



**CITY OF KIRKLAND**  
City Manager's Office  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001  
www.kirklandwa.gov

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## MEMORANDUM

**To:** Kurt Triplett, City Manager  
**From:** Lorrie McKay, Intergovernmental Relations Manager  
**Date:** December 21, 2011  
**Subject:** CITY OF KIRKLAND 2012 LEGISLATIVE AGENDA

### **RECOMMENDATION:**

It is recommended that the City Council consider a resolution approving the 2012 Legislative Agenda.

### **BACKGROUND DISCUSSION:**

At its December 12, 2011 meeting, Council was presented with a proposed draft Legislative Agenda for consideration for the 2012 legislative session (Attachment A). Any Council Member comments received after submitting this memo will be brought to the January 3, 2012 Council meeting.

The draft was prepared in anticipation of the legislature's special session convened on November 28 which concluded on December 16, 2011. Throughout October and until the conclusion of the special session, the Legislative Committee utilized the draft agenda to communicate initial City priorities to legislators. The primary focus of the Legislative Committee over the special session was the preservation of the annexation sales tax credit and minimizing cuts to state shared revenues with cities.

The 2012 agenda formatted and categorized first by guiding principles, followed by Kirkland's top legislative priorities, and then the City's support of selected priority items of our ally organizations. The top legislative priority items will be the focus for the City's contracted lobbyists.

#### City of Kirkland 2012 Legislative Priorities

1. Kirkland opposes new mandates that draw on City resources, and opposes any further shifting of costs or services from the State or County to cities.
2. Kirkland supports legislation securing financial assistance to construct the Public Safety Building which will consolidate public safety services and adequately serve the City after annexation.
3. Kirkland supports preserving all options for future use of the BNSF corridor, and state financial assistance to implement multiple uses including recreation and transportation.
4. Kirkland supports solutions to transfer fire hydrant-related costs from the City's General Fund to other more appropriate sources.
5. Kirkland supports legislation providing cities with financing options to support public/private partnerships (including flexibility in the use of existing tax sources)
6. Kirkland supports legislation amending RCW 82.02.060 to eliminate cities' obligation to pay impact fees from qualifying public funds when exempting low-income housing from impact fee requirements.
7. Kirkland supports legislation allowing cities the same fire benefit charge authority that fire districts receive under RCW 52.18.010.
8. Kirkland supports the State funding mitigation to communities impacted by diversion caused by tolling of state facilities.

Over the special session House Bill 2146 was introduced and read into the House Ways and Means Committee (Attachment C). The short title of this bill is "Reducing certain local sales and use tax provisions." HB 2146 proposes to cut the Annexation Sales Tax Credit by 10 percent for each year of the 10-year credit. For the City of Kirkland, this legislation in fact results in a 35% reduction after the effects of the recession (an additional \$14 million), due to the following key factors:

- Receipts in Fiscal Year 2012 are the baseline established in the legislation. Kirkland will only receive 10-months of sales tax credit during Fiscal Year 2012 since that is Kirkland's first year drawing on the credit and the City will only receive payments for September 2011 through June 2012 (83% of a full-year's credit).
- The 10% reduction is applied to this reduced baseline.
- The new amount is a flat dollar amount, which means that there will be no benefit to the City from any sales tax growth.

Discussion papers on several priorities were prepared by staff and shared with legislators throughout the special session. Current versions of these discussion papers are included for your information. The impacts of HB 2146 -cuts to the annexation sales tax credit- on the City (Attachment D); BNSF rail corridor use options (Attachment E); addressing fire hydrant costs to cities' general fund (Attachment F) and; eliminating cities' obligation to pay impact fees from qualifying public funds when exempting low-income housing from impact fee requirements (Attachment G).

The 2012 regular session is a short 60-day session beginning on January 9, 2012 and extending to March 8, 2012. The legislature will finalize the cutoff schedule on the first day of session. The City Council and Legislative Sub-committee will receive regular updates on legislative issues throughout the session.

- Attachments:
- A. 2012 Legislative Agenda
  - B. House Bill 2146 - Concerning reducing certain local sales and use tax provisions
  - C. The impacts of HB 2146 on the City, Discussion Paper
  - D. Map of the BNSF Rail Corridor
  - E. Clarifying Fire Hydrant/Protection Costs, Discussion Paper
  - F. Local Government and Impact Fee Exemptions HB 1398/SB 5524, Discussion Paper
  - Resolution



**CITY OF KIRKLAND  
2012 LEGISLATIVE AGENDA**

**General Principles**

Kirkland supports legislation to promote the City Council's goals and protect the City's ability to provide basic municipal services to its citizens.

- Defend against state revenue reductions or legislation that hamper the City's ability to complete the Finn Hill, Juanita and Kingsgate-area annexation. (Keep State Annexation Sales Tax Credit)
- Protect shared state revenue sources available to the City, and provide new revenue options and flexibility in the use of existing revenues.
- Support long-term sustainability efforts related to City financial, environmental and transportation goals.

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## **2012 Legislative Support**

### **Legislation on Kirkland's "Support" agenda from 2011**

- Support brown grease to energy conversion legislation and programs.
- Support modification of the Washington State Department of Licensing's (DOL) implementation of the Commercial Driver's License process.
- Support legislation providing for the safe collection and disposal of unwanted drugs from residential sources through a producer provided and funded product stewardship program.
- Support an amendment to RCW 46.68.090 that would allocate gas tax revenues between counties and cities based on a per capita allocation rather than the current fixed percentages.
- Support legislation that would allow cities access to the State Department of Labor and Industries data as a means of verifying local business tax payments.

Additionally, Kirkland supports selected items of the 2012 legislative agendas for the following organizations:

### **Association of Washington Cities**

#### **1. Help our communities drive job growth**

- Invest in building and maintaining critical infrastructure, thus creating jobs. For example, the Public Works Trust Fund should be held harmless or enhanced.
- Reform the SEPA process to streamline it and better align it with other environmental reviews, reducing regulatory costs and spurring development that will create jobs.
- Enable tax increment financing authorities to support public-private economic development partnerships that will foster job-creating growth.
- Support workforce training and education programs, such as the Governor's aerospace initiative.

