

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1839

66th Legislature
2019 Regular Session

Passed by the House April 27, 2019
Yeas 77 Nays 21

Speaker of the House of Representatives

Passed by the Senate April 27, 2019
Yeas 38 Nays 10

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1839** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1839

AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By House Finance (originally sponsored by Representatives Sullivan, MacEwen, Pettigrew, Springer, Vick, and Valdez)

READ FIRST TIME 02/28/19.

1 AN ACT Relating to requiring eligible arena projects to fully pay
2 the state and local sales tax within ten years of commencing
3 construction; adding new sections to chapter 82.32 RCW; creating a
4 new section; providing an expiration date; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
8 performance statement for the tax preference contained in section 2,
9 chapter . . . , Laws of 2019 (section 2 of this act). This performance
10 statement is only intended to be used for subsequent evaluation of
11 the tax preference. It is not intended to create a private right of
12 action by any party or be used to determine eligibility for
13 preferential tax treatment.

14 (2) The legislature categorizes this tax preference as one
15 intended to provide tax relief for certain businesses or individuals
16 and to accomplish a general purpose as indicated in RCW 82.32.808(2)
17 (e) and (f).

18 (3) It is the legislature's specific public policy objective to
19 increase the fiscal stability of multipurpose sports and
20 entertainment arenas in Washington state and thereby strengthen the

1 economic vitality of the communities in which the arenas and practice
2 facilities are located.

3 (4) To measure the effectiveness of the tax preference in
4 achieving the specific public policy objective described in this act,
5 the joint legislative audit and review committee must evaluate this
6 tax preference. In evaluating the tax preference, the joint
7 legislative audit and review committee may refer to data provided to
8 the department of revenue.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32
10 RCW to read as follows:

11 (1) Until October 1, 2019, a qualifying business may apply for a
12 deferral of taxes on an eligible project. Application must be made to
13 the department in a form and manner prescribed by the department. The
14 application must contain information regarding the location of the
15 project, estimated or actual costs of the project, time schedules for
16 completion and operation of the project, and other information
17 required by the department. The department must rule on the
18 application within sixty days.

19 (2) If the department approves an application for a deferral of
20 taxes under this section, the department must issue a sales and use
21 tax deferral certificate for state and local sales and use taxes due
22 under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate
23 expires on the date the eligible project becomes operationally
24 complete. The certificate may only be used for sales and use tax
25 liability incurred after the date the department issued the
26 certificate.

27 (3) A recipient of a certificate must notify the department when
28 its eligible project is operationally complete. The department must
29 review the qualifying business's records after the eligible project
30 is operationally complete to ensure the correct amount of taxes has
31 been reported and will be repaid.

32 (4)(a) For local sales and use taxes, the recipient of the
33 certificate must begin paying deferred sales and use taxes in the
34 first calendar year after the date certified by the department as the
35 date on which the eligible project is operationally complete. The
36 first payment is due on January 1st of the first calendar year after
37 such certified date, with subsequent annual payments due on January
38 1st of the following seven years. Each payment must equal twelve and
39 one-half percent of the tax due plus interest.

1 (b) For state sales and use taxes, the recipient of the
2 certificate must repay all deferred state sales and use taxes by June
3 30, 2023.

4 (c) The department must assess interest, but not penalties, on
5 the deferred taxes. The interest must be assessed at the rate
6 provided for delinquent taxes under this chapter, retroactively to
7 the date the project was certified to be operationally complete, and
8 will accrue until the deferred taxes are repaid.

9 (5) The department may authorize an accelerated repayment
10 schedule upon request of the qualifying business.

11 (6) The debt for taxes due is not extinguished by insolvency or
12 other failure of the qualifying business. Transfer of ownership does
13 not terminate the deferral if the transferee agrees in writing to be
14 bound by the requirements of this section and receives approval from
15 the department. If the department approves the transfer of the
16 deferral to a transferee, such approval not to be unreasonably
17 withheld, conditioned, or delayed, the transferee is solely liable
18 for repayment of the deferred taxes.

