VIII. ADJOURNMENT

*Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.*



## AGENDA BILL APPROVAL FORM

---

**Agenda Subject:**

Airport Management Discussion (Gaub) (10 Minute Presentation)

**Date:**

August 7, 2018

**Department:**

CD & PW

**Attachments:**

[Letter from AMG](#)

**Budget Impact:**

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

**Administrative Recommendation:**

For discussion only.

**Background Summary:**

As requested by the City Council, John Theisen, Chair of the Airport Advisory Board, will be discussing the Board's comments and perspective regarding the management strategy for the replacement of the Airport's current contract management firm. AMG's contract expires on December 31, 2018. The options that have been under consideration include 1) selection of a new contract management firm or 2) transferring the operations and management to new City staff and bringing it in-house.

**Reviewed by Council Committees:****Councilmember:****Staff:**

Gaub

**Meeting Date:** August 13, 2018

**Item Number:**



July 12, 2018

Mayor Nancy Backus  
City of Auburn  
25 W Main Street  
Auburn, WA 98001

Re: Auburn Municipal Airport Management

Honorable Mayor Backus:

When we last spoke in March 2018 regarding the status of the airport management we discussed the options the City was considering.

Since then I have given this situation considerable thought and my recommendation is to have the airport be managed by City staff.

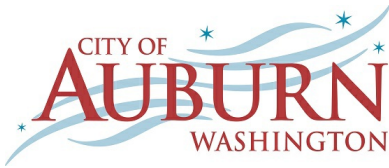
My suggestion is to hire an experienced airport manager to report to you or your designated representative. This person must have prior operational airport knowledge and proven management skills. Their background must include working experience of the Federal Aviation Administration and WDDOT- Aviation requirements for aviation airports.

This recommendation comes after searching for possible individuals or companies which could accomplish the task as contractors at a level of experience deserving the City and the airport tenants. Regretfully I have not been able to secure an entity I would recommend.

If I or my staff can be of any assistance during this transition, please do not hesitate to contact us.

Very truly yours,

Jamelle R. Garcia  
Managing Member



## AGENDA BILL APPROVAL FORM

**Agenda Subject:**

Proposed Ordinance Adopting New Criminal Law Provisions  
(Legal) (10 Minute Presentation)

**Date:**

August 8, 2018

**Department:**

City Attorney

**Attachments:**

[Proposed Ordinance](#)

[Exhibit A](#)

[Exhibit B](#)

[Exhibit C](#)

[Exhibit D](#)

**Budget Impact:**

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

**Administrative Recommendation:**

For discussion.

**Background Summary:**

State law divides felony crimes into 3 classes: A, B and C. Class C felonies are the least serious of the 3. When a person attempts to commit a crime, the law reduces the crime by one degree. For example, an attempt to commit a class A felony is a class B felony, an attempt to commit a class B felony is a class C, and an attempt to commit a class C felony becomes a gross misdemeanor.

The City may only charge crimes that are misdemeanors and gross misdemeanors. The King County Prosecutor's Office has the responsibility for deciding whether to charge a felony. If the county declines to charge a Class C felony, the City prosecutors can only charge the crime if it is charged as an "attempt" to commit that class C felony (thereby reducing it to a gross misdemeanor within our charging jurisdiction).

The list of county-declined class C felony cases coming to the City prosecutor's office for charging continues to grow. Instead of charging a crime that has actually been committed as an "attempt" just so it can be charged, we propose adopting the most common of these charges—identity theft, unlawful imprisonment, and possession of a controlled substance, as City ordinances. We also propose revisions to our ordinances regulating forgery (previously enacted to address the same issue referenced above) and possession of drug paraphernalia to make them more streamlined and readable.

**Reviewed by Council Committees:**

**Councilmember:**

**Meeting Date:** August 13, 2018

**Staff:**

Item Number:

Gross

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF AUBURN, WASHINGTON RELATING TO  
CRIMINAL OFFENSES; AMENDING CHAPTERS  
9.14, 9.22, AND 9.62 OF THE AUBURN CITY CODE

**WHEREAS**, Title 9 of the Auburn City Code contains the City's Criminal  
Code; and

**WHEREAS**, upon review of existing language, the Legal Department  
recommends updating certain provisions to improve ....

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,  
WASHINGTON, DO ORDAIN as follows:

**Section 1.**    **Amendment to City Code.**            Chapter 9.14 of the  
Auburn City Code is amended by adding a new Section, 9.14.040, "Unlawful  
imprisonment," to read as set forth in Exhibit A.

**Section 2.**    **Amendment to City Code.**            Chapter 9.22 of the  
Auburn City Code is amended by: a) amending Sections 9.22.010, "Marijuana  
prohibited" and 9.22.020, "Drug paraphernalia prohibited," to read as set forth in  
Exhibits B and C.

**Section 3.**    **Amendment to City Code.**            Chapter 9.62 of the  
Auburn City Code is amended by: a) amending 9.62.010, "Nonfelony forgery,"  
and, b) adding a new Section, 9.62.020, "Identify Theft," to read as set forth in  
Exhibit D.

**Section 3. Implementation.** The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

**Section 4. Severability.** 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 the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

**Section 5. Effective date.** This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: \_\_\_\_\_

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
NANCY BACKUS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

-----  
Ordinance No. XXXX  
DATE  
Page 2 of 3

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven L. Gross, City Attorney

Published: \_\_\_\_\_

-----  
Ordinance No. XXXX  
DATE  
Page 3 of 3



**9.14.040 Unlawful imprisonment**

A. A person is guilty of unlawful imprisonment if he or she knowingly restrains another person.

B. Restrain means to restrict a person's movements without consent and without legal authority in a manner which interferes substantially with his or her liberty. Restraint is "without consent" if it is accomplished by:

1. physical force, intimidation, or deception, or
2. any means, including acquiescence of the victim, if the victim is a child less than sixteen years old or an incompetent person and their parent, guardian, or other person or institution having lawful control or custody of them has not acquiesced.

C. Violation of this section is a gross misdemeanor, punishable by up to 364 days in jail and/or a \$5,000 fine.

D. This section is intended to supplement city jurisdiction in unlawful imprisonment cases that could have been prosecuted as felonies but which were declined by the county in which the offense occurred or which do not meet the county's charging guidelines. If a person is charged with unlawful imprisonment under state law for a particular incident, the person shall not also be charged under this section for the same conduct.

