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SENATE BILL 5450

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State of Washington

62nd Legislature

2011 Regular Session

By Senator Hargrove

Read first time 01/26/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to creating a local mineral severance tax;  
2 reenacting and amending RCW 43.84.092; and adding a new chapter to  
3 Title 82 RCW.

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

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

7 (1) "Mineral" means rock, stone, sand, and gravel.

8 (2) "Person" means "person" as defined in RCW 82.04.030.

9 (3) "Producer" means any person subject to tax under chapter 82.04  
10 RCW who, from the person's own land or from the land of another under  
11 a right or license granted by lease or other contract, either directly  
12 or by contracting with others for the necessary labor or mechanical  
13 services, severs minerals for sale or for commercial or industrial use.

14 (4) "Severance" or "sever" means the taking of or producing from  
15 the lands or waters of this state any mineral by whatever means used.

16 (5) "Value" means "value of products" as determined under RCW  
17 82.04.450.

1        NEW SECTION.    **Sec. 2.**    (1) The legislative body of any county, by  
2 ordinance, may impose an excise tax upon the privilege of severing  
3 minerals from the land or waters within the county. The tax is imposed  
4 upon the entire production in the county regardless of the place of  
5 sale or that delivery may be made outside the county or the state. The  
6 tax authorized in this section is in addition to any other taxes  
7 authorized by law.

8        (2) The tax imposed by this chapter on the severance of minerals is  
9 the liability of the producer.

10       (3) The rate of the tax imposed is up to five percent.

11       (4) The measure of the tax is the value of the minerals.

12       NEW SECTION.    **Sec. 3.**    (1) Counties must contract, no less than  
13 seventy-five days prior to the effective date of an ordinance imposing  
14 the severance tax, for the administration and collection of the tax by  
15 the department. A county must provide the department with at least  
16 seventy-five days' notice prior to the expiration of the tax in section  
17 2 of this act and the department must notify affected taxpayers before  
18 the expiration. The department must deduct an amount, as provided by  
19 contract, not to exceed one percent of the taxes collected for  
20 administration and collection expenses incurred by the department. The  
21 remainder of any portion of any tax authorized by this chapter that is  
22 collected by the department must be deposited in the county severance  
23 taxation account created in the state treasury.

24       (2) Monthly, the state treasurer must distribute moneys in the  
25 county severance taxation account to counties imposing a county  
26 severance tax authorized in section 2 of this act. Fifty percent of  
27 the moneys must be deposited in the county general fund and fifty  
28 percent must be deposited into the county road fund. Except as  
29 provided in RCW 43.08.190, all earnings of investments of balances in  
30 the county severance taxation account must be credited to the county  
31 severance taxation account and distributed monthly to the counties  
32 imposing the tax. The state treasurer must make the distribution under  
33 this section without appropriation.

34       NEW SECTION.    **Sec. 4.**    (1) The taxes imposed under this chapter are  
35 due and payable monthly within twenty-five days after the end of the  
36 month in which the taxable activity occurs. The department may relieve

1 any taxpayer from the obligation of filing a monthly return and may  
2 require the return to cover other periods, but in no event may periodic  
3 returns be filed for a period greater than one year. In such cases tax  
4 returns and payments are due on or before the last day of the month  
5 next succeeding the end of the period covered by the return. The  
6 department must assign a reporting frequency for the tax authorized in  
7 this chapter that coincides with the taxpayer's reporting frequency for  
8 the tax imposed in chapter 82.04 RCW.

9 (2) The taxpayer must file a return, upon the forms, or  
10 electronically as provided in RCW 82.32.080, setting forth the  
11 information, as the department may require, showing the amount of tax  
12 for which the taxpayer is liable for the reporting period. The  
13 taxpayer must transmit the return and remit payment of the amount due  
14 to the department by the due date.