#### **2. Give cities revenue flexibility to meet community needs**

- Continue revenue sharing that helps pay for public safety and other critical services.
- Ease restrictions on how local governments can spend their own revenue to best meet local needs, and preserve local taxing authority that reflects community priorities.
- Explore new opportunities for funding local priorities.

#### **3. Reform policies and regulations to reduce costs and uncertainty**

- Pursue greater regulatory flexibility to reflect reduced resources. For example, the state should ensure that stormwater regulations are both financially and technologically feasible.
- Address public records abuses that drive up local costs without enhancing real transparency or the public's right to know.
- Resist transferring state responsibilities to local government without adequate funding or resources.
- Provide more clarity on the medical marijuana law to give local government better guidance on how to address this issue.
- Look for opportunities to address unsustainable personnel costs, such as modifying binding interest arbitration.

## Transportation Issues

### Transportation Choices Coalition

- Safe and Flexible Street Design (HB1700) - Allows flexibility for cities, counties and developers to use updated guidelines for designing for bike and pedestrian uses, to increase safety and reduce costs of projects.
- Transportation Goal of Public Health (Rep. Billig) - Adds health to Washington's six transportation goals to integrate health in transportation policy, planning and investments, in order to reduce chronic diseases, reduce motor-vehicle-related injury and deaths, and ensuring transportation access for all people.
- Neighborhood Safe Speeds Bill (HB1217) - Provides cities and counties the authority to establish 20 mph zones on some non-arterial streets to lower accident rates and protect vulnerable users. The chances of dying from a collision with a car at 20 miles per hour are 5% compared to the 45% chance of death in a similar impact at 30 miles per hour.
- Peer to Peer Car Sharing (Rep. Hudgins) - Removes barriers to peer to peer car sharing (P2P), clearing the way for more pioneering companies to set up shop in Washington. P2P car sharing empowers people to travel more efficiently and cause a shift from personal to shared transport. It can trim emissions, traffic accidents, fuel costs, need for costly parking, while it generates income for car owners, and stimulates the local economy.
- Mileage Based Insurance (Rep. Ryu) - Promotes insurance policies that base premiums on miles driven. This policy offers the opportunity to improve the accuracy of auto insurance ratings, which is fairer and more economically efficient.

### Bicycle Alliance of Washington

- HB 1700, which would encourage higher-quality bike and pedestrian facilities.
- HB 1217, which would give cities and counties the authority to establish 20 mph zones.
- The Transportation for Washington funding package.
- Funding for the Complete Streets bill passed in 2011.
- A 3-5' safe passing bill and, if so, build a coalition of support.
- Work on the US Bicycle Route System (USBRS) in Washington State.
- Revise Department of Ecology's storm-water rules that currently inhibit widening shoulders or adding bikes lanes due to the creation of additional impervious surface, ability to mitigate, and cost.

## Human Services Issues

### Eastside Human Services Forum

#### 1. Preserving Services for Basic Needs

- Maintain programs that provide basic needs for all residents, such as food (State Food Assistance Program for legal immigrants health care (the Basic Health Plan, Children's Health), and mental health counseling (Medicaid and non-Medicaid funds).
- Maintain funding for the Washington Information Network (WIN) 2-1-1.

## 2. Preventing and Ending Homelessness

- Maintain the State investment in the Housing Trust Fund.
- Ensure adequate funding for the Home Security Fund, generated by fees on the recording of real estate documents. These funds provide resources for an array of effective programs, such as homelessness prevention and other services.
- Maintain the Housing and Essential Needs Program that replaced the Disability Lifeline.

## 3. Supporting Early Learning and School Readiness

- Maintain the current investment in home visiting funding for evidence-based home visiting programs such as Healthy Start.
- Protect current investments in early learning for the Early Childhood Education and Assistance Program (ECEAP), WaKids (the new State kindergarten learning assessment), the WA State Child Care Resource & Referral Network, and the Working Connections Child Care Program.

## 4. Supporting the Most Vulnerable Older Adults and People with Disabilities

- Support services that enable older adults to remain in their homes and in the community.
- Protect vulnerable adults from abuse and neglect.
- Maintain medical services for older adults and people with disabilities and their families.

## 5. Other Issues

- Support the Local Government Flexibility and Impact Fee Exemption Bill (HB 1398/SB 5524).
- Preserve funding for naturalization services.
- Maintain Funding for medical interpretation.

### **Bellevue Network on Aging**

*The Bellevue Network on Aging 2012 legislative agenda, as approved at their 11/3 meeting, is:*

- Provide support services that enable adults to stay in their homes.
- Protect older adults from abuse and neglect.
- Maintain medical services for older adults.

### **Washington Association of Area Agencies on Aging**

*As of the December 21 drafting of this memo, the WAA has yet listed a 2012 legislative agenda.*

### **Washington Low Income Housing Alliance/Washington Coalition for the Homeless**

*(These groups have merged and have a joint agenda)*

1. Invest/add more dollars to the Housing Trust Fund.
2. Provide opportunity for Washington's most vulnerable.
  - Preserve the Housing & Essential Needs Program.
3. Protect Revenue to Fight Homelessness.
  - Support HB 2048/Kenney and SB 5952/Kohl-Welles (document recording fee increase).
4. Remove Barriers to Housing.
  - Enact the Fair Tenant Screening Act - SB 5952 (Kohl-Welles) – to require transparent and fair reporting standards.