**9.22.010 ~~Marijuana-Controlled substances~~ prohibited.**

**A. Restrictions on marijuana.**

1. Except as authorized ~~by under~~ United States Code (USC) Title 21 ~~and/or by RCW 69.50.4013(4).~~ Controlled Substances Act, it is unlawful for any person ~~or persons~~ to knowingly grow, manufacture, process, deliver, or sell marijuana.

~~2B. It is unlawful for any person to knowingly possess marijuana in an amount that violates RCW 69.50.4013(3)(a). Except as authorized by the Revised Code of Washington, it is unlawful for any person to possess marijuana.~~

3. It is unlawful for any person under age 21 to knowingly possess marijuana in any amount.

4. ~~E.~~ “Marijuana,” also known as “marihuana,” means all parts of the plant genus Cannabis and all of its species, subspecies, taxa and hybridizations, whether growing or not; the seeds thereof; the resins extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, and includes all marijuana concentrates, useable marijuana, and marijuana-infused products. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

B. It is unlawful for any person to knowingly possess a controlled substance other than marijuana as defined by RCW 69.50.101(f) unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

C. It is unlawful for any person to knowingly possess a legend drug in violation of RCW 69.41.

**D. Penalties.**

1. Violation of ~~subsection E of this section~~ the provisions of this section ~~is a shall constitute a gross~~ misdemeanor, punishable by ~~up to imprisonment in jail for a maximum term fixed by the court of not more than 364~~ 90 days ~~in jail and/or a \$5,000 fine.~~

2. Violation of any other subsection of this section is a misdemeanor punishable by up to 90 days in jail and/or a \$1,000 fine. ~~, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine.~~

~~For the purposes of this section only, the penalty provisions of RCW 69.50.325 through 69.50.369 and WAC 314.55.515 through 314.55.535 are hereby adopted by reference and incorporated herein.~~ (Ord. 6595 § 4, 2016; Ord. 6525 § 4, 2014; Ord. 6300 § 1, 2010; Ord. 5682 § 1, 2002.)

### 9.22.020 Drug paraphernalia prohibited.

~~A.~~ No person shall knowingly possess any drug paraphernalia as defined ~~in RCW 69.50.102, ACC 9.22.030.~~ Possession of drug paraphernalia is a misdemeanor. ~~An individual's~~ first offense of this section is punishable by a mandatory penalty of 24 consecutive hours in jail and imposition of a \$250.00 fine. ~~Any~~ Subsequent offenses ~~are shall be~~ punishable by a mandatory penalty of 24 consecutive hours in jail and a \$500.00 fine. ~~These fines shall be in addition to any other fines, assessments or penalties imposed.~~ (Ord. 6300 § 1, 2010; Ord. 5682 § 1, 2002.)

### 9.22.030 Drug paraphernalia — Definitions.

~~Except as authorized under United States Code (USC) Title 21, the Controlled Substances Act, and except as authorized by the Revised Code of Washington under RCW 69.50.301 through 69.50.369, as used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, smoking, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:~~

~~A. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;~~

~~B. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;~~

~~C. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;~~

~~D. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;~~

~~E. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;~~

~~F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;~~

## EXHIBIT C

~~G. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;~~

~~H. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;~~

~~I. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;~~

~~J. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;~~

~~K. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;~~

~~L. A device "designed primarily for" such smoking or ingestion set forth in this section is a device which has been fabricated, constructed, altered, adjusted or marked especially for use in the smoking, ingestion or consumption of marijuana, hashish, hashish oil, cocaine or any other "controlled substance," and is peculiarly adapted to such purposes by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding the fact that it might also be possible to use such device for some other purpose. "Paraphernalia" includes, but is not limited to, the following items or devices:~~

~~1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;~~

~~2. Water pipes;~~

~~3. Carburetion tubes and devices;~~

~~4. Smoking and carburetion masks;~~

~~5. Reach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;~~

~~6. Miniature cocaine spoons and cocaine vials;~~

~~7. Chamber pipes;~~

~~8. Carburetor pipes;~~

~~9. A smokable pipe which contains a heating unit, whether the device is known as an “electric pipe” or otherwise;~~

~~10. Air-driven pipes;~~

~~11. Chillums;~~

~~12. A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke than would otherwise be possible, whether the device is known as a “bong” or otherwise;~~

~~13. A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a “buzz bomb” or otherwise;~~

~~14. A canister, container or other device with a tube, nozzle or other similar arrangement attached thereto so constructed as to permit the forcing of smoke accumulated therein into the user’s lungs under pressure, whether the device is known as a “power hitter” or otherwise;~~

~~15. A device for holding a marijuana cigarette, whether the device is known as a “roach clip” or otherwise;~~

~~16. A spoon for ingestion of a controlled substance through the nose;~~

~~17. A straw or tube for ingestion of a controlled substance through the nose or mouth;~~

~~18. A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;~~

~~19. Ice pipes or chillers.~~ (Ord. 6613 § 8, 2016; Ord. 6300 § 1, 2010.)

**9.22.040 Drug paraphernalia — Determination.**

## EXHIBIT C

B. In determining whether an object is drug paraphernalia under this section ~~and ACC 9.22.030~~, a court or other authority should consider, in addition to all other logically relevant factors, the following:

1A. Statements by an owner or by anyone in control of the object concerning its use;

2B. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3C. The proximity of the object, in time and space, to a direct violation of this chapter;

4D. The proximity of the object to controlled substances;

5E. The existence of any residue of controlled substances on the object;

6F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

7G. Instructions, oral or written, provided with the object concerning its use;

8H. Descriptive materials accompanying the object which explain or depict its use;

9I. National and local advertising concerning its use;

10J. The manner in which the object is displayed for sale;

11K. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

13M. The existence and scope of legitimate uses for the object in the community; and

14N. Expert testimony concerning its use. (Ord. 6300 § 1, 2010.)

