
Health Care & Wellness Committee

HB 2388

Brief Description: Concerning public health financing.

Sponsors: Representatives Moeller, Chase, Pedersen, Appleton, Kagi, Cody, Seaquist, Ormsby and Roberts.

Brief Summary of Bill

- Removes the exemption to the sales and use tax for candy.
- Distributes revenue from the taxation of candy to local health jurisdictions contingent on substantial compliance with the minimum standards for public health protection.

Hearing Date: 1/22/10

Staff: Jim Morishima (786-7191).

Background:

Sales and Use Tax on Food.

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. Use taxes apply to the value of most tangible personal property and some services when used in this state, if retail sales taxes were not collected when the property or services were acquired by the user. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location. The average local tax rate is 2.0 percent, for an average combined state and local tax rate of 8.5 percent.

In 2007, the state of Washington adopted the conforming amendments to become a full member state in the multi-state streamlined sales and use tax agreement (SSUTA). One of the conditions of the SSUTA is that member states use uniform definitions provided in the SSUTA. The SSUTA provides a uniform definition for "food and food ingredients." However, the SSUTA

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allows member states to exclude the following items from the definition: candy, dietary supplements, prepared food, and soft drinks.

The state of Washington specifically exempts "food and food ingredients" from state and local sales and use taxes. Therefore, any food product included within the definition of "food and food ingredients" is exempt from sales and use tax. "Food and food ingredients" is defined by the SSUTA, to mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Prepared food, soft drinks, and dietary supplements are excluded from the definition and are therefore subject to sales and use tax. However, candy is included within the definition and is therefore exempt from sales and use tax.

Public Health.

Public health generally consists of five categories of activities: preventing and responding to communicable disease, protecting people from environmental health threats, assessing health status, promoting health and preventing chronic disease, and accessing health services. In Washington, public health services are provided primarily by a decentralized system of 35 local health jurisdictions and by the Department of Health (DOH) and other state agencies (such as the Washington State Board of Health).

Public Health Financing.

Public health is financed through a variety of sources, including:

- federal grants;
- state appropriations distributed by the Department of Commerce and the DOH;
- appropriations from local governments; and
- fees.

In 2009, the Legislature appropriated approximately \$16 million for the 2008-2009 biennium for local health jurisdictions to implement the provisions of E2SSB 5930 (2008). The DOH is required to distribute the funds to local health jurisdictions.

Additionally, the Department of Health is authorized to use the E2SSB 5930 funds to provide local health jurisdictions with financial incentives to encourage and increase local investments in core public health functions. A local health jurisdiction receiving such an incentive may not use it to supplant existing local funding.

Public health jurisdictions are required to use the E2SSB 5930 funds for core public health functions of statewide significance as determined by the DOH. The DOH is required to use performance measures to determine whether the public health jurisdictions are using the funds properly. If the DOH determines that a local health jurisdiction is out of compliance, the local health jurisdiction will be given 60 days for corrective action. If the local health jurisdiction remains in non-compliance after the 60 days, the funding will be suspended until the jurisdiction is compliant.

The Public Health Improvement Plan.

In 1993 the Legislature required the DOH to develop a Public Health Improvement Plan (PHIP), which contains a variety of information relating to public health, including:

- recommended strategies for improving public health programs;
- recommendations for public health funding; and
- a definition of minimum standards for public health protection.

The minimum standards for public health protection have evolved over time and currently consist of 12 standards for public health and measures associated with those standards. The 12 standards are:

- Community Health Assessment;
- Communication to the Public and Key Stakeholders;
- Community Involvement;
- Monitoring and Reporting Threats to the Public's Health;
- Planning for and Responding to Public Health Emergencies;
- Prevention and Education;
- Helping Communities Address Gaps in Critical Health Services;
- Program Planning and Evaluation;
- Financial and Management Systems;
- Human Resource Systems;
- Information Systems; and
- Leadership and Governance.

Summary of Bill:

Candy is made subject to the sales and use tax. The State Treasurer must transfer revenue from the taxation of candy to the newly-created Public Health Improvement Account. Funds in the account may only be used for core public health functions of statewide significance. Every January, each public health jurisdiction in the state is to receive a base level of \$100,000 plus a per capita amount from the account. Funding from the account is predicated on substantial compliance with the minimum standards for public health protection in the PHIP.

The Secretary of Health (Secretary) must establish a review process to determine whether a local health jurisdiction is out of substantial compliance with the minimum standards, which he or she must use to review every local health jurisdiction at least once every three years. If the Secretary finds that a local health jurisdiction is out of substantial compliance, he or she must notify the local health jurisdiction in writing. The local health jurisdiction must then submit a plan of correction within 60 days.

If the Secretary determines the plan of correction is likely to bring the jurisdiction back into substantial compliance within 180 days, he or she shall provide technical assistance to the jurisdiction to help it implement the plan of correction. If the Secretary determines the plan of correction is not likely to bring the jurisdiction back into substantial compliance within 180 days, he or she may reject the plan and direct the jurisdiction to re-submit it within 15 days.

The Secretary must order the State Treasurer to suspend payments to a local health jurisdiction if:

- a jurisdiction fails to submit an approved plan of correction; or

- a jurisdiction with an approved plan of correction remains out of substantial compliance with the minimum standards 180 days after it submits the approved plan.

The Secretary must re-review a jurisdiction that is out of compliance every 180 days. Once the jurisdiction is back in compliance, the State Treasurer must resume payments to the jurisdiction plus any moneys the jurisdiction should have received during the period of suspension.

The Secretary may exempt a local health jurisdiction from the review process if the jurisdiction is accredited by an organization whose standards meet or exceed the minimum standards for public health protection in the PHIP.

Statutory provisions relating to the performance measures and review process for the funds appropriated to implement E2SSB 5930 are repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.