5. Support affordable housing policies
  - Impact Fee Waiver for Affordable Housing: HB 1398/Fitzgibbon and SB 5524/White.
  - Allow DOH access to transient housing to conduct inspections (inspection of substandard lodgings).
  - Mobile Home Landlord Tenant Act Clarification: HB 1566/Lias, and SB 5433/Fraser.
  - Protect Youth Aging Out of Foster Care.
  - Protect Washington's Housing Trust Fund Investments: HB 1699/Kenney.
  - Protect TANF and the families that rely on this important program.
  - Replicate innovative and cost-saving approaches to addresses chronic homelessness: HB 1957/Goodman.

## **Environmental Issues**

### **Environmental Priorities Coalition**

- Toxic-Free Kids: Protecting Children's Health from cancer-causing flame retardants and help put businesses on the path to using chemicals that won't harm health, the environment, or their bottom line.
- Fulfill our Clean Energy Initiative: Sustain the success of I-937 in bringing investments, jobs and economic development throughout Washington.
- Pollution-Free Prosperity: Prevent attempts to weaken, delay or rollback state environmental laws and programs that are critical for clean air, clean water and healthy communities.

## **Water Issues**

- WRIA 8 support (*if legislation comes forward...*)
- Support legislation to establish a sustainable funding mechanism to implement the Puget Sound Partnership agenda including funding for projects, programs, permitting and monitoring related to storm water pollution.
- Authorize legislation for creation of multipurpose Watershed Districts.

## **Public Safety Issues**

### **Washington Association of Sheriffs and Police Chiefs**

- Security Alarm System and Vacation Watch Program Information Exempted from Public Disclosure/ HB 1234/HB 5244.
- Supplemental Budget 2012/WASPC Operating Budget and Preservation of the Washington Auto Theft Prevention Authority.
- DNA Collection upon Arrest/HB 1369.
- Extending Statute of Limitations for Trafficking in Stolen Property from 3 to 6 years

## Washington Fire Chiefs Association

1. EMS simple majority elections (50% plus 1) for EMS (Emergency Medical Services) Levies and Benefit Charge elections.
2. Funding for State Fire Training Academy at North Bend, WA.
3. Volunteer pension benefits & eligibility.  
There are three issues on this subject and WFC supports all three. 1) Formalizing the expansion of the definition of volunteer Firefighter as it is applied today; 2) Establishing a "reserve officer" disability system for non-traditional volunteers; and 3) A credit service buy-back option.
4. CBRNE: funded regional hazardous materials incident response teams.  
*Via letter co-signed by fire service leaders, the WCFA will formally put this issue on hold. The letter will be posted on the WFCA Legislative share point site.*
5. Labor Law Issue (mediation & arbitration, workplace safety)

## Parks Issues

### Washington Recreation and Parks Association

- Protect WWRP dollars.
- Complete Streets funding in any transportation package – and an overall "Healthy & Sustainable Communities" line item (protect public health funding, etc.).
- Non-highway funds "cap removal" in any transportation package.
- Refinements to Discover Pass to ensure confidence in the program (likely changes to transferability, etc.).
- Intervention/prevention components of Gangs Prevention legislation.
- Monitor Impact Fee legislation (mandating collection at sale/closing).
- Metropolitan Park District levy "suppression" adjustments (if brought forward).

## Planning Issues

### Washington Chapter of the American Planning Association

- Enable Tax Increment Financing (TIF): Provide new local revenue and financing options for cities and counties to support growth, community revitalization, natural resource conservation and housing affordability.
- Amend SEPA and other state laws to facilitate "shovel ready" projects.
- Require Special Purpose Districts to plan under GMA.
- Require State Agencies to plan under GMA.
- Clarify and connect state Climate Change goals to regional plans and local actions, including the following:
  - Amend RCW 47.80 to require that reductions in vehicle miles traveled and greenhouse gas emissions be addressed regionally.
  - Amend RCW 36.70A.020(10) to recognize the role that compact urban development and multimodal transportation play in reducing greenhouse gas emissions.
  - Amend RCW 36.70A.070 (6) to include multimodal transportation strategies and highlight transit-oriented development (TOD) as a strategy to create compact, complete and connected communities.

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HOUSE BILL 2146

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State of Washington                      62nd Legislature                      2011 2nd Special Session

By Representative Hunter; by request of Office of Financial Management

1            AN ACT Relating to reducing certain local sales and use tax  
2 provisions; amending RCW 82.14.415 and 82.14.500; and declaring an  
3 emergency.

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

5            **Sec. 1.** RCW 82.14.415 and 2011 c 353 s 10 are each amended to read  
6 as follows:

7            (1) The legislative authority of any city that is located in a  
8 county with a population greater than six hundred thousand that annexes  
9 an area consistent with its comprehensive plan required by chapter  
10 36.70A RCW may impose a sales and use tax in accordance with the terms  
11 of this chapter. The tax is in addition to other taxes authorized by  
12 law and is collected from those persons who are taxable by the state  
13 under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable  
14 event within the city. The tax may only be imposed by a city if:

15            (a) The city has commenced annexation of an area having a  
16 population of at least ten thousand people, or four thousand in the  
17 case of a city described under subsection (3)(a)(i) of this section,  
18 prior to January 1, 2015; and

1 (b) The city legislative authority determines by resolution or  
2 ordinance that the projected cost to provide municipal services to the  
3 annexation area exceeds the projected general revenue that the city  
4 would otherwise receive from the annexation area on an annual basis.

5 (2) The tax authorized under this section is a credit against the  
6 state tax under chapter 82.08 or 82.12 RCW. The department of revenue  
7 must perform the collection of such taxes on behalf of the city at no  
8 cost to the city and must remit the tax to the city as provided in RCW  
9 82.14.060.

10 (3)(a) Except as provided in (b) of this subsection, the maximum  
11 rate of tax any city may impose under this section is:

12 (i) 0.1 percent for each annexed area in which the population is  
13 greater than ten thousand and less than twenty thousand. The ten  
14 thousand population threshold in this subsection (3)(a)(i) is four  
15 thousand for a city with a population between one hundred fifteen  
16 thousand and one hundred forty thousand and located within a county  
17 with a population over one million five hundred thousand; and

18 (ii) 0.2 percent for an annexed area in which the population is  
19 greater than twenty thousand.