### 9.62.010 Nonfelony forgery.

A. A person is guilty of nonfelony forgery, if, with intent to injure, deceive or defraud, that person:

1. ~~He~~ falsely makes, completes, or alters a written instrument; or
2. ~~He~~ possesses, utters, offers, disposes of, or puts off a written instrument as true, knowing it a written instrument that he knows to be forged. "Written instrument" shall include counterfeit money, or
3. ~~The total amount of loss by the victim(s) of the forgery is less than \$1,000, or notwithstanding the amount of the loss by the victim(s), a jurisdiction empowered to prosecute felony forgery charges has declined to file felony charges or where the circumstances do not meet the county's felony charging guidelines.~~

B. Nonfelony forgery is a gross misdemeanor, punishable by up to 364 days in jail and/or a \$5,000 fine.

C. This section is intended to supplement city jurisdiction in ~~cases of~~ forgery cases that could ~~potentially~~ have been prosecuted as felonies but which were declined ~~in writing~~ by the county in which the offense occurred or which do not meet ~~the said county's felony~~ charging guidelines ~~as communicated to the city~~. If a person is charged with forgery under state law for a particular incident, the person shall not also be charged under this section for the same conduct. (Ord. 6411 § 7, 2012.)

\*new language\*

### 9.62.020 Identity Theft

A. Except as provided in RCW 9.35.020(9), it is unlawful for any person to knowingly obtain, possess, use, or transfer a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime.

B. In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

C. Violation of this section is a gross misdemeanor, punishable by up to 364 days in jail and/or a \$5,000 fine.

D. This section is intended to supplement city jurisdiction in identity theft cases that could have been prosecuted as felonies but which were declined by the county in which the offense occurred or which do not meet the county's charging guidelines. If a person is charged with identity theft



## EXHIBIT D

under state law for a particular incident, the person shall not also be charged under this section for the same conduct.



## AGENDA BILL APPROVAL FORM

Agenda Subject:  
EHB 2005 State Business Licensing (Tate) (15 Minute Presentation)

Date:  
August 7, 2018

Department:  
Community Development &  
Public Works

**Attachments:**  
[Engrossed House Bill \(EHB 2005\)](#)  
[AWC Model Business License Threshold](#)  
[Language](#)  
[AWC Webpage Summary Article](#)  
[Side by Side Comparison](#)

Budget Impact:  
Current Budget: \$0  
Proposed Revision: \$0  
Revised Budget: \$0

Administrative Recommendation:

### Background Summary:

The Washington State Legislature enacted Engrossed House Bill (EHB) 2005 during the 2017 legislative session which then went into effect on July 23, 2017 (EHB 2005 is included as Attachment A). The purpose of EHB 2005 was to help simplify the administration of municipal general business licenses, which is intended to enhance the business climate in Washington State.

Generally speaking, EHB 2005 establishes two mandates directed at local government. Each mandate has a different compliance deadline. The two mandates are described as follows:

1. By January 1, 2019, municipalities are required to amend how their local code defines “engaging in business.” This definition is important because it determines the types of businesses that are required to obtain a business license. Currently, every City has its own definition for what it means to engage in business within its boundaries. The purpose of this legislative mandate is to provide the business community with a standardized definition in order to level the playing field between communities and to remove the complexity for a business that is trying to understand the different sets of rules within all of the municipalities that they operate.
2. By 2022 (or earlier as described later) municipalities are required to administer their business license program through the State’s Business Licensing System. The purpose of this requirement is to ensure that the business community is provided a one-stop shop for obtaining and renewing all of their business licenses statewide. Instead of a franchise restaurant having to obtain or renew 40 separate business licenses in 40 separate communities, this mandate will allow that business to obtain or renew through a singular portal. The legislation does not eliminate a local municipality’s right to collect their adopted business license fees or to remove the local municipality’s authority to approve or deny a license. City fees are paid through the State Business License System and transferred to the City. New applications are submitted through the State Business License System and routed to the City for review (e.g. in the same fashion that the State routes a liquor license application to the City before it will issue the permit).

EHB 2005 specifically directs cities to work with the Association of Washington Cities to develop a model ordinance that addresses item #1 above. AWC was required to complete this process by July 1, 2018. That effort has concluded and a final model ordinance has been distributed to the City of Auburn and others. The final model ordinance is included as Attachment B. Attachment C is an excerpt from the AWC webpage that provides additional information and links to other resources. This webpage

provides a good summary of the requirements, process, and other details associated with this effort.

### **MODIFYING THE BUSINESS LICENSE THRESHOLD – DEADLINE OF JANUARY 1, 2019**

In Auburn, Business Licensing is administered under Title 5 of the Auburn City Code. ACC 5.10.020.A defines “Business” as follows:

*“Business means all activities, occupations, trades, pursuits, professions, and matters located within the city or within the city’s jurisdiction, with a physical presence in the city and operated on a permanent or ongoing basis whether operated with the object of gain, benefit, advantage or profit, or operated not for profit, to the business enterprise or to another person, directly or indirectly; provided that ‘business’ shall not mean governmental agencies.”*

Attachment D provides a side-by-side comparison of the City’s definition of “business” and AWC’s model language for what it means to “engage in business”. EHB 2005 will require that the City of Auburn amend Title 5 in order to be consistent with state law.

### **SHIFTING ADMINISTRATION OF THE PROGRAM TO THE STATE – DEADLINE OF 2022**

The State Mandate related to administration of the business license program is found under New Section. Section 2 of EHB 2005. It reads as follows:

*“Except as otherwise provided in subsection (7) of this section, a city that requires a general business license of any person that engages in business activities within that city must partner with the department to have such license issued, and renewed if the city requires renewal, through the business licensing service in accordance with chapter 19.02 RCW.”*

EHB 2005 states that the deadline for partnering with the State is 2022, however, it also states that a city may decline to partner with the State by 2022 if the city already participates in the “online local business license and tax filing portal known as ‘FileLocal’ as of July 1, 2020. FileLocal is an already existing licensing portal that was developed by the cities of Bellevue, Seattle, Everett, Tacoma and Lake Forest Park. These cities developed the portal in order to streamline administration of their B&O tax programs and to create a location where a single business may apply for and obtain a business license within those municipalities. The FileLocal consortium has offered Auburn and other municipalities the opportunity to participate in this program in lieu of partnering with the State. **The City of Auburn will have a choice as to whether it is in the City’s best interest to partner with the State or join the FileLocal program, but that discussion and decision will not be ripe until additional information has been collected.**

### **DISCUSSION:**

1. Are there questions about the effect of AWC’s model language?
2. Are there any thoughts on the appropriate income threshold? AWC suggests \$2,000 per year but the legislation allows cities to establish a different threshold.
3. Are there any thoughts or concerns related to the examples provided on pages 2 thru 4 of Attachment 2 of what it means to engage in business and the examples of what would not qualify as engaging in business?

