

## Opportunity for Olympia – Draft Council Ordinance

This measure would provide funding for up to one year of community or technical college tuition for each City of Olympia public high school graduate or GED high school equivalency certificate recipients, or an equivalent amount of money for such public high school graduates and GED recipients who choose to attend, public universities and colleges in the State of Washington, or any public school included in the Western Undergraduate Exchange (WUE). All funds (less reasonable administrative costs) must be spent on tuition. The measure would be funded by establishing ~~an excise tax on unearned income~~ ~~a graduated income tax on~~ ~~all City of Olympia taxpayer adjusted gross income.~~

AN ORDINANCE of the City of Olympia, Washington imposing ~~an excise tax measure based on unearned an~~ ~~income tax measure~~ with reference to the federal tax on individual income, the revenues therefrom to be dedicated to all or a portion of tuition for a year of community or technical college for each year's City of Olympia public high school graduates or General Education Development Certificate ("GED") recipients, or an equivalent amount of money for such public high school graduates and GED recipients who choose to attend, public universities and colleges in the State of Washington or any public school in the Western Undergraduate Exchange; establishing a special fund; and providing for an advisory vote of the electors of the City.

WHEREAS, making higher education more affordable and accessible for public high school graduates and GED recipients will lead to opportunities for further education and jobs and to a higher quality of life for all citizens; and

WHEREAS, the City of Olympia has a significant interest in making higher education more affordable and accessible for its high school graduates and GED recipients: and

WHEREAS, RCW 35A.11.050 provides, in part, that the general grant of municipal power conferred on cities by Chapter 35A RCW "is intended to confer the greatest power of local self-government consistent with the Constitution of this state and shall be construed liberally in favor of such cities. Specific mention of a particular municipal power or authority contained in this title or in the general law shall be construed as in addition and supplementary to, or explanatory of the powers conferred in general terms by [that] chapter": and

WHEREAS, RCW 35A.11.020 provides, in part, that "the legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law", specifically including the rendering of educational services commonly or conveniently rendered by cities; and

WHEREAS, RCW 35A.11.020 also provides that "legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, 82.36.440, 48.14.020, and 48.14.080"; and

WHEREAS, RCW 35A.82.020 additionally authorizes code cities “to impose excises for regulation or revenue in regard to all places and kinds of business, production, commerce, entertainment, exhibition, and upon all occupations, trades and professions and any other lawful activity”;

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

**Section 1. Legislative Findings and Intent.** The above recitals are adopted and confirmed as if set forth here in full. To the extent revenues from the tax imposed by this Ordinance and other legally available amounts allocated for that purpose by the City Council are sufficient, the Council intends to fund not to exceed one year of tuition for community or technical college in the State of Washington for each year's City of Olympia public high school graduates and GED recipients, or an equivalent amount of money for such graduates and GED recipients who choose to attend public universities or public colleges in the State of Washington, or any public school in the Western Undergraduate Exchange. The City Council intends to raise such funds through the exercise of the City of Olympia's power under RCW 35.11.050, RCW 35A.11.020, and RCW 35A.82.020 by imposing an excise tax measured with reference to the federal tax on individual [unearned](#) income.-

**Section 2. Definitions.**

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

- (1) The terms “community college” and “technical college” mean the public community colleges and public technical colleges in the State of Washington governed under chapter 28B.50 RCW.
- (2) The terms “university” and “college” mean any public university or public college in the State of Washington governed under chapter 28B.10 RCW, together with any public institution included in the [Western Undergraduate Exchange \(WUE\)](#) ~~WUE~~ for the relevant academic year.
- (3) “Department” means the Administrative Services department that the city manager directs to implement the provisions of this Ordinance.
- (4) “GED” means General Education Development Certificate.
- (5) “Gift aid” means financial aid received from federal and state grant and scholarship programs that provide funds for educational purposes with no obligation of repayment. Student loans and work study programs are not included.
- (6) “Income” means income as determined under the Internal Revenue Code. A federal income tax return filed with the United States Internal Revenue Service creates a presumption of a taxpayer's income for purposes of this Ordinance.
- (7) “Internal Revenue Code” means the United States Internal Revenue Code of 1986, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time, or from time to time, for the relevant taxable year.

(8) "Qualified student" means an individual who:

(a) earned either a high school diploma from a public high school in the City of Olympia, Washington or a GED as provided under RCW 28A.305.190; and

(b)(i) legally resided or was domiciled in the City of Olympia during the entire academic year in which he or she received a high school diploma or GED; or

(ii) had no regular, fixed residence but was domiciled in the City of Olympia in a temporary shelter, institution or place not ordinarily used as a residence during at least 50% of the year preceding the date on which he or she received a high school diploma or GED; and

(c) enrolled in a community college, technical college, university or college within two years of earning a high school diploma or GED.