20 (b) Beginning July 1, 2011, the maximum rate of tax imposed under  
21 this section is 0.85 percent for an annexed area in which the  
22 population is greater than sixteen thousand if the annexed area was,  
23 prior to November 1, 2008, officially designated as a potential  
24 annexation area by more than one city, one of which has a population  
25 greater than four hundred thousand.

26 (4)(a) Except as provided in (b) of this subsection, the maximum  
27 cumulative rate of tax a city may impose under subsection (3)(a) of  
28 this section is 0.2 percent for the total number of annexed areas the  
29 city may annex.

30 (b) The maximum cumulative rate of tax a city may impose under  
31 subsection (3)(a) of this section is 0.3 percent, beginning July 1,  
32 2011, if the city commenced annexation of an area, prior to January 1,  
33 2010, that would have otherwise allowed the city to increase the rate  
34 of tax imposed under this section absent the rate limit imposed in (a)  
35 of this subsection.

36 (c) The maximum cumulative rate of tax a city may impose under  
37 subsection (3)(b) of this section is 0.85 percent for the single

1 annexed area the city may annex and the amount of tax distributed to a  
2 city under subsection (3)(b) of this section may not exceed five  
3 million dollars per fiscal year.

4 (5) The tax imposed by this section may only be imposed at the  
5 beginning of a fiscal year and may continue for no more than ten years  
6 from the date that each increment of the tax is first imposed. Tax  
7 rate increases due to additional annexed areas are effective on July  
8 1st of the fiscal year following the fiscal year in which the  
9 annexation occurred, provided that notice is given to the department as  
10 set forth in subsection (9) of this section.

11 (6) All revenue collected under this section may be used solely to  
12 provide, maintain, and operate municipal services for the annexation  
13 area.

14 (7) The revenues from the tax authorized in this section may not  
15 exceed that which the city deems necessary to generate revenue equal to  
16 the difference between the city's cost to provide, maintain, and  
17 operate municipal services for the annexation area and the general  
18 revenues that the cities would otherwise expect to receive from the  
19 annexation during a year. If the revenues from the tax authorized in  
20 this section and the revenues from the annexation area exceed the costs  
21 to the city to provide, maintain, and operate municipal services for  
22 the annexation area during a given year, the city must notify the  
23 department and the tax distributions authorized in this section must be  
24 suspended for the remainder of the year.

25 (8) No tax may be imposed under this section before July 1, 2007.  
26 No tax may be first imposed under this section after the effective date  
27 of this section. Before imposing a tax under this section, the  
28 legislative authority of a city must adopt an ordinance that includes  
29 the following:

30 (a) A certification that the amount needed to provide municipal  
31 services to the annexed area reflects the city's true and actual costs;

32 (b) The rate of tax under this section that is imposed within the  
33 city; and

34 (c) The threshold amount for the first fiscal year following the  
35 annexation and passage of the ordinance.

36 (9) The tax must cease to be distributed to the city for the  
37 remainder of the fiscal year once the threshold amount has been  
38 reached. No later than March 1st of each year, the city must provide

1 the department with a certification of the city's true and actual costs  
2 to provide municipal services to the annexed area, a new threshold  
3 amount for the next fiscal year, and notice of any applicable tax rate  
4 changes. Distributions of tax under this section must begin again on  
5 July 1st of the next fiscal year and continue until the new threshold  
6 amount has been reached or June 30th, whichever is sooner. Any revenue  
7 generated by the tax in excess of the threshold amount belongs to the  
8 state of Washington. Any amount resulting from the threshold amount  
9 less the total fiscal year distributions, as of June 30th, may not be  
10 carried forward to the next fiscal year.

11 (10)(a) The tax must cease to be distributed to a city imposing the  
12 tax under subsection (3)(b) of this section for the remainder of the  
13 fiscal year, if the total distributions to the city imposing the tax  
14 exceed five million dollars for the fiscal year.

15 (b) Beginning with fiscal year 2013, the tax must cease to be  
16 distributed to a city imposing the tax under subsection (3) of this  
17 section for the remainder of the fiscal year, if the total  
18 distributions to the city imposing the tax exceed ninety percent of the  
19 cumulative amount of tax authorized by this section and distributed to  
20 the city for the fiscal year ending June 30, 2012.

21 (11) The resident population of the annexation area must be  
22 determined in accordance with chapter 35.13 or 35A.14 RCW.

23 (12) The following definitions apply throughout this section unless  
24 the context clearly requires otherwise:

25 (a) "Annexation area" means an area that has been annexed to a city  
26 under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all  
27 territory described in the city resolution.

28 (b) "Commenced annexation" means the initiation of annexation  
29 proceedings has taken place under the direct petition method or the  
30 election method under chapter 35.13 or 35A.14 RCW.

31 (c) "Department" means the department of revenue.

32 (d) "Municipal services" means those services customarily provided  
33 to the public by city government.

34 (e) "Fiscal year" means the year beginning July 1st and ending the  
35 following June 30th.

36 (f) "Potential annexation area" means one or more geographic areas  
37 that a city has officially designated for potential future annexation,

1 as part of its comprehensive plan adoption process under the state  
2 growth management act, chapter 36.70A RCW.

3 (g) "Threshold amount" means the maximum amount of tax  
4 distributions as determined by the city in accordance with subsection  
5 (7) of this section that the department must distribute to the city  
6 generated from the tax imposed under this section in a fiscal year.

7 **Sec. 2.** RCW 82.14.500 and 2011 1st sp.s. c 50 s 974 are each  
8 amended to read as follows:

9 (1)(a) In order to mitigate local sales tax revenue net losses as  
10 a result of the sourcing provisions of the streamlined sales and use  
11 tax agreement under this title, the state treasurer, on July 1, 2011,  
12 and each July 1st thereafter, must transfer into the streamlined sales  
13 and use tax mitigation account from the general fund the sum (~~required~~  
14 ~~to mitigate actual net~~) anticipated to be required to make the  
15 distributions required in this section to partially mitigate annual  
16 losses as determined under this section.

