
**Economic Development,
Agriculture & Trade Committee**

HB 2209

Brief Description: Extending local taxing authority to fund miscellaneous facilities.

Sponsors: Representatives Pettigrew, Haler, Linville and Dunn.

Brief Summary of Bill

- Provides financing for capital improvement to a multipurpose public arena with at least 16,000 seats leased to a lessee that owns or controls a National Basketball Association franchise and a women's National Basketball Association franchise and that has provided at least \$20 million to the capital costs of an existing multipurpose public arena and related facilities, and generated at least \$70 million in revenues from operations at the multipurpose public arena for the public owner of the multipurpose public arena.

Hearing Date: 2/28/05

Staff: Tracey Taylor (786-7196).

Background:

Sales & Use Tax

Washington levies a sales tax on the selling price of tangible personal property and certain services purchased at retail. This includes goods, construction including labor, repair of tangible personal property, lodging for less than 30 days, and some personal and professional services, such as landscape maintenance and physical fitness. The state retail sales tax is 6.5 percent.

The state sales tax is collected from purchasers by retail vendors at the time of sale using the tax rate schedules provided by the Department of Revenue (DOR). Total transactions are reported in the seller's combined excise tax return (CETR) and receipts are forwarded to the DOR on a monthly or quarterly basis. In fiscal year 2004, the state retail sales tax generated \$5.791 billion in revenue.

For items used in Washington, but the acquisition of which was not subject to the Washington retail sales tax, the Washington use tax is applied. This includes purchases made from out-of-state sellers, including catalog and Internet purchases, purchases from sellers who are not required to collect sales tax, items produced for use by the producer, and gifts and prizes. The tax is measured by the value of the item at the time of the first use within Washington, excluding any delivery charges. The state use tax rate is the same as the state retail sales tax 6.5 percent

Just as the state taxes the sale of tangible personal property and some services purchased at retail, cities and counties may levy a local sales and use tax. State law currently authorizes 17 different types of local sales and use taxes. There is: a basic 0.5 percent tax for cities and counties; an optional tax of up to 0.5 percent for cities and counties; three local taxes for the support of transportation programs; a tax of up to 1 percent to fund high capacity transportation; two taxes for funding criminal justice or public safety programs; taxes of 0.1 percent each for public facilities, juvenile correctional facilities, zoos and emergency communications facilities; two state-credited taxes to finance professional sports stadiums; and two state-credited taxes to support rural counties and regional centers.

Local Hotel-Motel Tax

A tax of up to 2 percent may be levied by cities and counties on charges for lodging at hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities for continuous periods of less than one month. This tax is credited against the state retail sales tax of 6.5 percent so that the customer does not experience an additional tax. Currently, 141 cities and counties impose maximum tax.

First authorized in 1967 for King County to provide funding for the KingDome, the tax on lodging ("hotel-motel tax") has been broadened several times. First, in 1970 the hotel-motel tax was expanded to include the cities of Tacoma and Spokane. In 1973, the hotel-motel tax was expanded to include all cities. In 1997, the hotel-motel tax was made into a general tourism-related purpose tax.

Since 1975, the county hotel-motel tax must allow a credit for the amount of any tax levied by the cities within the county, thus precluding both the city and county tax from applying to the same lodging transaction. However, if a county has pledged the tax receipts to payment of principal and interest of revenue or general obligation bonds issued by a city or county prior to June 26, 1975, the county may continue levying the tax despite a city also levying the tax. This has allowed the cities of Bellevue and Yakima to levy the tax in addition to King and Yakima Counties.

Additional cities in counties where "double dipping" occurs are prohibited from levying the tax, unless the city has already pledged the revenues toward the retirement of revenue or general obligation bonds, until the county bonds are retired. Thus, Seattle and other cities in King County will have to wait until the original KingDome bonds, the Safeco Field, and Qwest Field bonds are retired, to levy the 2 percent tax.

In 2004, a total of \$29 million was distributed from the state to 141 cities and 35 counties from the local hotel-motel tax program. Cities received a total of \$11.5 million in hotel-motel tax revenue and counties received \$17.5 million in hotel-motel tax revenue.

Beginning in 1987, the hotel-motel tax in King County not only applied to servicing the debt on the KingDome, but a portion of the tax revenues above \$5.3 million per year were dedicated to arts and heritage programs in King County. Currently, 70 percent of the excess revenue is dedicated to the arts and heritage programs; however, 40 percent of the arts revenue is for the arts endowment fund, of which the principal cannot be touched. The remaining 30 percent of the revenue in excess of \$5.3 million is dedicated first to retiring the KingDome debt, then to acquisition of open space lands, youth sports activities, and tourism promotion. This is to continue until 2012 until the KingDome debt is retired, then the full portion of the local hotel-motel tax in King County is dedicated to retiring the debt on Qwest Field. Beginning in 2012, the

only known source of funding for the arts and heritage programs in King County is the earnings off the arts endowment.