19 (7) If the eligible project is not operationally complete within
20 three calendar years from the date that the department issued the
21 certificate for the project, or if at any time the department finds
22 that the project is not eligible for a deferral under this section,
23 the amount of taxes outstanding for the project is immediately due
24 and payable. If taxes must be repaid under this subsection, the
25 department must assess interest at the rate provided for delinquent
26 taxes under this chapter retroactively to the date of issuance of the
27 certificate, but not penalties, on amounts due under this subsection.

28 (8) Applications and any other information received by the
29 department under this section are not confidential under RCW
30 82.32.330. This chapter applies to the administration of this
31 section.

32 (9) The definitions in this subsection apply throughout this
33 section unless the context clearly requires otherwise.

34 (a) "Eligible project" means a project consisting of either or
35 both (i) a qualifying arena, associated parking structures, plazas,
36 public spaces, and one or more tunnels connecting the arena and
37 parking structures, or (ii) an ice hockey practice facility.

38 (b) "Ice hockey practice facility" means one or more contiguous
39 structures of up to two hundred thousand square feet located within
40 ten miles of a qualifying arena that (i) contains at least three ice

1 rinks, and (ii) is being developed to attract a professional ice
2 hockey franchise. An "ice hockey practice facility" may include ice
3 rinks, spectator viewing locations, locker rooms, strength and
4 conditioning rooms, administrative offices, retail space, food
5 service facilities, and other amenities related to the operation of a
6 state-of-the-art ice hockey center.

7 (c) "Operationally complete" means the project is capable of
8 being used for its intended purpose as described in the application.

9 (d) "Personal property" means tangible personal property with a
10 useful life of one year or more that is used in the operation of the
11 eligible project.

12 (e) "Project" means the construction of new improvements, the
13 renovation of existing improvements, the acquisition and installation
14 of fixtures that are permanently affixed to and become a physical
15 part of those improvements, personal property, and site preparation.
16 "Project" includes materials used and labor and services rendered in
17 respect to the planning, site preparation, construction, renovation,
18 and installation.

19 (f) "Qualifying arena" means a multipurpose sports and
20 entertainment facility owned by the largest city in a county with a
21 population of at least one million five hundred thousand that is
22 being redeveloped to attract professional ice hockey and basketball
23 league franchises.

24 (g) "Qualifying business" means a business entity that exists for
25 the primary purpose of engaging in commercial activity for profit and
26 has entered into a lease or occupancy agreement with the fee owner of
27 a qualifying arena and/or ice hockey practice facility to engage in
28 the development of an eligible project.

29 (h) "Site preparation" includes soil testing, site clearing and
30 grading, demolition, or any other related activities that are
31 initiated before construction.

32 (10) This section expires January 1, 2030.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32
34 RCW to read as follows:

35 (1) The state treasurer must deposit the repayment of deferred
36 state sales and use taxes due under section 2 of this act into the
37 general fund.

38 (2)(a) Except as provided in (b) of this subsection (2), the
39 state treasurer must deposit half of the repayment of deferred local

1 sales and use taxes due under section 2 of this act into the local
2 sales and use tax account created in RCW 82.14.050.

3 (b) The state treasurer must deposit the remaining half of the
4 repayment of deferred local sales and use taxes due under section 2
5 of this act into the state building construction account for the
6 exclusive purpose of funding the construction or rehabilitation of
7 capital facilities used for youth educational programming related to
8 discovery, experimentation, and critical thinking in the sciences.
9 The capital facility must be located on the same premises as a
10 qualifying arena.

11 (3) The state treasurer must deposit any interest assessed and
12 accrued on taxes due pursuant to section 2(4) of this act that is
13 part of any annual repayment as follows:

14 (a) Interest on state taxes must be deposited into the state
15 general fund.

16 (b) Interest on local taxes must be deposited into the local
17 sales and use tax account.

18 (4) In the event that an accelerated repayment schedule is
19 authorized by the department pursuant to section 2(5) of this act,
20 the state treasurer must deposit any amount in excess of taxes due
21 pursuant to section 2(4) of this act into the state general fund and
22 into the local sales and use account, with the respective amounts
23 deposited based on the proportionate shares of the state taxes and
24 local taxes due.

25 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of
27 the state government and its existing public institutions, and takes
28 effect immediately.

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