17 (b) During (~~the 2011-2013 fiscal biennium~~) fiscal year 2012, the  
18 amount that would otherwise be transferred under (a) of this subsection  
19 must be reduced by 3.4 percent.

20 (c) During fiscal year 2013, the amount that would otherwise be  
21 transferred under (a) of this subsection must be reduced by 13.4  
22 percent.

23 (d) Beginning July 1, 2013, and each July 1st thereafter, the  
24 amount that would otherwise be transferred under (a) of this subsection  
25 must be reduced by ten percent.

26 (2) (~~Beginning July 1, 2008, and continuing until the department~~  
27 ~~determines annual losses under subsection (3) of this section, the~~  
28 ~~department must determine the amount of local sales tax net loss each~~  
29 ~~local taxing jurisdiction experiences as a result of the sourcing~~  
30 ~~provisions of the streamlined sales and use tax agreement under this~~  
31 ~~title each calendar quarter. The department must determine losses by~~  
32 ~~analyzing and comparing data from tax return information and tax~~  
33 ~~collections for each local taxing jurisdiction before and after July 1,~~  
34 ~~2008, on a calendar quarter basis. The department's analysis may be~~  
35 ~~revised and supplemented in consultation with the oversight committee~~  
36 ~~as provided in subsection (4) of this section. To determine net~~  
37 ~~losses, the department must reduce losses by the amount of voluntary~~

1 compliance revenue for the calendar quarter analyzed. Beginning  
2 December 31, 2008, distributions must be made quarterly from the  
3 streamlined sales and use tax mitigation account by the state  
4 treasurer, as directed by the department, to each local taxing  
5 jurisdiction, other than public facilities districts for losses in  
6 respect to taxes imposed under the authority of RCW 82.14.390, in an  
7 amount representing its net losses for the previous calendar quarter.  
8 Distributions must be made on the last working day of each calendar  
9 quarter and must cease when distributions under subsection (3) of this  
10 section begin.

11 ~~(3))~~(a) By December 31, 2009, ~~((or such later date the department~~  
12 ~~in consultation with the oversight committee determines that sufficient~~  
13 ~~data is available,))~~ the department must determine each local taxing  
14 jurisdiction's annual loss. The department must determine annual  
15 losses by comparing at least twelve months of data from tax return  
16 information and tax collections for each local taxing jurisdiction  
17 before and after July 1, 2008. The department is not required to  
18 determine annual losses on a recurring basis, but may make any  
19 adjustments to annual losses as it deems proper ~~((as a result of the~~  
20 ~~annual reviews provided in (b) of this subsection))~~ until the effective  
21 date of this section. Beginning the calendar quarter in which the  
22 department determines annual losses, and each calendar quarter  
23 thereafter, distributions must be made from the streamlined sales and  
24 use tax mitigation account by the state treasurer on the last working  
25 day of the calendar quarter, as directed by the department, to each  
26 local taxing jurisdiction, other than public facilities districts for  
27 losses in respect to taxes imposed under the authority of RCW  
28 82.14.390, in an amount representing one-fourth of the jurisdiction's  
29 annual loss reduced by voluntary compliance revenue reported during the  
30 previous calendar quarter.

31 (b) ~~((The department's analysis of annual losses must be reviewed~~  
32 ~~by December 1st of each year and may be revised and supplemented in~~  
33 ~~consultation with the oversight committee as provided in subsection (4)~~  
34 ~~of this section.~~

35 ~~(4) The department must convene an oversight committee to assist in~~  
36 ~~the determination of losses. The committee includes one representative~~  
37 ~~of one city whose revenues are increased, one representative of one~~  
38 ~~city whose revenues are reduced, one representative of one county whose~~

1 revenues are increased, one representative of one county whose revenues  
2 are decreased, one representative of one transportation authority under  
3 RCW 82.14.045 whose revenues are increased, and one representative of  
4 one transportation authority under RCW 82.14.045 whose revenues are  
5 reduced, as a result of RCW 82.14.490 and the chapter 6, Laws of 2007  
6 amendments to RCW 82.14.020. Beginning July 1, 2008, the oversight  
7 committee must meet quarterly with the department to review and provide  
8 additional input and direction on the department's analyses of losses.  
9 Local taxing jurisdictions may also present to the oversight committee  
10 additional information to improve the department's analyses of the  
11 jurisdiction's loss. Beginning January 1, 2010, the oversight  
12 committee must meet at least annually with the department by December  
13 1st.

14 (5)) For fiscal year 2012, distributions to each local taxing  
15 jurisdiction, other than public facilities districts, must be reduced,  
16 as necessary, so that the cumulative amount distributed to the  
17 jurisdiction during the entire fiscal year is reduced by the lesser of  
18 3.4 percent or the full amount of the last two quarterly distributions.

19 (c) For fiscal year 2013, quarterly distributions to each local  
20 taxing jurisdiction, other than public facilities districts, must be  
21 reduced by 13.4 percent.

22 (d) Beginning July 1, 2013, quarterly distributions to each local  
23 taxing jurisdiction, other than public facilities districts, must be  
24 reduced by ten percent.

25 (3) The rule-making provisions of chapter 34.05 RCW do not apply to  
26 this section.