15 NEW SECTION. **Sec. 5.** The following are exempt from the taxes  
16 imposed under this chapter:

17 (1) The value of any minerals severed from the land or waters by a  
18 person and incorporated into a construction project located on the site  
19 where the minerals were severed;

20 (2) The value of any minerals owned by a producer:  
21 (a) Regulated by chapters 78.56 and 78.44 RCW; or  
22 (b) Exempt from tax by reason of federal law or a compact  
23 negotiated by the state with a tribal government.

24 NEW SECTION. **Sec. 6.** Chapter 82.32 RCW applies to the tax  
25 authorized in section 2 of this act. The department may adopt any  
26 administrative rules necessary for the effective administration of this  
27 chapter.

28 **Sec. 7.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s.  
29 c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145  
30 s 11 are each reenacted and amended to read as follows:

31 (1) All earnings of investments of surplus balances in the state  
32 treasury shall be deposited to the treasury income account, which  
33 account is hereby established in the state treasury.

34 (2) The treasury income account shall be utilized to pay or receive  
35 funds associated with federal programs as required by the federal cash

1 management improvement act of 1990. The treasury income account is  
2 subject in all respects to chapter 43.88 RCW, but no appropriation is  
3 required for refunds or allocations of interest earnings required by  
4 the cash management improvement act. Refunds of interest to the  
5 federal treasury required under the cash management improvement act  
6 fall under RCW 43.88.180 and shall not require appropriation. The  
7 office of financial management shall determine the amounts due to or  
8 from the federal government pursuant to the cash management improvement  
9 act. The office of financial management may direct transfers of funds  
10 between accounts as deemed necessary to implement the provisions of the  
11 cash management improvement act, and this subsection. Refunds or  
12 allocations shall occur prior to the distributions of earnings set  
13 forth in subsection (4) of this section.

14 (3) Except for the provisions of RCW 43.84.160, the treasury income  
15 account may be utilized for the payment of purchased banking services  
16 on behalf of treasury funds including, but not limited to, depository,  
17 safekeeping, and disbursement functions for the state treasury and  
18 affected state agencies. The treasury income account is subject in all  
19 respects to chapter 43.88 RCW, but no appropriation is required for  
20 payments to financial institutions. Payments shall occur prior to  
21 distribution of earnings set forth in subsection (4) of this section.

22 (4) Monthly, the state treasurer shall distribute the earnings  
23 credited to the treasury income account. The state treasurer shall  
24 credit the general fund with all the earnings credited to the treasury  
25 income account except:

26 (a) The following accounts and funds shall receive their  
27 proportionate share of earnings based upon each account's and fund's  
28 average daily balance for the period: The aeronautics account, the  
29 aircraft search and rescue account, the budget stabilization account,  
30 the capitol building construction account, the Cedar River channel  
31 construction and operation account, the Central Washington University  
32 capital projects account, the charitable, educational, penal and  
33 reformatory institutions account, the cleanup settlement account, the  
34 Columbia river basin water supply development account, the common  
35 school construction fund, the county arterial preservation account, the  
36 county criminal justice assistance account, the county sales and use  
37 tax equalization account, the county severance taxation account, the  
38 deferred compensation administrative account, the deferred compensation

