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**SUBSTITUTE HOUSE BILL 2410**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** House Committee on Government Operations (originally sponsored by Representatives Honeyford, Scott, Goldsmith, Hymes, Costa and Thompson)

Read first time 01/30/96.

1 AN ACT Relating to noncompliance with the growth management act;  
2 amending RCW 36.70A.340, 36.70A.345, 36.79.150, 47.26.080, 66.08.190,  
3 82.08.180, 82.14.215, and 82.46.010; and reenacting and amending RCW  
4 82.46.035.

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

6 **Sec. 1.** RCW 36.70A.340 and 1991 sp.s. c 32 s 26 are each amended  
7 to read as follows:

8 Upon receipt from the board of a finding that a state agency,  
9 county, or city is in noncompliance under RCW 36.70A.330, or as a  
10 result of failure to meet the requirements of RCW 36.70A.210, the  
11 governor may, after a public hearing upon the merits of a specific  
12 proposal to impose sanctions has been held by either the governor or an  
13 assistant to the governor in the county or city subject to the  
14 sanctions, either:

15 (1) Notify and direct the director of the office of financial  
16 management to revise allotments in appropriation levels;

17 (2) Notify and direct the state treasurer to (~~withhold~~) hold in  
18 escrow the portion of revenues to which the county or city is entitled  
19 under one or more of the following: The motor vehicle fuel tax, as

1 provided in chapter 82.36 RCW; the transportation improvement account,  
2 as provided in RCW 47.26.084; the urban arterial trust account, as  
3 provided in RCW 47.26.080; the rural arterial trust account, as  
4 provided in RCW 36.79.150; the sales and use tax, as provided in  
5 chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190;  
6 and the liquor excise tax, as provided in RCW 82.08.170; or

7 (3) File a notice of noncompliance with the secretary of state and  
8 the county or city, which shall temporarily rescind the county or  
9 city's authority to ~~((collect))~~ use the real estate excise tax  
10 collected under RCW ~~((82.46.030))~~ 82.46.035 until the governor files a  
11 notice rescinding the notice of noncompliance. During the temporary  
12 rescission the tax collected shall be held in escrow by the county  
13 treasurer.

14 **Sec. 2.** RCW 36.70A.345 and 1994 c 249 s 33 are each amended to  
15 read as follows:

16 The governor may, after conducting a public hearing upon the merits  
17 of a specific proposal to impose sanctions, impose a sanction or  
18 sanctions specified under RCW 36.70A.340 on: (1) A county or city that  
19 fails to designate critical areas, agricultural lands, forest lands,  
20 or mineral resource lands under RCW 36.70A.170 by the date such action  
21 was required to have been taken; (2) a county or city that fails to  
22 adopt development regulations under RCW 36.70A.060 protecting critical  
23 areas or conserving agricultural lands, forest lands, or mineral  
24 resource lands by the date such action was required to have been taken;  
25 (3) a county that fails to designate urban growth areas under RCW  
26 36.70A.110 by the date such action was required to have been taken; and  
27 (4) a county or city that fails to adopt its comprehensive plan or  
28 development regulations when such actions are required to be taken.

29 Imposition of a sanction or sanctions under this section shall be  
30 preceded by written findings by the governor, that either the county or  
31 city is not proceeding in good faith to meet the requirements of the  
32 act; or that the county or city has unreasonably delayed taking the  
33 required action. The governor shall consult with and communicate his  
34 or her findings to the appropriate growth management hearings board  
35 prior to imposing the sanction or sanctions. If the governor chooses  
36 to impose sanctions, the sanction that is least punitive shall be  
37 imposed first. Additional sanctions may be imposed only upon a finding  
38 of willful disregard of the requirements of this chapter. For those

1 counties or cities that are not required to plan or have not opted in,  
2 the governor in imposing sanctions shall consider the size of the  
3 jurisdiction relative to the requirements of this chapter and the  
4 degree of technical and financial assistance provided.

5 **Sec. 3.** RCW 36.79.150 and 1991 sp.s. c 32 s 31 are each amended to  
6 read as follows:

7 (1) Whenever the board approves a rural arterial project it shall  
8 determine the amount of rural arterial trust account funds to be  
9 allocated for such project. The allocation shall be based upon  
10 information contained in the six-year plan submitted by the county  
11 seeking approval of the project and upon such further investigation as  
12 the board deems necessary. The board shall adopt reasonable rules  
13 pursuant to which rural arterial trust account funds allocated to a  
14 project may be increased upon a subsequent application of the county  
15 constructing the project. The rules adopted by the board shall take  
16 into account, but shall not be limited to, the following factors: (a)  
17 The financial effect of increasing the original allocation for the  
18 project upon other rural arterial projects either approved or  
19 requested; (b) whether the project for which an additional allocation  
20 is requested can be reduced in scope while retaining a usable segment;  
21 (c) whether the original cost of the project shown in the applicant's  
22 six-year program was based upon reasonable engineering estimates; and  
23 (d) whether the requested additional allocation is to pay for an  
24 expansion in the scope of work originally approved.