27 NEW SECTION. Sec. 3. This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 immediately.

--- END ---



## CITY OF KIRKLAND

City Manager's Office  
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

[www.kirklandwa.gov](http://www.kirklandwa.gov)

December 12, 2011

### Proposed Cuts to the Annexation State Sales Tax Credit: Impacts to the City of Kirkland

*Actual impact of bill would cut Kirkland's credit by 35%; services would be cut dramatically*

#### Discussion Paper

The City of Kirkland recently added more than 31,000 residents by annexing the Juanita, Finn Hill, and Kingsgate areas. If the Annexation Sales Tax Credit (ASTC) is reduced as proposed in HB 2146, the City won't have the resources needed to properly protect and serve these new residents. Although the sales tax credit did not fully cover the cost of serving the annexation area, Kirkland moved ahead and the credit significantly closed the gap. The promise of the full credit amount was critical to this decision. Kirkland would not have moved ahead without the annexation sales tax program.

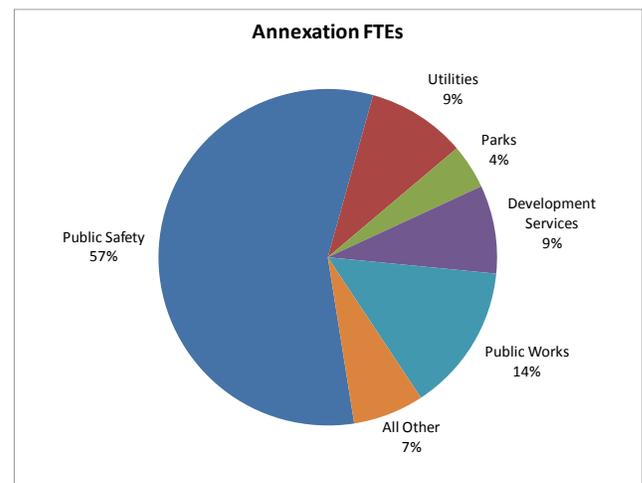
Since Kirkland decided to move forward with annexation in 2009, our expected sales tax credit receipts for the 10-year period have declined 28% due to the recession, resulting in a reduction to the total anticipated sales tax credit receipts of over \$15 million over the ten year period.

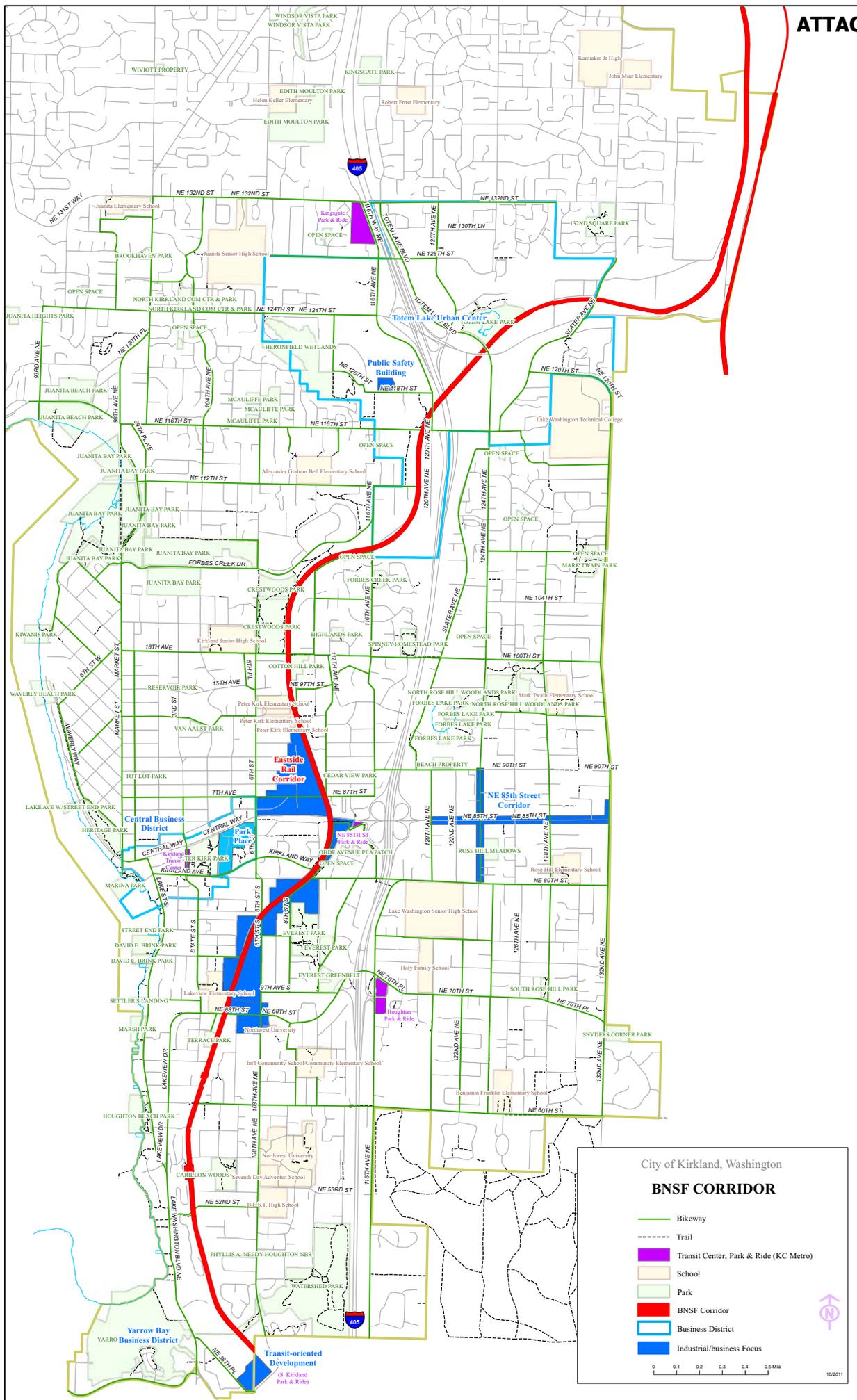
- Kirkland sales tax revenues were over 20% higher than they are today and the assumed annual growth in sales tax based on historical trends was 6%.
- Due to the recession, sales tax credit receipts projected for the first year have declined from \$4.2 million to \$3.4 million and anticipated growth has been reduced to 3.5%, recognizing that the increase in taxable retail sales as the economy recovers will likely fall short of historical trends.
- Kirkland reduced its planned service levels to offset this revenue loss.

