

ESHB 1839 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/27/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

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

14 (3) It is the legislature's specific public policy objective to
15 increase the fiscal stability of multipurpose sports and
16 entertainment arenas in Washington state and thereby strengthen the
17 economic vitality of the communities in which the arenas and practice
18 facilities are located.

19 (4) To measure the effectiveness of the tax preference in
20 achieving the specific public policy objective described in this act,
21 the joint legislative audit and review committee must evaluate this
22 tax preference. In evaluating the tax preference, the joint
23 legislative audit and review committee may refer to data provided to
24 the department of revenue.

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

27 (1) Until October 1, 2019, a qualifying business may apply for a
28 deferral of taxes on an eligible project. Application must be made to
29 the department in a form and manner prescribed by the department. The
30 application must contain information regarding the location of the

1 project, estimated or actual costs of the project, time schedules for
2 completion and operation of the project, and other information
3 required by the department. The department must rule on the
4 application within sixty days.

5 (2) If the department approves an application for a deferral of
6 taxes under this section, the department must issue a sales and use
7 tax deferral certificate for state and local sales and use taxes due
8 under chapters 82.08, 82.12, 82.14, and 81.104 RCW. This certificate
9 expires on the date the eligible project becomes operationally
10 complete. The certificate may only be used for sales and use tax
11 liability incurred after the date the department issued the
12 certificate.

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

18 (4)(a) For local sales and use taxes, the recipient of the
19 certificate must begin paying deferred sales and use taxes in the
20 first calendar year after the date certified by the department as the
21 date on which the eligible project is operationally complete. The
22 first payment is due on January 1st of the first calendar year after
23 such certified date, with subsequent annual payments due on January
24 1st of the following seven years. Each payment must equal twelve and
25 one-half percent of the tax due plus interest.

26 (b) For state sales and use taxes, the recipient of the
27 certificate must repay all deferred state sales and use taxes by June
28 30, 2023.

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

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

36 (6) The debt for taxes due is not extinguished by insolvency or
37 other failure of the qualifying business. Transfer of ownership does
38 not terminate the deferral if the transferee agrees in writing to be
39 bound by the requirements of this section and receives approval from
40 the department. If the department approves the transfer of the

1 deferral to a transferee, such approval not to be unreasonably
2 withheld, conditioned, or delayed, the transferee is solely liable
3 for repayment of the deferred taxes.

4 (7) If the eligible project is not operationally complete within
5 three calendar years from the date that the department issued the
6 certificate for the project, or if at any time the department finds
7 that the project is not eligible for a deferral under this section,
8 the amount of taxes outstanding for the project is immediately due
9 and payable. If taxes must be repaid under this subsection, the
10 department must assess interest at the rate provided for delinquent
11 taxes under this chapter retroactively to the date of issuance of the
12 certificate, but not penalties, on amounts due under this subsection.

13 (8) Applications and any other information received by the
14 department under this section are not confidential under RCW
15 82.32.330. This chapter applies to the administration of this
16 section.

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

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

23 (b) "Ice hockey practice facility" means one or more contiguous
24 structures of up to two hundred thousand square feet located within
25 ten miles of a qualifying arena that (i) contains at least three ice
26 rinks, and (ii) is being developed to attract a professional ice
27 hockey franchise. An "ice hockey practice facility" may include ice
28 rinks, spectator viewing locations, locker rooms, strength and
29 conditioning rooms, administrative offices, retail space, food
30 service facilities, and other amenities related to the operation of a
31 state-of-the-art ice hockey center.

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

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

37 (e) "Project" means the construction of new improvements, the
38 renovation of existing improvements, the acquisition and installation
39 of fixtures that are permanently affixed to and become a physical
40 part of those improvements, personal property, and site preparation.

1 "Project" includes materials used and labor and services rendered in
2 respect to the planning, site preparation, construction, renovation,
3 and installation.

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

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

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

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

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

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

23 (2) The state treasurer must deposit the repayment of deferred
24 local sales and use taxes due under section 2 of this act into the
25 local sales and use tax account created in RCW 82.14.050.

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

29 (a) Interest on state taxes must be deposited into the state
30 general fund.

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

33 (4) In the event that an accelerated repayment schedule is
34 authorized by the department pursuant to section 2(5) of this act,
35 the state treasurer must deposit any amount in excess of taxes due
36 pursuant to section 2(4) of this act into the state general fund and
37 into the local sales and use account, with the respective amounts
38 deposited based on the proportionate shares of the state taxes and
39 local taxes due.

1 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately."

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5 On page 1, line 3 of the title, after "construction;" strike the
6 remainder of the title and insert "adding new sections to chapter
7 82.32 RCW; creating a new section; providing an expiration date; and
8 declaring an emergency."

EFFECT: (1) Requires the state portion of the deferred sales and use tax to be repaid by June 30, 2023.

(2) Redirects deferred state sales and use tax payments, including interest, into the state general fund.

(3) Clarifies that repayment of deferred local sales and use tax payments, including interest, are deposited into the local sales and use tax account.

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