25 (2) The board shall not (~~allocate funds, nor~~) make payments under  
26 RCW 36.79.160, to any county or city identified by the governor under  
27 RCW 36.70A.340.

28 **Sec. 4.** RCW 47.26.080 and 1994 c 179 s 8 are each amended to read  
29 as follows:

30 There is hereby created in the motor vehicle fund the urban  
31 arterial trust account. The intent of the urban arterial trust account  
32 program is to improve the urban arterial street system of the state by  
33 improving mobility and safety while supporting an environment essential  
34 to the quality of life of the citizens of the state of Washington. To  
35 be eligible to receive these funds, a project must be consistent with  
36 the Growth Management Act, the Clean Air Act including conformity, and  
37 the Commute Trip Reduction Law. The project shall consider safety,

1 mobility, and physical characteristics of the roadway and must be  
2 partially funded by local government.

3 All moneys deposited in the motor vehicle fund to be credited to  
4 the urban arterial trust account shall be expended for the construction  
5 and improvement of city arterial streets and county arterial roads  
6 within urban areas, for expenses of the transportation improvement  
7 board in accordance with RCW 47.26.140, or for the payment of principal  
8 or interest on bonds issued for the purpose of constructing or  
9 improving city arterial streets and county arterial roads within urban  
10 areas, or for reimbursement to the state, counties, cities, and towns  
11 in accordance with RCW 47.26.4252 and 47.26.4254, the amount of any  
12 payments made on principal or interest on urban arterial trust account  
13 bonds from motor vehicle or special fuel tax revenues which were  
14 distributable to the state, counties, cities, and towns.

15 The board shall not (~~allocate funds, nor~~) make payments of the  
16 funds under RCW 47.26.260, to any county, city, or town identified by  
17 the governor under RCW 36.70A.340.

18 **Sec. 5.** RCW 66.08.190 and 1995 c 159 s 1 are each amended to read  
19 as follows:

20 When excess funds are distributed, all moneys subject to  
21 distribution shall be disbursed as follows:

22 (1) Three-tenths of one percent to border areas under RCW  
23 66.08.195; and

24 (2) From the amount remaining after distribution under subsection  
25 (1) of this section, fifty percent to the general fund of the state,  
26 ten percent to the counties of the state, and forty percent to the  
27 incorporated cities and towns of the state.

28 The governor may notify and direct the state treasurer to  
29 (~~withhold~~) hold in escrow the revenues to which the counties and  
30 cities are entitled under this section if the counties or cities are  
31 found to be in noncompliance pursuant to RCW 36.70A.340.

32 **Sec. 6.** RCW 82.08.180 and 1991 sp.s. c 32 s 36 are each amended to  
33 read as follows:

34 The governor may notify and direct the state treasurer to  
35 (~~withhold~~) hold in escrow the revenues to which the counties, cities,  
36 and towns are entitled under RCW 82.08.170 if the counties, cities, or  
37 towns are found to be in noncompliance pursuant to RCW 36.70A.340.

1       **Sec. 7.** RCW 82.14.215 and 1991 sp.s. c 32 s 35 are each amended to  
2 read as follows:

3       The governor may notify and direct the state treasurer to  
4 ((withheld)) hold in escrow the revenues to which the county or city is  
5 entitled under this chapter if a county or city is found to be in  
6 noncompliance pursuant to RCW 36.70A.340.

7       **Sec. 8.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s. c 32 s 33  
8 are each reenacted and amended to read as follows:

9       (1) The legislative authority of any county or city shall identify  
10 in the adopted budget the capital projects funded in whole or in part  
11 from the proceeds of the tax authorized in this section, and shall  
12 indicate that such tax is intended to be in addition to other funds  
13 that may be reasonably available for such capital projects.

14       (2) The legislative authority of any county or any city that plans  
15 under RCW 36.70A.040(1) may impose an additional excise tax on each  
16 sale of real property in the unincorporated areas of the county for the  
17 county tax and in the corporate limits of the city for the city tax at  
18 a rate not exceeding one-quarter of one percent of the selling price.  
19 Any county choosing to plan under RCW 36.70A.040(2) and any city within  
20 such a county may only adopt an ordinance imposing the excise tax  
21 authorized by this section if the ordinance is first authorized by a  
22 proposition approved by a majority of the voters of the taxing district  
23 voting on the proposition at a general election held within the  
24 district or at a special election within the taxing district called by  
25 the district for the purpose of submitting such proposition to the  
26 voters.