On its face, HB 2146 cuts the Annexation Sales Tax Credit by 10 percent for each year of the 10-year credit. While this proposal is not as dramatic as the governor's previous proposal to eliminate the ASTC, the current proposal is devastating to Kirkland because it in fact results in a 35% reduction after the effects of the recession (an additional \$14 million), due to the following key factors:

- Receipts in Fiscal Year 2012 are the baseline established in the legislation. Kirkland will only receive 10-months of sales tax credit during Fiscal Year 2012 since that is Kirkland's first year drawing on the credit and the City will only receive payments for September 2011 through June 2012 (83% of a full-year's credit).
- The 10% reduction is applied to this reduced baseline.
- The new amount is a flat dollar amount, which means that there will be no benefit to the City from any sales tax growth.

Kirkland is working hard to develop a plan for 2022, when the credit expires. In the meantime, reduction of the credit would have a devastating impact on services in the newly annexed areas, since service levels were matched to annexation revenues. Police and firefighters will have to be cut in the annexation area, resulting in lower levels of public safety in the new areas (and the whole service area) and breaking trust with the new residents who voted to annex based on pledges by the state and the City. As the chart shows, the majority of positions required to serve the annexation area (almost 60%) are directly related to Public Safety (Police, Fire, Court).





City of Kirkland, Washington  
**BNSF CORRIDOR**

- Bikeway
- Trail
- Transit Center; Park & Ride (KC Metro)
- School
- Park
- BNSF Corridor
- Business District
- Industrial/business Focus

0 0.1 0.2 0.3 0.4 0.5 Miles  
102011



## **Local Government Flexibility and Impact Fee Exemptions HB 1398/SB 5524**

### Background and Frequently Asked Questions

#### What is the problem?

Cities don't have a practical way to exempt low-income housing from impact fees. Local governments can exempt impact fees for low-income housing if they make up the fees from "public funds other than impact fee accounts." While impact fees go to specific accounts dedicated to capital purposes, the statute has been interpreted to mean a dollar-for-dollar replacement for exempted impact fees from city general funds. This has made this tool prohibitive for many cities.

#### What would HB 1398 and SB 5524 do?

This legislation would allow local governments the flexibility to exempt impact fees for low-income housing without a dollar-for-dollar replacement to impact fee accounts. Exemptions can only be granted for low-income housing as long as there is a covenant on the property restricting the identified low-income units to that use. Impact fees on other projects cannot be raised to offset the exemption.

#### If impact fees are exempted for low-income housing, who pays?

Impact fees go to accounts with dedicated purposes (road and park projects), and must be used within a ten-year period. Revenue to these accounts fluctuates for a variety of reasons including general economic conditions, amount of building occurring, etc. Local governments would have to evaluate the exemption against their plans and projected revenue for these accounts and decide if they want to provide the exemption. This allows local governments to determine the best way to meet the low-income housing needs unique to their community. Raising impact fees on others to directly cover this exemption is prohibited.

#### Why can't local governments use impact fee waivers instead of exemptions?

Any project type can seek waivers or reduced impact fees by showing that it has less impacts (for example less peak hour traffic) based on the project's unique characteristics. However, low-income housing may not always be able to show less impacts, or the cost for proving the reduction may outweigh the value of the reduction (such as hiring a transportation engineer to show that low-income people use transit more than cars and, therefore, make fewer car trips and reducing or waiving road impact fees).

Cities are also allowed to waive permit costs and allow density incentives. HB 1398 and SB 5524 make the intent of the current statute workable, giving local governments another tool to help with low-income housing development in a controlled way.

### Who would use this?

The City of Kirkland, City of Gig Harbor, and the City of Sequim would like this flexibility. Other jurisdictions have expressed support for the ability to exempt impact fees, but may not have any applicable projects at this time. Here are some examples of how it could be used:

*City of Kirkland: Imagine Housing (formerly St. Andrew's Housing Group) is a nonprofit housing provider that develops, owns and operates 325 affordable housing units in East King County. Imagine Housing is in the process of developing its funding for a new 76 unit affordable senior housing project to be built in the Totem Lake neighborhood of Kirkland. The units will be rented to seniors who earn between 30% and 50% of median income. The transportation impact fees for this project are \$85,000 and the park impact fees are \$191,000. While the City of Kirkland does not have that amount in general funds to transfer to these accounts, the City would be interested in exempting some or all of the impact fees. This would further the City's goals of assisting in the creation of low income housing and providing for a range of housing types and opportunities to meet the needs of all segments of the population.*

*City of Gig Harbor: Habitat for Humanity of Tacoma/Pierce County has not been able to go forward with a proposed Habitat development in Gig Harbor because the impact fees would be \$27,000/unit. Habitat has never built a home in the Gig Harbor city limits because these fees are prohibitive. The City of Gig Harbor is interested in exempting all or part of these fees in order to facilitate the Habitat project.*

*City of Sequim: Land and housing costs tend to be higher in the city of Sequim than the rest of Clallam County. As a result, it is more difficult to develop affordable housing units in the city. The city of Sequim would like to work with the Peninsula housing authority, the Serenity House, and other providers to encourage more affordable housing in the city. The current impact fee per unit for multiple family housing is \$1, 865 for transportation and \$2, 129 for parks impact fees. This results in total impact fees of almost \$80,000 for a 20 unit affordable housing complex. While these fees are a small percentage of the total cost for a housing project, the proposed provisions of House Bill 1398 would make it more likely to develop successful projects in Sequim.*

### Who supports this legislation?

HB 1398 and SB 5524 are priorities for the City of Kirkland, the City of Gig Harbor, and the City of Sequim.. It is also supported by the Association of Washington Cities, Habitat for Humanity, Master Builders Association of King and Snohomish Counties, and the Washington Low-Income Housing Alliance. In the 2011 legislative session, no interest group opposed either bill.



