

# HOUSE BILL REPORT

## HB 2988

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**As Reported by House Committee On:**  
Finance

**Title:** An act relating to the authorized uses of county sales and use taxes imposed under RCW 82.14.450.

**Brief Description:** Modifying the authorized uses of certain county sales and use taxes.

**Sponsors:** Representatives McIntire, Upthegrove, Haler and Clibborn.

**Brief History:**

**Committee Activity:**

Finance: 1/25/06, 1/30/06 [DP].

**Brief Summary of Bill**

- Removes the restrictions that limit the purposes for which the 0.3 percent county public safety tax proceeds may be used.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 6 members: Representatives McIntire, Chair; Hunter, Vice Chair; Conway, Ericks, Hasegawa and Santos.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Condotta and Shabro.

**Staff:** Mark Matteson (786-7145).

**Background:**

*Retail sales and use tax.* The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax is imposed on taxable items and services used in the state that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. Sales tax is paid by the purchaser and collected by the seller. Use tax is paid directly to the Department of Revenue.

There are both state and local sales and use taxes. At the state level, the taxes are imposed at a 6.5 percent rate by the state. All cities and counties are required to impose a 0.5 percent basic tax for general purposes. There are a number of other local optional taxes, most of which are required to be used for specific purposes. These include:

**Summary of Local Sales Tax Authorities**

**No. jrsdctns State-**

<b>Rate</b>	<b>Purpose</b>	<b>Authority</b>	<b>levied by</b>	<b>sh'd?</b>
0.5%	general purposes	city, county	313	N
0.1 - 0.9%	transit	county, PTBA	24	N
1.0%	high capacity transit	RTA	1	N
0.1%	criminal justice	County (proceeds shared)	32	N
0.2%	public facilities	PFD	1	N
0.1%	juvenile correction	County	14	N
0.5%	food/beverage tax (King Co.)	King County	1	N
0.017%	baseball stadium (King Co.)	King County	1	Y
0.016%	football stadium (King Co.)	King County	1	Y
0.08%	rural counties	Rural county	32	Y
0.1%	zoo/aquarium	Metro Park District	1	N
0.033%	regional centers	PFD	19	Y
0.1%	emergency communications	County	6	N
0.5%	regional transportation	RTID	0	N
0.4%	passenger ferries	PTBA	0	N
0.3%	public safety	County (proceeds shared)	3	N

The 0.3 percent "public safety" optional tax for counties was enacted in 2003. The tax allows counties, subject to voter approval, to impose an additional local tax of up to 0.3 percent. The tax applies to the same tax base as the state tax of 6.5 percent, with the exception of the retail sale or use of motor vehicles and leases of motor vehicles, which are specifically exempt. One-third of the tax proceeds is required to be used for criminal justice purposes, including additional police protection, mitigation of congested court systems, and relief of overcrowded correctional facilities. Proceeds are prohibited from being used to supplant existing funds dedicated to the same purposes for which a county imposes the tax. Of the proceeds, two-fifths must be distributed to cities within the county on a per capita basis.

*Requirements regarding non-supplanting of existing funds.* A number of taxes include provisions that prohibit the levying jurisdiction from using proceeds to supplant existing funding for the purposes for which tax proceeds may be used. The purpose of such provisions is to ensure that the purpose for which tax proceeds are used is funded at a greater level than prior to the imposition of the tax.

In December 2005, the Attorney General's Office provided an informal opinion in response to an inquiry from the Yakima County prosecuting attorney concerning the non-supplanting provisions of the 0.3 percent public safety local sales and use tax, which the county imposed beginning April 2005. Specifically, the prosecutor's concern was whether a county imposing such a tax could reduce the budgets of departments and agencies eligible to receive the proceeds from the tax and then use the proceeds to restore the budgets to pre-existing levels. In the letter, the assistant attorney general disagreed with such an interpretation, finding that the funding from the tax could be used only to increase funding among eligible programs above the level at the point the voters approved the tax.

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**Summary of Bill:**

The 0.3 percent public safety local sales and use tax is modified, removing the restriction regarding the non-supplanting of existing funds and removing the requirement that one-third of all moneys be used for criminal justice purposes.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** In 2003, the counties' association was asked by its members to look for ways to fill the motor vehicle excise tax (MVET) void created by its repeal. The tri-association partnership introduced a bill that ultimately evolved into this law. The language at issue was inserted near the end of the session to accommodate some concerns in the Senate.

The language provides some unintended consequences. Walla Walla County was the first county to implement this tax. We dedicated 100 percent of the moneys to criminal justice funding. On its face, the nonsupplanting language sounds good in terms of laying out an objective for the use of funds. But it only works for economies that are really flourishing. If the economy is flat or goes south, then we might not be able to access these funds unless we cut existing programs in other areas. Walla Walla County has contracts with other jurisdictions to provide criminal justice services. If these contracts are not renewed, but become part of the base, then we might not ever be able to access the new tax revenue, because we won't be able to get up to the previous level. Moreover, this situation is exacerbated by one-time grants that inflate the base.

Put the local control back to the local people and let them spend the money as they see necessary. There is no problem with dedicating one-third of the money to criminal justice.

Some of the communities interested in this tax are financially fragile communities. We are struggling to meet needs. This proposed flexibility would allow us to continue to pursue promising grant programs. As currently written, the law is too restrictive to accommodate the pursuit of grant moneys and also is prohibitive with respect to major purchases.

Yakima County and Yakima City also have taken a bite of this apple. We are trying to get around the nonsupplanting language issue by asserting that increased jail costs are a new criminal justice activity. What we fear most down the road is this nonsupplanting issue. While we have dedicated 100 percent of the moneys to criminal justice, there may be a time that the demand for other services is such that it is untenable not to shift resources.

**Testimony Against:** None.

**Persons Testifying:** Representative McIntire, prime sponsor; Julie Sexton, Washington State Association of Counties (WSAC); Gordon Hiembigner, Walla Walla County Treasurer; Linda Ring-Erickson, WASC and Mason County; and Neil McClur, Assistant Mayor of Yakima.

**Persons Signed In To Testify But Not Testifying:** None.