Rental Car Tax

The rental of a passenger vehicle from a rental car company to customers, without drivers, for a period that does not exceed 30 consecutive days is subject the state and local retail sales tax. In addition, the state imposes a 5.9 percent rental car tax. The receipts of the state rental car tax are deposited into the multimodal transportation account. A county is also authorized to impose an additional car rental tax of 1 percent. After the state's administrative costs are deducted, the local receipts are distributed to the appropriate counties and may only be used for the construction or operation of public sports stadiums, or for youth or amateur sports activities or facilities. There are currently four counties (Franklin, King, Pierce and Spokane counties)levying this 1 percent tax.

Additional rental car taxes have been authorized. King County imposes an additional 2 percent tax to finance the construction of Safeco Field. Also, the Regional Transit Authority, which is comprised of the metropolitan areas of King, Pierce and Snohomish Counties, levies a tax of 0.8 percent on the rental of automobiles.

In Fiscal Year 2004, the state collected \$20.1 million in rental car tax revenues. The four counties imposing the 1 percent rental car tax collected \$2.8 million. King County's 2 percent tax on car rentals accounted for \$4.6 million for Fiscal Year 2004.

Local Admissions Taxes

Cities, towns, counties, and public facility districts are authorized to levy a tax on the price paid for admission to any place or event. This includes season tickets, cover charges, and charges for the use of recreational facilities. A charge for parking may be subject to an admissions tax if the charge is related to the number of passengers. Also, charges for food and beverages may be included in the price subject to tax if entertainment is provided.

The tax on admissions is limited to 5 percent of the admission charge. However, King County may levy a 10 percent admissions tax for events at both Safeco Field and Qwest Field, including the adjacent exhibition center. In general, the receipts may be used for the general purpose of the jurisdiction, except the King County admissions taxes at Safeco Field and Qwest Field are dedicated to principal and interest payments for the bonds on the facilities.

In 2003, local admissions taxes collected amounted to \$20.2 million.

Leasehold Excise Tax

The state may impose a leasehold excise tax on interest in publicly owned real or personal property. Typically this involves private lease of public property. In most instances, the tax is measured by contract rent. The leasehold excise tax is 12.84 percent. In addition to the state, cities and counties are authorized to levy a leasehold excise tax on leasehold interests in public property within their jurisdiction, thus reducing the state rate on such property to 6.84 percent.

In 2004, the state collected \$19.4 million in leasehold excise taxes. During the same time period, \$9 million was distributed to cities and \$7.4 million was distributed to counties.

KeyArena

Built originally as the Coliseum at the 1962 World's Fair, the multi-use KeyArena has been an important part of the Seattle Center for more than 40 years. The KeyArena opened in its current

form in 1995 and has entertained over 10 million guests, hosting concerts, family shows, community events, hockey, and basketball. The principal tenant of the KeyArena is the Basketball Club of Seattle (BCS). The Seattle SuperSonics, a National Basketball Association (NBA) team, and the Seattle Storm, a women's National Basketball Association (WNBA) team, account for approximately 45 percent of the "occupied" dates at the KeyArena. Although the KeyArena is owned by the City of Seattle, the Seattle Center is responsible for the financial management of the venue.

4Culture

Established in January 2003, 4Culture is King County's cultural services agency. It continues the work of the King County Arts Commission, Public Art Commission, and the heritage programs of the Landmarks Commission. 4Culture is a tax-exempt public corporation, with a 15 member Board of Directors, who are nominated by the King County Executive and confirmed by the Metropolitan King County Council.

4 Culture receives a portion of the lodging tax revenues to provide funding to support the visual and performing arts, public art, heritage programs and historic preservation. Throughout King County, annual funding supports the activities of more than 200 arts and heritage organizations, hundreds of artists and heritage specialists, capital construction and fixed asset purchase, project support, and cultural education in public schools.

Safeco Field

In 1995, state and local financing was authorized for the construction of a new baseball stadium in King County. It is currently known as Safeco Field.

State Contribution

- **Retail Sales & Use Tax:** An additional local retail sales and use tax at a rate of .017 percent was authorized. This local sales and use tax is credited against the state sales and use tax (6.5 percent) so the consumers did not experience a tax increase. The local option sales and use tax and the credit against the state sales and use tax expire when the bonds are retired, but no later than 20 years after the bonds are issued. The tax may not be imposed after January 1, 2016. In 2004, the local option sales and use tax generated \$6.6 million in revenue.
- **Lottery:** Beginning in 1996, \$3 million of the lottery revenue was dedicated to baseball stadium bond retirement. Each year that amount increased by 4 percent. In addition, the State Lottery Commission was directed to conduct two to four games with sports themes per year.
- **License Plates:** Special stadium license plates were authorized, with the revenue being dedicated to baseball stadium bond retirement. The special license plate fee is \$30.

Local Funding

- **Restaurant Tax:** King County was authorized to impose an additional sales and use tax of 0.5 percent on food and beverage sales at restaurants, taverns and bars. Food and beverage sales at grocery stores, mini-markets, and convenience stores were not included. The tax may be imposed when the bonds are retired or by December 1, 2016 (20 years after the bonds were issued). In 2004, the restaurant tax generated \$16.6 million in revenue.