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123 Fifth Avenue, Kirkland, WA 98033 425.587.3001  
[www.kirklandwa.gov](http://www.kirklandwa.gov)

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October 3, 2011

**WORKING TITLE:** Addressing the need to clarify that fire hydrant/protection costs are an integral part of providing water service and thus appropriate in rates.

**ISSUE BACKGROUND:**

In October 2008, the Washington State Supreme Court ruled that fire hydrant costs are a general government function and should be paid out of general tax revenues ([Lane v. City of Seattle – Attachment 1](#)). The City of Seattle began to pay Seattle Public Utilities for fire hydrants from their general fund and raised utility taxes on SPU to cover for the general funds expended for the hydrants. This ruling has far-reaching consequences for all water providers throughout Washington in that water rate-making standards (as defined in the American Water Works Association M1 Manual) specifically include fire protection costs as part of water rates. Currently, the only direction that exists on how this ruling should be implemented is found in court documents related to Lane v. City of Seattle. Water utilities across Washington are grappling with how to comply with this ruling, especially given the limitations on general fund resources due to economic conditions and the absence of clear guidance on the specifics of how to apply the ruling to a wide variety of rate-setting approaches.

Under the ruling, providing fire protection is a general government service that must be paid for out of general fund revenue and not through water-use rates and charges. The ruling pertains not only to cost of fire hydrant maintenance and operations but also to a proportion of the capital costs for providing fire protection -- the infrastructure necessary to deliver water to hydrants and to insure there is adequate water supply in the water mains. Consistent with actions taken by several cities (including Seattle and Bellevue), Kirkland increased its water utility tax rate from 10.50% to 13.38% to generate sufficient general purpose revenue to absorb the costs of fire protection charged to the General Fund. While this action was revenue neutral to the utility (and ultimately to the ratepayers) because the utility received the same amount in additional revenue from the General Fund as the General Fund received from the water utility tax increase, the issue adds complications to the rate-setting and accounting process and is confusing to customers.

**DIFFICULTIES ARISING FROM THE RULING:**

While the solution described above addresses the impact of the ruling on the City's own utility, a number of inter-jurisdictional issues are pending that further illustrate the complications arising from the ruling. For example, the City of Bellevue has spent the last two years negotiating an interlocal agreement with the cities in which Bellevue owns fire hydrants. There are 8 Bellevue owned hydrants within Kirkland, so this is not a large cost to Kirkland, but it is a substantial cost to the other cities served by Bellevue, such as Medina. Further, water special purpose districts are contemplating how the ruling impacts their relationships with the cities in which they serve. Northshore Utility District, which serves a large portion of the northern part of Kirkland, has approached the City to establish a method for charging their fire protection costs to the City (which would also apply to the other cities and unincorporated areas in which they provide

service). The proposal is to increase the franchise fee the district pays to the City in the same amount as the City will pay the district for fire protection costs, creating another paper transaction with no real impact except to increase administrative costs. The issue is further complicated when unincorporated areas and fire districts are added to the mix. There is no clarity on whether or how this ruling should be applied by special purpose districts and the discussion is creating increasing tension between the agencies.

**BENEFITS TO CITIES AND RATE-PAYERS BY CLARIFYING FIRE PROTECTION COSTS:**

Ideally, the request is to clarify that fire protection costs are considered an integral part of providing water service and thus appropriate in rates. The main benefits to the City of Kirkland would be simplifying its water rate and tax structure (for clarity to the customer) and eliminating the administrative burden that produces no real change to what customers pay (what they paid for in rates before is now being paid as a tax). It would also return water rate-making in Washington to the industry standard that is applied in the rest of the United States. If that cannot be accomplished, limiting the application of the ruling to city-owned utilities would reduce the inter-jurisdictional disputes and the attendant administrative burden and customer confusion.

**CITY OF KIRKLAND CONTACTS:**

[Tracey Dunlap](#), Director of Finance & Administration, 425-587-3101

[Lorrie McKay](#), Intergovernmental Relations Manager, 425-587-3009

RESOLUTION R-4905

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING A CITY OF KIRKLAND LEGISLATIVE AGENDA TO BE ADDRESSED TO THE 2012 SESSION OF THE STATE LEGISLATURE.

WHEREAS, actions of the State Legislature in respect to local government issues, services and funding have a profound impact upon the ability of local governments to provide adequate local services; and

WHEREAS, the Kirkland City Council supports legislation that promotes the City Council's goals and protects the City's ability to provide basic municipal services to its citizens; and

WHEREAS, the City of Kirkland seeks to defend against state revenue reductions or legislation that hamper the City's ability to complete the Finn Hill, Juanita and Kingsgate-area annexation; and

WHEREAS, the City of Kirkland seeks to protect shared state revenue sources available to the City, and provide new revenue options and flexibility in the use of existing revenues; and

WHEREAS, the Kirkland City Council supports long-term sustainability efforts related to City financial, environmental and transportation goals; and

WHEREAS, the Kirkland City Council opposes the imposition of new mandates that draw on City resources and oppose any further shifting of costs or services from the State or County to cities; and

WHEREAS, the Kirkland City Council believes it appropriate to set forth its position as to issues affecting local government operations coming before the State Legislature during its 2012 session, including issues which the City Council requests the State Legislature to consider;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The positions and recommendations, including supporting statements set forth in the "City of Kirkland 2012 Legislative Agenda" attached hereto as Exhibit A and by this reference incorporated herein, are hereby adopted as its recommendation to the 2012 Session of the State Legislature.

Section 2. The City administration shall transmit the 2012 Legislative Agenda, including any subsequent changes or updates to members of the State Legislature representing the legislative districts in which Kirkland is located, together with other members of the State Legislature and to the Association of Washington Cities, the Suburban Cities Association and other ally organizations.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_ day of \_\_\_\_\_, 2012.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk