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**SENATE BILL 5850**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Frockt, Carlyle, Fain, Bailey, and Hobbs

AN ACT Relating to modifying the lodging excise tax to remove the exemption for premises with fewer than sixty lodging units and to tax certain vacation rentals, short-term home-sharing arrangements, and other compensated use or occupancy of dwellings; amending RCW 36.100.040; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that it is in the public interest that taxation of lodging not distort the market for different types of lodging and that all types of lodging participate in the funding of the public benefits supported with lodging tax revenue.

(2) The legislature further finds that, with respect to the lodging taxes levied under RCW 36.100.040 (4) and (5), the current significant disparity in the taxation of sales of lodging on premises having fewer than sixty lodging units compared to premises having sixty or more units is contrary to the public interest in both equitable taxation and adequately supporting the public benefits funded by lodging tax revenue.

(3) It is the intent of this act to equalize the taxation levied under RCW 36.100.040 (4) and (5) by applying it to all lodging, regardless of the number of lodging units in premises subject to such taxation.

**Sec.**  RCW 36.100.040 and 2015 3rd sp.s. c 24 s 702 are each amended to read as follows:

(1) A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than forty lodging units. Except for any tax imposed under subsection (4) or (5) of this section, if a public facilities district has not imposed such an excise tax prior to December 31, 1995, the public facilities district may only impose the excise tax if a ballot proposition authorizing the imposition of the tax has been approved by a simple majority vote of voters of the public facilities district voting on the proposition.

(2) The rate of the tax may not exceed two percent and the proceeds of the tax may only be used for the acquisition, design, construction, remodeling, maintenance, equipping, reequipping, repairing, and operation of its public facilities. This excise tax may not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.

(3) Except for a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center, a public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.

(4) To replace the tax authorized by RCW 67.40.090, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an excise tax on the sale of or charge made for the furnishing of lodging (including but not limited to any vacation rental, home-sharing arrangement, or other compensated use or occupancy of all or any portion of a dwelling or dwelling unit, for a continuous period of less than one month, regardless of whether any such dwelling or dwelling unit is also occupied by its owner) that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises((~~: (a) Having fewer than sixty lodging units; or (b)~~)) classified as a hostel. The rate of the tax may not exceed seven percent within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not exceed 2.8 percent in the remainder of the district. The tax imposed under this subsection (4) may not be collected prior to the transfer date defined in RCW 36.100.230.

(5) To replace the tax authorized by RCW 67.40.130, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an additional excise tax on the sale of or charge made for the furnishing of lodging (including but not limited to any vacation rental, home-sharing arrangement, or other compensated use or occupancy of all or any portion of a dwelling or dwelling unit, for a continuous period of less than one month, regardless of whether any such dwelling or dwelling unit is also occupied by its owner) that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises((~~: (a) Having fewer than sixty lodging units; or (b)~~)) classified as a hostel. The rate of the additional excise tax may not exceed two percent and may be imposed only within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not be imposed in the remainder of the district. The tax imposed under this subsection (5) may not be collected prior to the transfer date specified in RCW 36.100.230. The tax imposed under this subsection (5) must be credited against the amount of the tax otherwise due to the state from those same taxpayers under chapter 82.08 RCW. The tax under this subsection (5) may be imposed only for the purpose of paying or securing the payment of the principal of and interest on obligations issued or incurred by the public facilities district and paying annual payment amounts to the state under subsection (6)(a) of this section. The authority to impose the additional excise tax under this subsection (5) expires on the date that is the earlier of (a)((~~[(i)]~~)) July 1, 2029, or (b)((~~[(ii)]~~)) the date on which all obligations issued or incurred by the public facilities district to implement any redemption, prepayment, or legal defeasance of outstanding obligations under RCW 36.100.230(3)(a) are no longer outstanding.

(6)(a) Commencing with the first full fiscal year of the state after the transfer date defined in RCW 36.100.230 and for so long as a public facilities district imposes a tax under subsection (5) of this section, the public facilities district must transfer to the state of Washington on June 30th of each state fiscal year an annual payment amount.

(b) For the purposes of this subsection (6), "annual payment amount" means an amount equal to revenues received by the public facilities district in the fiscal year from the additional excise tax imposed under subsection (5) of this section plus an interest charge calculated on one-half the annual payment amount times an interest rate equal to the average annual rate of return for the prior calendar year in the Washington state local government investment pool created in chapter 43.250 RCW.

(c)(i) If the public facilities district in any fiscal year is required to apply additional lodging excise tax revenues to the payment of principal and interest on obligations it issues or incurs, and the public facilities district is unable to pay all or any portion of the annual payment amount to the state, the deficiency is deemed to be a loan from the state to the public facilities district for the purpose of assisting the district in paying such principal and interest and must be repaid by the public facilities district to the state after providing for the payment of the principal of and interest on obligations issued or incurred by the public facilities district, all on terms established by an agreement between the state treasurer and the public facilities district executed prior to the transfer date. Any agreement between the state treasurer and the public facilities district must specify the term for the repayment of the deficiency in the annual payment amount with an interest rate equal to the twenty bond general obligation bond buyer index plus one percentage point.

(ii) Outstanding obligations to repay any loans deemed to have been made to the public facilities district as provided in any such agreements between the state treasurer and the public facilities district survive the expiration of the additional excise tax under subsection (5) of this section.

(iii) For the purposes of this subsection (6)(c), "additional lodging excise tax revenues" mean the tax revenues received by the public facilities district under subsection (5) of this section.

(7) A public facilities district is authorized to pledge any of its revenues, including without limitation revenues from the taxes authorized in this section, to pay or secure the payment of obligations issued or incurred by the public facilities district, subject to the terms established by the board of directors of the public facilities district. So long as a pledge of the taxes authorized under this section is in effect, the legislature may not withdraw or modify the authority to levy and collect the taxes at the rates permitted under this section and may not increase the annual payment amount to be transferred to the state under subsection (6) of this section.

(8) The department of revenue must perform the collection of such taxes on behalf of the public facilities district at no cost to the district, and the state treasurer must distribute those taxes as available on a monthly basis to the district or, upon the direction of the district, to a fiscal agent, paying agent, or trustee for obligations issued or incurred by the district.

(9) Except as expressly provided in this chapter, all of the provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32 RCW have full force and application with respect to taxes imposed under the provisions of this section.

(10) In determining the effective combined rate of tax for purposes of the limit in subsection (3) of this section, the tax rate under RCW 82.14.530 is not included.

(11) The taxes imposed in this section do not apply to sales of temporary medical housing exempt under RCW 82.08.997.

(12)(a) For the purposes of this section, "hostel" means a structure or facility where a majority of the rooms for sleeping accommodations are hostel dormitories containing a minimum of four standard beds designed for single-person occupancy within the facility. Hostel accommodations are supervised and must include at least one common area and at least one common kitchen for guest use.

(b) For the purpose of this subsection, "hostel dormitory" means a single room, containing four or more standard beds designed for single-person occupancy, used exclusively as nonprivate communal sleeping quarters, generally for unrelated persons, where such persons independently acquire the right to occupy individual beds, with the operator supervising and determining which bed each person will occupy.

(13) Section 2, chapter . . ., Laws of 2017 (this section), extending the tax imposed in subsections (4) and (5) of this section to premises having fewer than sixty lodging units, must be deemed to have been effective on December 1, 2000, for the purposes of RCW 82.14.410, in order to be consistent with the treatment of premises with sixty or more units.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2017.

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