### **NEXT STEPS:**

1. Bring forward to Council Study Session a draft ordinance that implements EHB 2005. Intended date to introduce a draft ordinance is the October 22, 2018 Study Session.
2. Schedule for Council action. Depending upon October 22, 2018 Study Session discussion, action could occur as early as November 5, 2018; alternative additional action dates include November 19<sup>th</sup>, December 3<sup>rd</sup> and December 17<sup>th</sup>.
3. In 2019 bring forward additional information related to the phase 2 requirement of EHB 2005 related to integration of the City business license program with the State business licensing system or the FileLocal program.

Reviewed by Council Committees:

Councilmember:

Staff:

Tate

Meeting Date: August 13, 2018

Item Number:

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2005**

Chapter 209, Laws of 2017

65th Legislature  
2017 Regular Session

MUNICIPAL BUSINESS LICENSING--STATE PARTNERSHIP--TAX APPORTIONMENT

EFFECTIVE DATE: 7/23/2017

Passed by the House April 17, 2017  
Yeas 97 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 12, 2017  
Yeas 49 Nays 0

CYRUS HABIB

**President of the Senate**

Approved May 5, 2017 10:37 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2005** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

May 5, 2017

**Secretary of State  
State of Washington**

---

ENGROSSED HOUSE BILL 2005

---

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

State of Washington                      65th Legislature                      2017 Regular Session

By Representatives Lytton, Nealey, Kagi, and Ormsby

Read first time 02/07/17. Referred to Committee on Finance.

1            AN ACT Relating to improving the business climate in this state  
2 by simplifying the administration of municipal general business  
3 licenses; adding a new chapter to Title 35 RCW; and creating a new  
4 section.

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

6            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
7 throughout this chapter unless the context clearly requires  
8 otherwise.

9            (1) "Business licensing service," "business licensing system,"  
10 and "business license" have the same meaning as in RCW 19.02.020.

11            (2) "City" means a city, town, or code city.

12            (3) "Department" means the department of revenue.

13            (4) "General business license" means a license, not including a  
14 regulatory license or a temporary license, that a city requires all  
15 or most businesses to obtain to conduct business within that city.

16            (5) "Partner" means the relationship between a city and the  
17 department under which general business licenses are issued and  
18 renewed through the business licensing service in accordance with  
19 chapter 19.02 RCW.

20            (6) "Regulatory business license" means a license, other than a  
21 general business license, required for certain types of businesses

1 that a city has determined warrants additional regulation, such as  
2 taxicab or other for-hire vehicle operators, adult entertainment  
3 businesses, amusement device operators, massage parlors, debt  
4 collectors, door-to-door sales persons, trade-show operators, and  
5 home-based businesses.

6 NEW SECTION. **Sec. 2.** (1) Except as otherwise provided in  
7 subsection (7) of this section, a city that requires a general  
8 business license of any person that engages in business activities  
9 within that city must partner with the department to have such  
10 license issued, and renewed if the city requires renewal, through the  
11 business licensing service in accordance with chapter 19.02 RCW.

12 (a) Except as otherwise provided in subsection (3) of this  
13 section, the department must phase in the issuance and renewal of  
14 general business licenses of cities that required a general business  
15 license as of July 1, 2017, and are not already partnering with the  
16 department, as follows:

17 (i) Between January 1, 2018, and December 31, 2021, the  
18 department must partner with at least six cities per year;

19 (ii) Between January 1, 2022, and December 31, 2027, the  
20 department must partner with the remaining cities; or

21 (iii) Between July 1, 2017 and December 31, 2022, the department  
22 must partner with all cities requiring a general business license if  
23 specific funding for the purposes of this subsection (iii) is  
24 appropriated in the omnibus appropriations act.

25 (b) A city that imposes a general business license requirement  
26 and does not partner with the department as of January 1, 2018, may  
27 continue to issue and renew its general business licenses until the  
28 city partners with the department as provided in subsection (4) of  
29 this section.

30 (2)(a) A city that did not require a general business license as  
31 of July 1, 2017, but imposes a new general business license  
32 requirement after that date must advise the department in writing of  
33 its intent to do so at least ninety days before the requirement takes  
34 effect.

35 (b) If a city subject to (a) of this subsection (2) imposes a new  
36 general business license requirement after July 1, 2017, the  
37 department, in its sole discretion, may adjust resources to partner  
38 with the imposing city as of the date that the new general business  
39 licensing requirement takes effect. If the department cannot

1 reallocate resources, the city may issue and renew its general  
2 business license until the department is able to partner with the  
3 city.

4 (3) The department may delay assuming the duties of issuing and  
5 renewing general business licenses beyond the dates provided in  
6 subsection (1)(a) of this section if:

7 (a) Insufficient funds are appropriated for this specific  
8 purpose;

9 (b) The department cannot ensure the business licensing system is  
10 adequately prepared to handle all general business licenses due to  
11 unforeseen circumstances;

12 (c) The department determines that a delay is necessary to ensure  
13 that the transition to mandatory department issuance and renewal of  
14 general business licenses is as seamless as possible; or

15 (d) The department receives a written notice from a city within  
16 sixty days of the date that the city appears on the department's  
17 biennial partnership plan, which includes an explanation of the  
18 fiscal or technical challenges causing the city to delay joining the  
19 system. A delay under this subsection (3)(d) may be for no more than  
20 three years.

21 (4)(a) In consultation with affected cities and in accordance  
22 with the priorities established in subsection (5) of this section,  
23 the department must establish a biennial plan for partnering with  
24 cities to assume the issuance and renewal of general business  
25 licenses as required by this section. The plan must identify the  
26 cities that the department will partner with and the dates targeted  
27 for the department to assume the duties of issuing and renewing  
28 general business licenses.

