



MEMO:

TO: Whatcom County Council
FROM: Satpal Sidhu, County Executive
DATE: May 23, 2023
RE: **Discussion of justice project ballot measure ordinance**

Work continues toward the finalization of the Justice Project Implementation Plan, and the County Executive would like to inform and advise the Council about next steps and timeline for consideration of a ballot measure.

As you are aware, Council will need to approve an ordinance in order to place a tax proposition under RCW 82.14.450 on the ballot. This ordinance should reflect the direction of the Stakeholder Advisory Committee/Incarceration Prevention and Reduction Task Force (IPRTF) recommendations and serve as a vehicle to direct future revenues toward commitments outlined in the Implementation Plan. To this end, the Executive's Office is in the process of drafting an ordinance that incorporates the final Implementation Plan (expected to be released shortly) as a product of community consensus and that honors the extensive public process that went into the Plan's creation.

Implementation Plan

Based on work completed to date, there are three core components of the Implementation Plan:

- **SERVICES:** re-entry, diversion, behavioral health, housing, etc.
- **FACILITIES:** corrections facility, behavioral care center, crisis relief center, etc.
- **OVERSIGHT:** coordination, data reporting, planning, financial oversight, etc.

The Plan will include recommendations regarding funding, timelines, and responsible entities for accomplishing a suite of proposed projects.

The Implementation Plan will call for investments requiring much more than what a potential two-tenths sales tax will generate for the County. However, the County has opportunities to access state funds and other local sources, including the general fund, behavioral health fund, and housing funds, to meet the goals and outcomes outlined in the Implementation Plan projects. Any proposed sales tax under RCW 82.14.450 will be one of many sources to fund the projects.

The Administration is already working to utilize external and existing county resources to move Implementation Plan projects forward. For example, we are bringing to Council budget requests for criminal justice data analyst positions funded out of the general fund and have secured \$9M in state funding for a proposed crisis relief center. These investments are being made prior to the collection and expenditure of any additional sales tax, which if approved would begin in July 2024.

Revenue Projections, Facility Costs and Location

Based on current projections, a two-tenths sales tax would generate \$13.8 million in the first full year of collection. According to state law, these funds must be split 60/40 between the County and cities, with year-one projections indicating that \$8.3 million would go to the County and the remaining \$5.5 million would be allocated to the cities based on population.

Estimates for 30-year bond amounts for criminal justice and behavioral health facilities are provided below. It is important to note that we will not have certainty around these numbers until we actually prepare to issue the bond.

Annual payment	Bond proceeds @ 4%	Bond proceeds @ 4.5%	Bond proceeds @ 5%
\$8.3 million	\$143 million	\$ 135 Million	\$127 Million
\$7.3 million	\$126 million	\$ 118 million	\$112 million
\$6.3 million	\$109 million	\$ 102 million	\$96 million

Preliminary cost estimates for the construction of a new corrections facility range from \$137 million (horizontal) to \$207 million (vertical) for a 400-440 unit facility. The cost range is dependent on location and building type (vertical vs horizontal). These estimates should be recognized as ballpark figures and not exact costs. It is important to recognize that it is highly unlikely that any state or federal funds will become available to support the construction of a new jail; therefore, the bonding and construction costs are reliant on the public safety tax.

With regard to siting the corrections and behavioral health facilities, it is the Executive's recommendation that all three proposed locations be used. Council will need to consider the tradeoffs of each location with regard to suitability for the purpose, cost of construction, operating costs, and accessibility. Council will also need to decide when and in what level of detail the facilities construction plan should be defined. These decisions will help inform the ordinance language and Implementation Plan with regard to costs, availability of resources and size of construction bond.

Framework for Draft Ordinance

The proposed sales tax is designed to be in place for a minimum of thirty years. As such, the Executive recommends adopting an ordinance that will withstand the test of time while being specific enough to provide the voters with certainty regarding proposed investments. Societal conditions and needs change substantially in any ten-year period, and we are all hopeful that public safety and community health will improve over time.

The ballot measure ordinance should provide a framework that honors the direction provided by the Stakeholder Advisory Committee and IPRTF while allowing future Councils to make the policy and budget decisions that best serve the public interest at that time.

Revenue: The ordinance must establish the purpose of the tax and eligible expenditures. The primary purpose of *initial* expenditures should be for capital construction of correctional and behavioral health facilities included in the Implementation Plan. Proceeds should also support expansion of incarceration reduction programs, access to behavioral health services, and accountability measures to monitor progress and inform future planning.

We anticipate that the new revenues will slowly exceed the construction bond payments in future years beyond first 6-8 year period. Those excess funds should be used to supplement investments from the general fund, behavioral health fund and housing funds to accomplish the programs and projects outlined in the Implementation Plan. With bond payments fixed for the life of the bond, the capital construction expenses (bond) will require a diminishing portion of the sales tax revenues (except during periods of recession or unforeseen circumstances).

Commitment: The ordinance should adopt the Implementation Plan and commit the Council to allocating sufficient funds, not limited to the proposed tax, to support the implementation of the services and programs intended to reduce incarceration and increase access to behavioral health services. Similarly, it should direct the County Executive and County Departments to make every effort possible to fulfill the Implementation Plan.

Oversight: The ordinance should also address oversight. The Administration suggests that the Incarceration Prevention Reduction Task Force (IPRTF), acting as the Law and Justice Council, should continue to serve as the Council and Executive's criminal justice policy advisory body. The Administration further recommends that a proposed newly-created Finance and Operations Advisory Board provide oversight and make recommendations on the finance and operations of the behavioral health, housing, and correctional facilities and services. The new board should have representation from elected County leaders, city leaders, and law enforcement as well as citizen participation.

The Executive and IPRTF should regularly report progress toward the goals and projects outlined in the Stakeholders Advisory Committee (SAC) recommendations and the subsequent Implementation Plan. The IPRTF should consult regularly with BIPOC communities and people with criminal justice lived experience and consider updating its membership to ensure more equitable representation. The Whatcom Racial Equity Commission should also be consulted on monitoring, reporting and planning.

Future Planning Efforts: The Administration sees the initial Implementation Plan as a document which requires renewal at least once every 6-7 years, and we plan to include such direction in the ordinance. Council will also want to have the flexibility to make amendments to the Implementation Plan if circumstances require. Both the renewal process and any amendments would need to be done in consultation with the appropriate advisory and oversight bodies as well as with public input.

Interjurisdictional Coordination: The Administration has been engaging with representatives of Bellingham and the small cities. The cities recognize the need for a new corrections facility as well as behavioral health facilities and services. The cities must have a say in the overall capacity to meet their needs in the future in order for them to commit any part of their share of sales tax revenue towards the projects. We hope to secure an agreement by June 2024 that would allow the cities to support the Implementation Plan with their share of revenue.

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Ultimately, the Administration's draft ordinance serves as a vehicle for the Justice Project Implementation Plan, framing those projects as the initial eligible expenditures of the County's portion of a proposed tax. The draft ordinance also provides a framework for interjurisdictional coordination, community input from those most affected by the criminal justice system, and Council oversight to support the Executive's Office and Departments in accomplishing the Plan.

We anticipate providing additional time to discuss the final implementation plan and proposed ordinance at the June 6th Council meeting. The current timeline is to officially introduce the ordinance at the June 20th Council meeting for adoption at the July 11th meeting. A public safety tax ballot measure ordinance has to be adopted by the Council and submitted to the County Auditor prior to August 1st to meet the General Election due date. We welcome your input and discussion as the Implementation Plan and Ordinance discussions move forward.