(9) "Resident taxpayer" means a taxpayer who:

(a) has maintained a residence or domiciled in the City of Olympia for the entire tax year; or

(b) is not domiciled in the City of Olympia, but maintains a permanent place of abode in the City of Olympia and spends in the aggregate more than one hundred eighty-three ~~consecutive~~ days of the tax year in the City of Olympia, unless the individual establishes to the satisfaction of the department that the individual is in the City of Olympia only for temporary or transitory purposes; or

(c) claims the City of Olympia as residence for federal income tax purposes.

(10) "Tax" means the excise tax established by this Ordinance, unless the context requires a different meaning.

(11) "Taxpayer" means a taxpayer as defined in Section 7701 of the Internal Revenue Code who is subject to a tax imposed under Section 1 of the Internal Revenue Code, excluding estates and trusts. As used in this ordinance, and by way of example, a taxpayer may be a married individual who makes a single return jointly with his spouse, a surviving spouse, an unmarried individual (other than surviving spouses and heads of households), a married individual filing a separate return, or other categories of taxpayer as defined in Section 7701 of the Internal Code, excluding estates and trusts.

(12) "Year" means (3) academic quarters or two (2) academic semesters

(13) "Unearned Income" means taxable interest, ordinary dividends, and net capital gains as determined under the Internal Revenue Code (lines 8a, 9a, and 13 of the 2015 IRS 1040 form).

**Comment [d1]:** There is a complication here for individuals who are "married, filing jointly". If we are to use the federal tax forms we will have trouble parsing out which individual is reporting unearned income.

**Comment [d2]:** We need to confirm that this does not include unearned income on things we do not want to tax (college savings plans, IRAs, 401ks, etc.)

### Section 3. Imposition of Excise Tax.

(1) The tax imposed by this Ordinance is effective with respect to income received on and after January 1, 2017.

(2) An annual excise tax is imposed on each resident taxpayer in an amount equal to \_\_\_ percent of the amount shown as that taxpayer's unearned income "Total Tax" on the taxpayer's federal income tax return.

(3) Every resident taxpayer subject to the tax assessed under this Ordinance shall make and file a local return, and pay the tax owed, on or before April 30th of the year following the taxable year.

(4) Within three months from the final determination of any federal tax liability affecting a taxpayer's liability for the tax imposed under this Ordinance, such taxpayer shall make and file an amended local return based on such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(5) All taxes imposed under this Ordinance and remaining unpaid after they become due shall bear interest at the rate of 1% per month or fraction thereof. At the department's discretion, the department may abate the interest owed, in whole or in part, upon showing of good cause.

#### **Section 4. Establishment of the Opportunity for Olympia Fund.**

(1) A fund of the City called the "Opportunity for Olympia Fund" is hereby created to support grants for higher education to qualified students.

(2) All revenues from the tax imposed by this Ordinance must be deposited in the fund and used for the purposes set forth in this Ordinance.

(3) The City of Olympia may (but is not required to) solicit and receive grants and or other bequests from public and private entities, including commercial enterprises, individuals, and foundations, to be deposited in the fund and used for the purposes set forth in this Ordinance.

(4) The total revenue received from the proceeds of the tax imposed less reasonable administrative fees will be devoted to grants or other related educational services under Section 5 of this Ordinance.

(5) Pending the receipt of excise taxes imposed by this Ordinance, the City may issue short-term obligations pursuant to chapter 39.50 RCW to pay for any portion of the costs of the Olympia Grant Program. Such short-term obligations may be paid or refunded with the tax proceeds received by the City.

#### **Section 5. Opportunity for Olympia Grant Program.**

(1) A qualified student shall be eligible for a grant under this section each term that such student is enrolled in one or more courses that are either:

(a) offered at a community college or technical college for one or more credits that can be applied to (i) a one-year or two-year curriculum for students who plan to transfer to another post-secondary institution of education; (ii) an associate's degree; (iii) a program in career and technical education; (iv) Basic Education for Adults; (v) Integrated Basic Education Skills

**Comment [d3]:** Additional edit needed here to set rate. No attachment for a graduated rate is needed. Financials in development to identify revenue generation at alternative rates.

Further, this section needs exemption language to limit the number of people effected.

Training; or (vi) such other programs as the department determines are appropriate; or(##) certificate program

(b) offered for credit at a college or university.

(2) Except as provided in paragraphs (3) and (4) of this section, the amount of a grant shall not exceed the actual cost of tuition for courses satisfying the criteria in paragraph (1) of this section, including tuition as defined in RCW 28B.15.020, less other gift aid received by the student that is and must be dedicated solely to such tuition.. The department, in administering this program, shall take all reasonable steps to minimize the impact of grants awarded under this subsection (2) on other gift aid.