29 (b) By January 1, 2018, and January 1st of each even-numbered  
30 year thereafter, the department must submit the partnering plan  
31 required in (a) of this subsection (4) to the governor; legislative  
32 fiscal committees; house local government committee; senate  
33 agriculture, water, trade and economic development committee; senate  
34 local government committee; affected cities; association of  
35 Washington cities; association of Washington business; national  
36 federation of independent business; and Washington retail  
37 association.

38 (c) The department may, in its sole discretion, alter the plan  
39 required in (a) of this subsection (4) with a minimum notice of  
40 thirty days to affected cities.



1 (5) When determining the plan to partner with cities for the  
2 issuance and renewal of general business licenses as required in  
3 subsection (4) of this section, cities that notified the department  
4 of their wish to partner with the department before January 1, 2017,  
5 must be allowed to partner before other cities.

6 (6) A city that partners with the department for the issuance and  
7 renewal of general business licenses through the business licensing  
8 service in accordance with chapter 19.02 RCW may not issue and renew  
9 those licenses.

10 (7) A city may decline to partner with the department for the  
11 issuance and renewal of a general business license as provided in  
12 subsection (1) of this section if the city participates in the online  
13 local business license and tax filing portal known as "FileLocal" as  
14 of July 1, 2020. For the purposes of this subsection (7), a city is  
15 considered to be a FileLocal participant as of the date that a  
16 business may access FileLocal for purposes of applying for or  
17 renewing that city's general business license and reporting and  
18 paying that city's local business and occupation taxes. A city that  
19 ceases participation in FileLocal after July 1, 2020, must partner  
20 with the department for the issuance and renewal of its general  
21 business license as provided in subsection (1) of this section.

22 (8) By January 1, 2019, and each January 1st thereafter through  
23 January 1, 2028, the department must submit a progress report to the  
24 legislature. The report required by this subsection must provide  
25 information about the progress of the department's efforts to partner  
26 with all cities that impose a general business license requirement  
27 and include:

28 (a) A list of cities that have partnered with the department as  
29 required in subsection (1) of this section;

30 (b) A list of cities that have not partnered with the department;

31 (c) A list of cities that are scheduled to partner with the  
32 department during the upcoming calendar year;

33 (d) A list of cities that have declined to partner with the  
34 department as provided in subsection (7) of this section;

35 (e) An explanation of lessons learned and any process  
36 efficiencies incorporated by the department;

37 (f) Any recommendations to further simplify the issuance and  
38 renewal of general business licenses by the department; and

39 (g) Any other information the department considers relevant.

1        NEW SECTION.    **Sec. 3.**    (1) A general business license that must  
2 be issued and renewed through the business licensing service in  
3 accordance with chapter 19.02 RCW is subject to the provisions of  
4 this section.

5        (2)(a) A city has broad authority to impose a fee structure as  
6 provided by RCW 35.22.280, 35.23.440, and 35A.82.020. However, any  
7 fee structure selected by a city must be within the department's  
8 technical ability to administer. The department has the sole  
9 discretion to determine if it can administer a city's fee structure.

10        (b) If the department is unable to administer a city's fee  
11 structure, the city must work with the department to adopt a fee  
12 structure that is administrable by the department. If a city fails to  
13 comply with this subsection (2)(b), it may not enforce its general  
14 business licensing requirements on any person until the effective  
15 date of a fee structure that is administrable by the department.

16        (3) A general business license may not be renewed more frequently  
17 than once per year except that the department may require a more  
18 frequent renewal date as may be necessary to synchronize the renewal  
19 date for the general business license with the business's business  
20 license expiration date.

21        (4) The business licensing system need not accommodate any  
22 monetary penalty imposed by a city for failing to obtain or renew a  
23 general business license. The penalty imposed in RCW 19.02.085  
24 applies to general business licenses that are not renewed by their  
25 expiration date.

26        (5) The department may refuse to administer any provision of a  
27 city business license ordinance that is inconsistent with this  
28 chapter.

29        NEW SECTION.    **Sec. 4.**    The department is not authorized to  
30 enforce a city's licensing laws except to the extent of issuing or  
31 renewing a license in accordance with this chapter and chapter 19.02  
32 RCW or refusing to issue a license due to an incomplete application,  
33 nonpayment of the appropriate fees as indicated by the license  
34 application or renewal application, or the nonpayment of any  
35 applicable penalty for late renewal.

36        NEW SECTION.    **Sec. 5.**    Cities whose general business licenses are  
37 issued through the business licensing system retain the authority to  
38 set license fees, provide exemptions and thresholds for these

1 licenses, approve or deny license applicants, and take appropriate  
2 administrative actions against licensees.

3 NEW SECTION. **Sec. 6.** Cities may not require a person to obtain  
4 or renew a general business license unless the person engages in  
5 business within its respective city. For the purposes of this  
6 section, a person may not be considered to be engaging in business  
7 within a city unless the person is subject to the taxing jurisdiction  
8 of a city under the standards established for interstate commerce  
9 under the commerce clause of the United States Constitution.

10 NEW SECTION. **Sec. 7.** A general business license change enacted  
11 by a city whose general business license is issued through the  
12 business licensing system takes effect no sooner than seventy-five  
13 days after the department receives notice of the change if the change  
14 affects in any way who must obtain a license, who is exempt from  
15 obtaining a license, or the amount or method of determining any fee  
16 for the issuance or renewal of a license.

17 NEW SECTION. **Sec. 8.** (1)(a) The cities, working through the  
18 association of Washington cities, must form a model ordinance  
19 development committee made up of a representative sampling of cities  
20 that impose a general business license requirement. This committee  
21 must work through the association of Washington cities to adopt a  
22 model ordinance on general business license requirements by July 1,  
23 2018. The model ordinance and subsequent amendments developed by the  
24 committee must be adopted using a process that includes opportunity  
25 for substantial input from business stakeholders and other members of  
26 the public. Input must be solicited from statewide business  
27 associations and from local chambers of commerce and downtown  
28 business associations in cities that require a person that conducts  
29 business in the city to obtain a general business license.

30 (b) The department, association of Washington cities, and  
31 municipal research and services center must post copies of, or links  
32 to, the model ordinance on their internet web sites. Additionally, a  
33 city that imposes a general business license requirement must make  
34 copies of its general business license ordinance or ordinances  
35 available for inspection and copying as provided in chapter 42.56  
36 RCW.

