
Finance Committee

HB 2907

Brief Description: Authorizing counties with populations over two million to impose an excise tax on business.

Sponsors: Representatives Macri, Springer, Fitzgibbon, Frame, Pollet, Cody, Chopp, Tarleton, Slatter, Doglio, Hudgins, Senn, Gregerson, Bergquist, Duerr, J. Johnson and Santos.

Brief Summary of Bill

- Authorizes a county with a population of at least 2 million to impose an annual tax on payroll expenses.

Hearing Date: 2/4/20

Staff: Tracey O'Brien (786-7152).

Background:

Washington local government have no inherent power to levy taxes because the Washington Constitution (Constitution) vests that power with the Legislature. However, the Legislature may constitutionally grant taxing powers to local government. Indeed, the Legislature has vested local governments with the power to levy a variety of taxes.

Washington primarily has two types of taxes: property and excise taxes. Under the Washington Constitution, "property" is defined as including "everything, whether tangible or intangible, subject to ownership." A property tax is imposed on the ongoing enjoyment of the property and is levied annually. Moreover, a tax on property is absolute and unavoidable.

An excise tax has been defined as one levied upon the manufacture, sale, or consumption of commodities within the country, upon licenses to pursue certain occupations, and upon corporate privileges. The obligation to pay an excise tax is based upon the voluntary action of the person performing the act, enjoying the privilege of engaging in the occupation which is the subject of

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the excise, and the element of absolute and unavoidable demand, as in the case of a property tax, is lacking.

Payroll taxes are taxes paid on the wages and salaries of employees. The employers are either required to withhold or pay payroll taxes on behalf of employees. For example, there are two federal payroll taxes that are levied on employee payrolls: Social Security and Medicare. The employer is responsible for half of the payroll tax levied for these two programs, which is approximately 7.65 percent of the wages paid.

Summary of Bill:

Payroll Expense Tax.

A county with a population of at least 2 million may impose an annual payroll expense tax on employers engaging in business in the county. The tax must be enacted by ordinance by the county's legislative authority.

The tax rate must be at least 0.1 percent, but no more than 0.2 percent, of the employer's payroll expense to the tax year attributable to work performed or services rendered by an employer's employees in the county. The tax rate must be the same for all businesses; however, the county may impose a graduated rate that increases based on employee compensation. Payroll expense includes compensation, including net distributions and incentive payment.

Deductions are allowed for any payroll attributable to an employee with annual compensation of less than \$150,000 and any payroll attributable to a grocery worker.

Certain businesses are exempted from the payroll expense tax. A business that only sells, manufactures or distributes motor vehicle fuel or only sells, manufactures, or distributes liquor are both exempt from the payroll expense tax. Federal and state government agencies and subdivisions and any local government entity is exempt. In addition, a comprehensive cancer center is exempt from the annual payroll expense tax. An exemption is also provided for a small business with less than 50 employees that pays at least 50 percent of its employees an annual compensation of \$150,000 or less. If imposition of the payroll expense tax on a business would violate federal or state law, the business is not required to pay the tax. A county may grant an employer a one-year exemption based on extreme financial hardship.

Annually, the dollar threshold for the small business exemption and the employee compensation deduction must be increased beginning January 1, 2021, using the prior year's June-to-June Consumer Price Index (CPI-U) for the Seattle-Tacoma-Bellevue area. However, if the annual change is negative, no adjustment is made. The amounts must be rounded to the nearest dollar.

The employer is responsible for paying the tax and may not make any deductions from the employee's compensation to pay for this tax.

Authorized Uses of Tax Proceeds.

The revenues collected by the imposition of an annual payroll expense tax may be used to cover necessary costs of tax administration and for enumerated purposes in the Act.

The purposes include:

- acquisition, rehabilitation, or construction affordable housing;
- funding the operations and maintenance costs of affordable or supportive housing;
- providing rental assistance for low-income families and individuals;
- providing for housing, shelter, and evidence-based interventions that address and prevent homelessness;
- acquisition, construction, start-up, or operation community-based behavioral health-related facilities; and
- supporting operations or services that improve public safety by providing supportive services to persons with behavioral health conditions with frequent criminal justice system involvement.

The act requires that 43 percent of the proceeds allocated for affordable housing, behavioral health and supportive services must be shared with the city with the highest population experiencing homelessness. The county must work with the other cities and regional housing partnerships to distribute the remaining 57 percent of the proceeds equitably. All the proceeds allocated for providing for housing, shelter, and evidence-based interventions that address and prevent homelessness must be allocated directly to the regional homelessness authority.

The affordable housing assistance that is funded from the payroll expense tax proceeds may only be provided to persons whose income is at or below 80 percent of the median income of the county providing assistance. At least 50 percent of these tax proceeds must be provided to persons whose income is at or below 30 percent of the county median income.

Over a five year period, at least 50 percent the distributions of the annual payroll expense tax collected must be for affordable housing purposes and no more than 10 percent may be used for providing supportive services to persons with behavioral health conditions with frequent criminal justice system involvement.

The county and a city receiving a share of the tax revenues may issue general obligation or revenue bonds and pledge the money collected from the imposition of the tax for the repayment of the bonds.

Administrative Provisions.

The county may enact ordinances or rely on current law to facilitate the imposition, collection, and administration of the tax. The county may also enter into an interlocal agreement with a city or state agency for the administration and collection of the tax. Return and tax information must be treated as confidential and privileged and only subject to disclosure in the same manner as provided under state tax laws.

The tax authorized under this act expires 25 years after first imposed. The county legislative authority may reauthorize by adoption of a new ordinance.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.