(3) Except as provided in paragraph (4) of this section, the total amount of dollars in grants awarded to a particular student under this chapter must not exceed the current average cost of tuition and fees for one academic year at South Puget Sound Community College, as determined by the department.

(4) The total amount of dollars in grants awarded in a calendar year under this chapter shall not exceed the amount of dollars deposited in the fund the prior tax year. If funds are insufficient, the department, in consultation with the City Council, will determine the priority by which grants are awarded.

(5) At the end of a taxable year in which more than 10% of the revenues deposited in the fund during the prior taxable year are not disbursed, the department may.

(i) dedicate the surplus, or any portion thereof, to fund grants that exceed the one-academic-year limit of subsection (3) and award up to a second year of tuition for qualified students; and/or

(ii) implement or support programs or policies that improve the academic success or completion rates for students who receive or will be eligible for a grant under this chapter.

(65) Nothing in this Ordinance shall be deemed to create an enforceable right in any individual to receive a grant under this section.

#### **Section 6. Implementation and Accountability.**

(1) The City Manager is authorized to adopt any rules, procedures, forms and policies, to execute contracts and agreements, as he or she deems appropriate and to coordinate with any other public or private entity, including but not limited to the Olympia School District, the Washington Student Achievement Council, the Washington State Department of Revenue, and the Internal Revenue Service, to implement the provisions of this Ordinance. Rules adopted by the City Manager may, among other things, provide mechanisms by which taxpayers may, or may be required to, make partial payments or to have payment deductions in order to provide for the payment of the tax imposed by this Ordinance.

(2) The city manager, or his or her designee, ~~may will~~ prepare or cause to be prepared an annual report of the monies deposited in the fund, reporting on how the monies have been spent and estimating the number of residents benefited.

**Section 7. Advisory Vote.**

(1) The City Council seeks advice and direction from its citizens regarding the excise tax imposed in this Ordinance and the expenditure of proceeds of that tax on the Opportunity Grant Program. The City Council retains its full power and authority to impose the excise tax for local purposes under RCW 35A.11.020, ~~including the authority to repeal or amend this Ordinance. but~~ it is the Council's intent to repeal this Ordinance if it is not supported by a majority of the electors of the City voting on an advisory proposition regarding the excise tax and the ~~Opportunity-Olympia~~ Grant Program.

(2) It is found and declared that an emergency exists requiring the calling of a special election and the Auditor of Thurston County, Washington, as ex officio Supervisor of Elections, is requested to find and declare the existence of an emergency. The Auditor of Thurston County further is requested to call and conduct a special election in the City, in the manner provided by law, to be held therein on November 8, 2016, for the purpose of submitting to the voters of the City, for their advisory approval or advisory rejection, the question of whether or not the excise tax imposed by this Ordinance should be maintained, with the proceeds of that tax to be devoted to the Opportunity for Olympia Grant Program created by this Ordinance. The City's advisory proposition, Proposition No. 1, and suggested ballot title, is set forth in Attachment A, incorporated herein by this reference.

(3) The City Clerk is authorized and directed to certify, no later than August 2, 2016, to the County Auditor, as ex officio Supervisor of Elections in the City, a copy of this ordinance and the propositions to be submitted at that election. For purposes of receiving notice of any matters related to the ballot title, as provided in RCW 29A.36.080, the City Council designates the City Manager and the City Attorney as the persons to whom the Director of Elections shall provide such notice.

(4) Authorizations. The proper City officials are authorized to perform such duties as are necessary or required by law to the end that this advisory measure be submitted to the voters of the City at the November 8, 2016 election.

**Section 8. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 9. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 10. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

**ATTACHMENT A**  
**Excise Tax Rates**

**ATTACHMENT BA**

**Proposed Ballot Title**

CITY OF OLYMPIA

PROPOSITION No. 1

ADVISORY VOTE ON EXCISE TAX FOR OLYMPIA EDUCATION GRANT PROGRAM

The City Council of the City of Olympia has adopted Ordinance \_\_\_\_\_ concerning an advisory vote on excise taxes for college tuition. If approved, this advisory vote would indicate voter approval or disapproval of the excise tax imposed by Ordinance \_\_\_\_\_ and calculated [at \_\_\_\_% of] [based on a sliding scale of] individual [adjusted] gross income and the dedication of tax revenues to fund an Olympia Grant Program for certain college tuition expenses of Olympia residents.

**Comment [d4]:** to be revised to reflect content of the ordinance

Should the City Council of Olympia retain the tax imposed by Ordinance \_\_\_\_\_?

Yes •

No •