1 (c) The definitions in the model ordinance may not be amended  
2 more frequently than once every four years, except that the model  
3 ordinance may be amended at any time to comply with changes in state  
4 law or court decisions. Any amendment to a mandatory provision of the  
5 model ordinance must be adopted with the same effective date by all  
6 cities.

7 (2) A city that imposes a general business license requirement  
8 must adopt the mandatory provisions of the model ordinance by January  
9 1, 2019. The following provisions are mandatory:

10 (a) A definition of "engaging in business within the city" for  
11 purposes of delineating the circumstances under which a general  
12 business license is required;

13 (b) A uniform minimum licensing threshold under which a person  
14 would be relieved of the requirement to obtain a city's general  
15 business license. A city retains the authority to create a higher  
16 threshold for the requirement to obtain a general business license  
17 but must not deviate lower than the level required by the model  
18 ordinance.

19 (3)(a) A city may require a person that is under the uniform  
20 minimum licensing threshold as provided in subsection (2) of this  
21 section to obtain a city registration with no fee due to the city.

22 (b) A city that requires a city registration as provided in (a)  
23 of this subsection must partner with the department to have such  
24 registration issued through the business licensing service in  
25 accordance with chapter 19.02 RCW. This subsection (3)(b) does not  
26 apply to a city that is excluded from the requirement to partner with  
27 the department for the issuance and renewal of general business  
28 licenses as provided in section 2 of this act.

29 NEW SECTION. **Sec. 9.** Cities that impose a general business  
30 license must adopt the mandatory provisions of the model ordinance as  
31 provided in section 8 of this act by January 1, 2019. A city that has  
32 not complied with the requirements of this section by January 1,  
33 2019, may not enforce its general business licensing requirements on  
34 any person until the date that the mandatory provisions of the model  
35 ordinance take effect within the city.

36 NEW SECTION. **Sec. 10.** Cities must coordinate with the  
37 association of Washington cities to submit a report to the governor;  
38 legislative fiscal committees; house local government committee; and

1 the senate agriculture, water, trade and economic development  
2 committee by January 1, 2019. The report must:

3 (1) Provide information about the model ordinance adopted by the  
4 cities as required in section 8 of this act;

5 (2) Identify cities that have and have not adopted the mandatory  
6 provisions of the model ordinance; and

7 (3) Incorporate comments from statewide business organizations  
8 concerning the process and substance of the model ordinance.  
9 Statewide business organizations must be allowed thirty days to  
10 submit comments for inclusion in the report.

11 NEW SECTION. **Sec. 11.** (1) The legislature directs cities,  
12 towns, and identified business organizations to partner in  
13 recommending changes to simplify the two factor apportionment formula  
14 provided in RCW 35.102.130.

15 (2)(a) The local business and occupation tax apportionment task  
16 force is established. The task force must consist of the following  
17 seven representatives:

18 (i) Three voting representatives selected by the association of  
19 Washington cities that are tax managers representing municipalities  
20 that impose a local business and occupation tax, including at least  
21 one jurisdiction that has performed an audit where apportionment  
22 errors were discovered.

23 (ii) Three voting representatives selected by the association of  
24 Washington business, including at least one tax practitioner or legal  
25 counsel with experience representing business clients during  
26 municipal audits that involved apportionment errors or disputes.

27 (iii) One nonvoting representative from the department.

28 (b) The task force may seek input or collaborate with other  
29 parties, as it deems necessary. The department must serve as the task  
30 force chair and must staff the task force.

31 (c) Beginning in the first month following the effective date of  
32 this section, the task force must meet no less frequently than once  
33 per month until it reports to the legislature as provided under  
34 subsection (3) of this section.

35 (3) By October 31, 2018, the task force established in subsection  
36 (2) of this section must prepare a report to the legislature to  
37 recommend changes to RCW 35.102.130 and related sections, as needed,  
38 to develop a method for assigning gross receipts to a local  
39 jurisdiction using a market-based model. The task force must focus on

1 methods that rely on information typically available in commercial  
2 transaction receipts and captured by common business recordkeeping  
3 systems.

4 (4) The task force terminates January 1, 2019, unless legislation  
5 is enacted to extend such termination date.

6 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act  
7 constitute a new chapter in Title 35 RCW.

Passed by the House April 17, 2017.

Passed by the Senate April 12, 2017.

Approved by the Governor May 5, 2017.

Filed in Office of Secretary of State May 5, 2017.

--- END ---

## **Model Business License Threshold Final Version**

**June 2018**

### **Model business license threshold options: (cities would adopt one of the options)**

#### **1. Threshold Exemption:**

To the extent set forth in this section, the following persons and businesses shall be exempt from the registration, license and/or license fee requirements as outlined in this chapter:

- (1) Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 (or higher threshold as determined by city) and who does not maintain a place of business within the city shall be exempt from the general business license requirements in this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

#### **2. Threshold with Fee-free License/Registration-only Option:**

For purposes of the license by this chapter, any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than \$2,000 (or higher threshold as determined by city) and who does not maintain a place of business within the city, shall submit a business license registration to the Director or designee. The threshold does not apply to regulatory license requirements or activities that require a specialized permit.

[City would list this fee-free license in its business license rates section as \$0 or no fee.]

**Engaging in business model definition:**

**"Engaging in business"**

(1) The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

(2) This section sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

(3) Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the City.

(c) Soliciting sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

(i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

(j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.



(k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

(l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers.

(n) Investigating, resolving, or otherwise assisting in resolving customer complaints.

(o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

(4) If a person, or its employee, agent, representative, independent contractor, broker or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license.

(a) Meeting with suppliers of goods and services as a customer.

(b) Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions.

(c) Attending meetings, such as board meetings, retreats, seminars, and conferences, or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting.

(d) Renting tangible or intangible property as a customer when the property is not used in the City.

(e) Attending, but not participating in a "trade show" or "multiple vendor events". Persons participating at a trade show shall review the City's trade show or multiple vendor event ordinances.

(f) Conducting advertising through the mail.

(g) Soliciting sales by phone from a location outside the City.

(5) A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license, provided that it engages in no other business activities in the City. Such activities do not include those in subsection (4).

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the license fee under the law and the constitutions of the United States and the State of Washington. Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.