27       (3) Revenues generated from the tax imposed under subsection (2) of  
28 this section shall be used by such counties and cities solely for  
29 financing capital projects specified in a capital facilities plan  
30 element of a comprehensive plan. However, revenues (a) pledged by such  
31 counties and cities to debt retirement prior to March 1, 1992, may  
32 continue to be used for that purpose until the original debt for which  
33 the revenues were pledged is retired, or (b) committed prior to March  
34 1, 1992, by such counties or cities to a project may continue to be  
35 used for that purpose until the project is completed.

36       (4) Revenues generated by the tax imposed by this section shall be  
37 deposited in a separate account.

1 (5) As used in this section, "city" means any city or town and  
2 "capital project" means those public works projects of a local  
3 government for planning, acquisition, construction, reconstruction,  
4 repair, replacement, rehabilitation, or improvement of streets, roads,  
5 highways, sidewalks, street and road lighting systems, traffic signals,  
6 bridges, domestic water systems, storm and sanitary sewer systems, and  
7 planning, construction, reconstruction, repair, rehabilitation, or  
8 improvement of parks.

9 (6) When the governor files a notice of noncompliance under RCW  
10 36.70A.340 with the secretary of state and the appropriate county or  
11 city, the county or city's authority to initially impose the additional  
12 excise tax under this section shall be temporarily rescinded until the  
13 governor files a subsequent notice rescinding the notice of  
14 noncompliance.

15 **Sec. 9.** RCW 82.46.010 and 1994 c 272 s 1 are each amended to read  
16 as follows:

17 (1) The legislative authority of any county or city shall identify  
18 in the adopted budget the capital projects funded in whole or in part  
19 from the proceeds of the tax authorized in this section, and shall  
20 indicate that such tax is intended to be in addition to other funds  
21 that may be reasonably available for such capital projects.

22 (2) The legislative authority of any county or any city may impose  
23 an excise tax on each sale of real property in the unincorporated areas  
24 of the county for the county tax and in the corporate limits of the  
25 city for the city tax at a rate not exceeding one-quarter of one  
26 percent of the selling price. The revenues from this tax shall be used  
27 by any city or county with a population of five thousand or less and  
28 any city or county that does not plan under RCW 36.70A.040 for any  
29 capital purpose identified in a capital improvements plan and local  
30 capital improvements, including those listed in RCW 35.43.040.

31 (~~After April 30, 1992,~~) Revenues generated from the tax imposed  
32 under this subsection, in counties over five thousand population and  
33 cities over five thousand population that are required or choose to  
34 plan under RCW 36.70A.040, shall be used solely for financing capital  
35 projects specified in a capital facilities plan element of a  
36 comprehensive plan and housing relocation assistance under RCW  
37 59.18.440 and 59.18.450 after the county or city has adopted its  
38 comprehensive plan under chapter 36.70A RCW and the capital facilities

1 plan element is no longer subject to challenge under RCW 36.70A.250  
2 through 36.70A.345. However, revenues (a) pledged by such counties and  
3 cities to debt retirement prior to April 30, 1992, may continue to be  
4 used for that purpose until the original debt for which the revenues  
5 were pledged is retired, or (b) committed prior to April 30, 1992, by  
6 such counties or cities to a project may continue to be used for that  
7 purpose until the project is completed.

8 (3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the  
9 legislative authority of any county or any city may impose an  
10 additional excise tax on each sale of real property in the  
11 unincorporated areas of the county for the county tax and in the  
12 corporate limits of the city for the city tax at a rate not exceeding  
13 one-half of one percent of the selling price.

14 (4) Taxes imposed under this section shall be collected from  
15 persons who are taxable by the state under chapter 82.45 RCW upon the  
16 occurrence of any taxable event within the unincorporated areas of the  
17 county or within the corporate limits of the city, as the case may be.

18 (5) Taxes imposed under this section shall comply with all  
19 applicable rules, regulations, laws, and court decisions regarding real  
20 estate excise taxes as imposed by the state under chapter 82.45 RCW.

21 (6) As used in this section, "city" means any city or town and  
22 "capital project" means those public works projects of a local  
23 government for planning, acquisition, construction, reconstruction,  
24 repair, replacement, rehabilitation, or improvement of streets; roads;  
25 highways; sidewalks; street and road lighting systems; traffic signals;  
26 bridges; domestic water systems; storm and sanitary sewer systems;  
27 parks; recreational facilities; law enforcement facilities; fire  
28 protection facilities; trails; libraries; administrative and/or  
29 judicial facilities; river and/or waterway flood control projects by  
30 those jurisdictions that, prior to June 11, 1992, have expended funds  
31 derived from the tax authorized by this section for such purposes; and,  
32 until December 31, 1995, housing projects for those jurisdictions that,  
33 prior to June 11, 1992, have expended or committed to expend funds  
34 derived from the tax authorized by this section or the tax authorized  
35 by RCW 82.46.035 for such purposes.

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