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HOUSE BILL 2359

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State of Washington

55th Legislature

1998 Regular Session

By Representatives B. Thomas, Pennington, Wensman, Dunshee, Dyer, Carrell, Van Luven and Dunn

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1 AN ACT Relating to resolving conflicts in lodging tax statutes  
2 enacted in 1997; amending RCW 67.28.181 and 67.28.1817; adding a new  
3 section to chapter 67.28 RCW; creating a new section; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 67.28.181 and 1997 c 452 s 3 are each amended to read  
7 as follows:

8 (1) The legislative body of any municipality may impose an excise  
9 tax on the sale of or charge made for the furnishing of lodging that is  
10 subject to tax under chapter 82.08 RCW. The rate of tax shall not  
11 exceed the lesser of (~~four~~) two percent or a rate that, when combined  
12 with all other taxes imposed upon sales of lodging within the  
13 municipality under this chapter and chapters 36.100, 67.40, 82.08, and  
14 82.14 RCW, equals twelve percent. A tax under this chapter shall not  
15 be imposed in increments smaller than tenths of a percent.

16 (2) Notwithstanding subsection (1) of this section:

17 (a) If a municipality (~~imposed~~) was authorized to impose taxes  
18 under this chapter (~~and~~) or RCW 67.40.100 or both with a total rate  
19 exceeding four percent (~~on January 1, 1998, the rate of tax imposed~~

1 ~~under this chapter by the municipality shall not exceed the total rate~~  
2 ~~imposed by the municipality under this chapter and RCW 67.40.100 on~~  
3 ~~January 1, 1998)) before July 27, 1997, such total authorization shall~~  
4 ~~continue through January 1, 1999, and thereafter the municipality may~~  
5 ~~impose a tax under this section at a rate not exceeding the rate~~  
6 ~~actually imposed by the municipality on January 1, 1999.~~

7 (b) If a city or town, other than a municipality (~~described in~~)  
8 imposing a tax under (a) of this subsection, is located in a county  
9 that imposed taxes under this chapter with a total rate of four percent  
10 or more on January 1, 1997, the (~~rate of tax imposed under this~~  
11 ~~chapter by the city or town shall not exceed two percent)) city or town~~  
12 ~~may not impose a tax under this section.~~

13 (c) If a city has a population of four hundred thousand or more and  
14 is located in a county with a population of one million or more, the  
15 rate of tax imposed under this chapter by the city shall not exceed the  
16 lesser of four percent or a rate that, when combined with all other  
17 taxes imposed upon sales of lodging in the municipality under this  
18 chapter and chapters 36.100, 67.40, 82.08, and 82.14 RCW, equals  
19 fifteen and two-tenths percent.

20 (3) (~~Except as provided in RCW 67.28.180,~~) Any county ordinance  
21 or resolution adopted under this section shall contain a provision  
22 allowing a credit against the county tax for the full amount of any  
23 city or town tax imposed under this section upon the same taxable  
24 event.

25 (~~(4) Tax imposed under this section on a sale of lodging shall be~~  
26 ~~credited against the amount of sales tax due to the state under chapter~~  
27 ~~82.08 RCW on the same sale of lodging, but the total credit for taxes~~  
28 ~~imposed by all municipalities on a sale of lodging shall not exceed the~~  
29 ~~amount that would be imposed under a two percent tax under this~~  
30 ~~section. This subsection does not apply to taxes which are credited~~  
31 ~~against the state sales tax under RCW 67.28.180.))~~

32 NEW SECTION. Sec. 2. A new section is added to chapter 67.28 RCW  
33 to read as follows:

34 Tax collected under RCW 67.28.180 on a sale of lodging shall be  
35 credited against the amount of sales tax due to the state under chapter  
36 82.08 RCW on the same sale of lodging.

1       **Sec. 3.** RCW 67.28.1817 and 1997 c 452 s 5 are each amended to read  
2 as follows:

3       (1) Before (~~imposing a tax under RCW 67.28.181~~) proposing  
4 imposition of a new tax under this chapter, an increase in the rate of  
5 a tax imposed under this chapter, repeal of an exemption from a tax  
6 imposed under this chapter, or a change in the use of revenue received  
7 under this chapter, a municipality with a population of five thousand  
8 or more shall establish a lodging tax advisory committee under this  
9 section. A lodging tax advisory committee shall consist of at least  
10 five members, appointed by the legislative body of the municipality,  
11 unless the municipality has a charter providing for a different  
12 appointment authority. The committee membership shall include: (a) At  
13 least two members who are representatives of businesses required to  
14 collect tax under this chapter; and (b) at least two members who are  
15 persons involved in activities authorized to be funded by revenue  
16 received under this chapter. Persons who are eligible for appointment  
17 under (a) of this subsection are not eligible for appointment under (b)  
18 of this subsection. Persons who are eligible for appointment under (b)  
19 of this subsection are not eligible for appointment under (a) of this  
20 subsection. Organizations representing businesses required to collect  
21 tax under this chapter, organizations involved in activities authorized  
22 to be funded by revenue received under this chapter, and local agencies  
23 involved in tourism promotion may submit recommendations for membership  
24 on the committee. The number of members who are representatives of  
25 businesses required to collect tax under this chapter shall equal the  
26 number of members who are involved in activities authorized to be  
27 funded by revenue received under this chapter. One member shall be an  
28 elected official of the municipality who shall serve as chair of the  
29 committee. An advisory committee for a county may include one  
30 nonvoting member who is an elected official of a city or town in the  
31 county. An advisory committee for a city or town may include one  
32 nonvoting member who is an elected official of the county in which the  
33 city or town is located. The appointing authority shall review the  
34 membership of the advisory committee annually and make changes as  
35 appropriate.

36       (2) Any municipality that proposes imposition of a tax under this  
37 chapter, an increase in the rate of a tax imposed under this chapter,  
38 repeal of an exemption from a tax imposed under this chapter, or a  
39 change in the use of revenue received under this chapter shall submit

1 the proposal to the lodging tax advisory committee for review and  
2 comment. The submission shall occur at least forty-five days before  
3 final action on or passage of the proposal by the municipality. The  
4 advisory committee shall submit comments on the proposal in a timely  
5 manner through generally applicable public comment procedures. The  
6 comments shall include an analysis of the extent to which the proposal  
7 will accommodate activities for tourists or increase tourism, and the  
8 extent to which the proposal will affect the long-term stability of the  
9 fund created under RCW 67.28.1815. Failure of the advisory committee  
10 to submit comments before final action on or passage of the proposal  
11 shall not prevent the municipality from acting on the proposal. A  
12 municipality is not required to submit an amended proposal to an  
13 advisory committee under this section.

14 NEW SECTION. **Sec. 4.** If a municipality was authorized to impose  
15 taxes under chapter 67.28 RCW or RCW 67.40.100 or both with a total  
16 rate exceeding four percent before July 27, 1997, any taxes imposed and  
17 collected by the municipality on or after July 27, 1997, are validated  
18 by this act to the extent the taxes were imposed at rates that would be  
19 permitted under chapter 67.28 RCW as amended by this act. All actions  
20 taken in connection with the collection and administration of taxes  
21 validated under this section, including crediting the taxes against the  
22 amount of sales taxes due to the state under chapter 82.08 RCW, are  
23 also validated by this act to the extent the actions taken would be  
24 permitted under chapter 67.28 RCW as amended by this act.

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 immediately.

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