Published on Jul 18, 2018

# Final city business license model threshold

Contact: [Victoria Lincoln](#), [Andrew Pittelkau](#), [Sheila Gall](#)

## Business license and city B&O tax simplification

In the 2017 session, [EHB 2005](#) (RCW 35.90) passed requiring three actions by cities with business licenses and local B&O taxes. The law:

- Requires cities with business licenses to establish a workgroup to create a model business license with a licensing threshold by July 2018 for adoption by all business license cities by January 1, 2019;
- Requires all cities with business license to administer their business license through the state's Business Licensing System (BLS) by 2022 or FileLocal by 2020; and
- Establishes a task force on local B&O tax service apportionment under RCW 35.102.130 to report to the Legislature by October 2018.

## Final model ordinance for local business licenses – minimum threshold

Cities were required to develop a model ordinance for business licensing by July 1, 2018. The ordinance includes a mandatory definition of “engaging in business” and a minimum threshold (or occasional sale) exemption to establish when out-of-town or transient businesses are required to be licensed. All business license cities must adopt it by the end of the year ([RCW 35.90.080](#)).

### [Model threshold language](#)

## What is in the model?

The [model threshold](#) has two pieces: a model threshold and a definition of “engaging in business.”

- The model business license threshold language would:
  - Apply a minimum threshold of \$2,000 per year in the city for businesses that do not have a location in the city;
  - Require a license for businesses with a location in the city without regard to the threshold;
  - Allow cities the option to require registration with no fee for businesses under the threshold; and
  - Only apply to general business licenses, not regulatory licenses or local taxes.
- The definition of “engaging in business” includes examples of what constitutes business activities in cities that would subject a business to license requirements, as well as those activities that would not. The model language is adapted from the definition that the 45 cities with local B&O taxes have already adopted for the definition of “engaging in business” in the B&O tax model ordinance.

## **What are the deadlines for all cities with business licenses to adopt the model?**

Cities with a business license must adopt the model by January 1, 2019. However, cities that currently partner with the state’s Business Licensing Service (BLS) for business licensing administration have a deadline of October 17, 2018, because they must provide BLS 75-day notice of any changes to their business licenses (including this mandatory change).

## **Where can I learn more about implementing the threshold?**

AWC is hosting a webinar to tell you everything you need to know to comply with the mandatory model threshold.

### **Prepare to streamline your business license**

**August 8 at 10 am | Webinar**

AWC also held a presentation on this topic at its [Annual Conference](#) in June and will present at the WFOA Annual Conference on September 19 and EWFOA on October 12.

### **What happens if we don't enact the threshold by the deadline?**

RCW 35.90.090 provides that a city cannot enforce its business license after January 1, 2019, until it has adopted the mandatory threshold.

**RCW 35.90.090:** “A city that has not complied with the requirements of this section by January 1, 2019, may not enforce its general business licensing requirements on any person until the date that the mandatory provisions of the model ordinance take effect within the city.”

### **What if my city wants a higher threshold?**

Cities can choose to enact a higher threshold. The \$2,000 threshold level per city per year for out-of-city businesses is the minimum level that every city must enact.

### **How was the business license threshold developed?**

Section 8 of **EHB 2005** required cities to work through the Association of Washington Cities (AWC) to develop a model business license threshold by July 1, 2018 with a focus on determining a threshold for when a license should be required for out-of-city businesses. The bill also required input from the business community.

AWC convened a task force of city business license officials to begin drafting a model license threshold in August 2017. The group met monthly in person or via conference call to research city business license systems and existing options for establishing a model threshold and to review feedback on the proposed model from cities and the business community. AWC sent a survey to cities last fall on preferences for approaching the model threshold and sent a draft for review to cities in March 2018. In April-June 2018, AWC sent drafts of the model to the business community for comment, and the task force met in person with business community representatives.

In response to business community concerns about the level of the threshold, the committee proposed doubling its initial proposed level to \$2,000 per year in the city for businesses without a location in the city. The committee agreed to review the

threshold level in four years when the model B&O tax model ordinance will also be due for review and more information on impacts of the license threshold is known. In late June, the committee finalized the model language.

## **Business license model threshold implementation timeline**

**July 2017 – EHB 2005** takes effect

**August 2017** – First meeting of city workgroup

**July 1, 2018** – Deadline for city work group to develop model ordinance with minimum threshold to get a license

**August 8, 2018** – AWC webinar on implementing model threshold

**October 17, 2018** – Deadline for current BLS partner cities to adopt model minimum threshold and notify DOR of changes to business license for threshold adoption (Cities on BLS plan but not yet onboarded would have later deadline of January 1, 2019)

**January 1, 2019** – Deadline for all other cities to adopt model minimum threshold

## **How many cities does this impact?**

More than 230 cities issue local business licenses.

## **Where can I find more information on the Business Licensing Service or FileLocal?**

[Business licensing service](#)

[FileLocal](#)

## **What about the provision of EHB 2005 and the scope of work for the B&O service apportionment task force?**

The two-factor formula for B&O tax service apportionment was required by RCW 35.102.130, effective in 2008. The two factors, payroll and service income, have complicated multi-part tests to determine how much of business service revenues should be apportioned to a city.

**EHB 2005** created a seven-member task force to make recommendations to simplify two-factor service apportionment by October 2018 with the following members:

- One Department of Revenue, non-voting chair
- Three cities with local B&O taxes
- Three business representatives

The task force has been meeting monthly since August 2017, and the deadline by which it must submit a report to the Legislature is October 31, 2018. The city representatives are:

- Chris Bothwell, Lake Forest Park
- Joseph Cunha, Seattle
- Danielle Larson, Tacoma

## **How did this legislation come about?**

During the 2016 legislative session, lawmakers passed [HB 2959](#), establishing a task force to evaluate options to continue local business tax and licensing simplification. On December 30, 2016, the task force released its final report on local tax and licensing simplification with four main recommendations. The task force did not recommend that all cities with a business license be required to participate in the state's Business Licensing Service, nor did it recommend any centralized collection of city B&O tax at the state level. However, some of the items recommended represented a significant compromise on the part of cities.

## **Where can I find more information on the 2016 task force?**

The report included four recommendations related to licensing, establishing a business license threshold, recommending a task force on service income apportionment, and providing for data sharing between DOR and FileLocal. Read the [full report](#).