1 principal account, the department of licensing services account, the  
2 department of retirement systems expense account, the developmental  
3 disabilities community trust account, the drinking water assistance  
4 account, the drinking water assistance administrative account, the  
5 drinking water assistance repayment account, the Eastern Washington  
6 University capital projects account, the education construction fund,  
7 the education legacy trust account, the election account, the energy  
8 freedom account, the energy recovery act account, the essential rail  
9 assistance account, The Evergreen State College capital projects  
10 account, the federal forest revolving account, the ferry bond  
11 retirement fund, the freight congestion relief account, the freight  
12 mobility investment account, the freight mobility multimodal account,  
13 the grade crossing protective fund, the public health services account,  
14 the health system capacity account, the high capacity transportation  
15 account, the state higher education construction account, the higher  
16 education construction account, the highway bond retirement fund, the  
17 highway infrastructure account, the highway safety account, the high  
18 occupancy toll lanes operations account, the hospital safety net  
19 assessment fund, the industrial insurance premium refund account, the  
20 judges' retirement account, the judicial retirement administrative  
21 account, the judicial retirement principal account, the local leasehold  
22 excise tax account, the local real estate excise tax account, the local  
23 sales and use tax account, the marine resources stewardship trust  
24 account, the medical aid account, the mobile home park relocation fund,  
25 the motor vehicle fund, the motorcycle safety education account, the  
26 multiagency permitting team account, the multimodal transportation  
27 account, the municipal criminal justice assistance account, the  
28 municipal sales and use tax equalization account, the natural resources  
29 deposit account, the oyster reserve land account, the pension funding  
30 stabilization account, the perpetual surveillance and maintenance  
31 account, the public employees' retirement system plan 1 account, the  
32 public employees' retirement system combined plan 2 and plan 3 account,  
33 the public facilities construction loan revolving account beginning  
34 July 1, 2004, the public health supplemental account, the public  
35 transportation systems account, the public works assistance account,  
36 the Puget Sound capital construction account, the Puget Sound ferry  
37 operations account, the Puyallup tribal settlement account, the real  
38 estate appraiser commission account, the recreational vehicle account,

1 the regional mobility grant program account, the resource management  
2 cost account, the rural arterial trust account, the rural Washington  
3 loan fund, the site closure account, the small city pavement and  
4 sidewalk account, the special category C account, the special wildlife  
5 account, the state employees' insurance account, the state employees'  
6 insurance reserve account, the state investment board expense account,  
7 the state investment board commingled trust fund accounts, the state  
8 patrol highway account, the state route number 520 civil penalties  
9 account, the state route number 520 corridor account, the supplemental  
10 pension account, the Tacoma Narrows toll bridge account, the teachers'  
11 retirement system plan 1 account, the teachers' retirement system  
12 combined plan 2 and plan 3 account, the tobacco prevention and control  
13 account, the tobacco settlement account, the transportation 2003  
14 account (nickel account), the transportation equipment fund, the  
15 transportation fund, the transportation improvement account, the  
16 transportation improvement board bond retirement account, the  
17 transportation infrastructure account, the transportation partnership  
18 account, the traumatic brain injury account, the tuition recovery trust  
19 fund, the University of Washington bond retirement fund, the University  
20 of Washington building account, the urban arterial trust account, the  
21 volunteer firefighters' and reserve officers' relief and pension  
22 principal fund, the volunteer firefighters' and reserve officers'  
23 administrative fund, the Washington judicial retirement system account,  
24 the Washington law enforcement officers' and firefighters' system plan  
25 1 retirement account, the Washington law enforcement officers' and  
26 firefighters' system plan 2 retirement account, the Washington public  
27 safety employees' plan 2 retirement account, the Washington school  
28 employees' retirement system combined plan 2 and 3 account, the  
29 Washington state health insurance pool account, the Washington state  
30 patrol retirement account, the Washington State University building  
31 account, the Washington State University bond retirement fund, the  
32 water pollution control revolving fund, and the Western Washington  
33 University capital projects account. Earnings derived from investing  
34 balances of the agricultural permanent fund, the normal school  
35 permanent fund, the permanent common school fund, the scientific  
36 permanent fund, and the state university permanent fund shall be  
37 allocated to their respective beneficiary accounts.

1 (b) Any state agency that has independent authority over accounts  
2 or funds not statutorily required to be held in the state treasury that  
3 deposits funds into a fund or account in the state treasury pursuant to  
4 an agreement with the office of the state treasurer shall receive its  
5 proportionate share of earnings based upon each account's or fund's  
6 average daily balance for the period.

7 (5) In conformance with Article II, section 37 of the state  
8 Constitution, no treasury accounts or funds shall be allocated earnings  
9 without the specific affirmative directive of this section.

10 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute  
11 a new chapter in Title 82 RCW.

12 NEW SECTION. **Sec. 9.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

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