[Back to Advocacy news by category](#)





## Attachment D – Side by Side Comparison

	Existing City of Auburn	AWC Model
Definition of Business	“Business” means all activities, occupations, trades, pursuits, professions, and matters located within the city or within the city’s jurisdiction, with a physical presence in the city and operated on a permanent or ongoing basis whether operated with the object of gain, benefit, advantage or profit, or operated not for profit, to the business enterprise or to another person, directly or indirectly; provided that “business” shall not mean governmental agencies.	“Engaging in Business” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
Exemption Thresholds (Under Auburn column – actual codified exemptions; under AWC column – suggested exemptions)	None provided in City Code	<ol style="list-style-type: none"> <li>1. Apply a minimum threshold of \$2,000 per year in the city for businesses that do not have a location in the city (the city can choose a different threshold);</li> <li>2. Require a license for businesses with a location in the city without regard to the threshold;</li> <li>3. Allow the city to require registration with no fee for businesses under the threshold.</li> </ol>
Examples of Engaging in Business	<p>None provided in City Code. In practice, the City has not required licenses for the following types of businesses:</p> <ul style="list-style-type: none"> <li>• Landscape contractors based outside of Auburn but that have a job inside Auburn.</li> <li>• Individual real estate agents (an Auburn based real estate office requires a license but an agent based in another city that is listing a property in Auburn has not needed an Auburn business license).</li> <li>• Vendors at city sponsored events (e.g. a vendor at the Farmers Market or at Petpalooza).</li> <li>•</li> </ul>	Many examples are provided on pages 2 thru 4 of Attachment 2. On page 2 of Attachment 2, subsection (3) identifies a non-exhaustive list of examples of what it means to “engage in business.” On page 3 of Attachment 2, subsection (4) identifies a non-exhaustive list of examples of activities that would not qualify as “engaging in business.”



## AGENDA BILL APPROVAL FORM

Agenda Subject:  
Matrix

Department:  
City Council

**Attachments:**

[Matrix](#)

[Special Focus Areas](#)

Date:  
August 8, 2018

Budget Impact:  
Current Budget: \$0  
Proposed Revision: \$0  
Revised Budget: \$0

Administrative Recommendation:

Background Summary:

Reviewed by Council Committees:

Councilmember:

Meeting Date: August 13, 2018

Staff:

Item Number:

## COUNCIL MATRIX

NO.	TOPIC	Chair	STAFF LEAD(S)	STUDY SESSION REVIEW DATE(S)	COUNCIL DISCUSSION SUMMARY	ACTION DATE
1	Capital Projects Update and Featured Capital Project Discussion	Chair DaCorsi Vice Chair Deputy Mayor Baggett	Asst. Director Gaub	8/27/2018		
2	Livable Cities Update	Chair DaCorsi Vice Chair Deputy Mayor Baggett	Asst. Director Tate	8/27/2018		
3	Abandoned Housing Discussion	Chair DaCorsi Vice Chair Deputy Mayor Baggett	Asst. Director Tate	10/22/2018		
4	Community Court	Chair Brown Vice Chair Peloza	Director Martinson	9/10/2018		
5	Park Rules	Chair Brown Vice Chair Peloza	Director Faber	9/10/2018		
6	Airport Advisory Board Update	Chair Brown Vice Chair Peloza	Asst Director Gaub	8/13/2018		
7	Multicare Behavioral Health Facility Update	Chair Trout-Manuel Vice Chair Wales	Director Hinman		Presentation on 5/29/18	
8	One Table Presentation	Chair Trout-Manuel Vice Chair Wales	Director Hinman	9/24/2018	Presentation on 5/29/18	
9	Cost of Service Study - Planning and Development Fees	Chair Holman Vice Chair Brown	Finance Director Coleman	10/8/2018		
10	Annexations (islands and peninsulas)	Chair Holman Vice Chair Brown	City Attorney Gross	TBD		

# SPECIAL FOCUS AREAS

HEALTH & HUMAN SERVICES	FINANCE & ECONOMIC DEVELOPMENT	PUBLIC WORKS & COMMUNITY DEVELOPMENT	MUNICIPAL SERVICES
HUMAN SERVICES FUNDING PUBLIC WELLNESS DOMESTIC VIOLENCE SERVICES HOMELESSNESS SERVICES AFFORDABLE HOUSING COMMUNITY SERVICES HUMAN RESOURCES MEDICAL COMMUNITY RELATIONS	CITY BUDGET & AMENDMENTS RISK MANAGEMENT EQUIPMENT RENTAL FACILITIES CITY REAL PROPERTY LEGAL DEVELOPMENT INCENTIVES BUSINESS DEVELOPMENT ECONOMIC DEVELOPMENT STRATEGIES	UTILITIES ZONING, CODES & PERMITS INNOVATION & TECHNOLOGY TRANSPORTATION STREETS ENGINEERING CAPITAL PROJECTS SUSTAINABILITY ENVIRONMENTAL PROTECTION CULTURAL ARTS & PUBLIC ARTS PLANNING	POLICE SCORE JAIL DISTRICT COURT PARKS & RECREATION ANIMAL CONTROL SOLID WASTE EMERGENCY PLANNING AIRPORT AIRPORT BUSINESSES SISTER CITIES MULTIMEDIA
Councilmember Trout-Manuel, Chair Councilmember Wales, Vice Chair	Councilmember Holman, Chair Councilmember Brown, Vice Chair	Councilmember DaCorsi, Chair Deputy Mayor Baggett, Vice Chair	Councilmember Brown, Chair Councilmember Pelozo, Vice Chair
2018 MEETING DATES January 22, 2018 March 26, 2018 May 29, 2018 July 23, 2018 September 24, 2018 November 26, 2018	2018 MEETING DATES February 12, 2018 April 9, 2018 June 11, 2018 August 13, 2018 October 8, 2018 December 10, 2018	2018 MEETING DATES February 26, 2018 April 23, 2018 June 25, 2018 August 27, 2018 October 22, 2018 December 24, 2018	2018 MEETING DATES January 8, 2018 March 12, 2018 May 14, 2018 July 9, 2018 September 10, 2018 November 13, 2018