- Car Rentals Tax: King County was authorized to impose an additional sales and use tax on car rentals at a rate not to exceed 2 percent.
- Admissions tax: A 5 percent tax on admission charges was authorized for the purpose of baseball stadium bond retirement; however, excess revenues may be used to pay unanticipated capital costs excluding any cost overruns on initial construction. An additional 5 percent tax may be imposed for the sole purpose of baseball bond retirement.
- The Mariners were required to contribute at least \$45 million to the construction cost.
- A leasehold excise tax exemption was granted for public or entertainment areas of the baseball stadium.

In 1997, King County issued \$336 million of limited tax general obligation funds to provide the funding for Safeco Field. In 2002, King County issued new tax general obligation bonds at a lower interest rate that will save approximately \$6.1 million in debt service and will allow King County to pay off the Safeco Field bonds by 2014.

Qwest Field & Exhibition Center

In 1997, state and local financing was authorized for a new football stadium and exhibition center in King County. It is currently known as Qwest Stadium.

State Contribution

- Retail Sales & Use Tax: King County was authorized to impose a sales and use tax of at a rate of 0.016 percent. This tax is credited against the state sales and use tax. The revenues will be used to retire the bonds issued for the stadium and convention center construction. The tax and credit expire when the bonds are retired, but no later than 23 years after the tax is first collected. In 2004, this local sales and use tax generated \$6.2 million in revenue.
- Retail Sales Tax Deferral: Retail sales tax was deferred on the construction of the facility. This includes labor and services, material and supplies, and rental of equipment. The sales tax must be repaid over a 10 year period and the repayments will be deposited into the stadium and exhibition center account.
- State sales and use tax exemption was provided for vehicle parking fees charged at the stadium and exhibition center.
- Lottery: Since 1998, \$6 million in lottery revenues is distributed to the stadium and exhibition center account each year. The amount of the distribution increases annually at 4 percent. The distributions expire when the bonds are retired, or 2020 whichever is earlier. The Lottery Commission was authorized to conduct new games. The operators of Qwest Field must promote the lottery with in-kind advertising, sponsorship or prize promotions valued at \$1 million annually.
- Leasehold excise tax exemptions were provided for public or entertainment area in the facility.
- \$300 million in state issued general obligation bonds were authorized (exempt for state's statutory 7 percent debt limit).

Local funding

- Admissions & Vehicle tax: A 10 percent tax was authorized on admission charges to events in the stadium and exhibition center. A 10 percent tax on vehicle parking at new

facility was also authorized. Revenues from these taxes go first to retire the bonds, then into an account for future repairs and improvements.

- Hotel-Motel Tax: King County's share of the 2 percent lodging tax is extended to 2020. The revenues may be used for KingDome repairs and debt until 2015, then for bond payments for new stadium and exhibition center until 2020.
- Car Rental Tax: Seventy-five percent of the county-imposed 1 percent car rental tax must be used for KingDome repairs and debt.
- The Seattle Seahawks had to contribute at least \$100 million to the construction.

The total public share of construction costs of the stadium and exhibition center is limited to \$300 million.

Summary of Bill:

A financing package is authorized for capital improvements of a multipurposes public arena ("arena") with a seating capacity of at least 16,000 seats that is leased to a basketball lessee. Capital improvements mean designing, acquiring, equipping, reequipping, or repairing an arena. A basketball lessee is defined as a lessee of an arena that owns or controls a NBA and WNBA franchise and that has provided at least \$20 million to the capital costs of the existing arena, and generated at least \$70 million in revenues from the operations at the arena for the public owner.

In addition, financing is provided for King County art museums, cultural museums, heritage museums, the arts and the performing arts ("the arts"). In any calendar year during which revenue is collected pursuant to the taxes authorized under this act, the arts shall receive \$4 million, with 40 percent being dedicated to the arts endowment.

Stadium Tax Revenues

The local retail sales and use tax of 0.017 percent currently authorized for the bond retirement on Safeco Field is extended to be applied to the arts and the bond retirement for the capital improvements to the arena. The date the local sales and use tax may be applied to the arena or the arts is the earlier of the date the bonds on Safeco Field are retired or December 1, 2014.

The restaurant tax of 0.5 percent imposed on retail sale or use of food and beverages at a restaurant, tavern, or bar is extended to be applied to the arts and the bond retirement for the capital improvements to the arena. The date the restaurant tax may be applied to the arena or the arts is the earlier of the date the bonds on Safeco Field are retired or December 1, 2014.

The car rental tax of up to 2 percent is extended to be applied to the arts and the bond retirement for the capital improvements to the arena. The car rental tax may be applied to the arena or the arts on the date the bonds on Safeco Field are retired or December 1, 2014, whichever is earlier.

The King County hotel-motel tax of up to 2 percent is extended to be applied to the arts and the bond retirement for the capital improvements to the arena. Beginning in 2021, 1 percent of the hotel-motel tax will be authorized for the arts. Also beginning in 2021 and ending when the bonds are retired, 1 percent of the hotel-motel tax is authorized for bond retirement on the arena.

The city is authorized to impose a 5 percent tax on all charges for admission to the arena. The revenue generated as the result of this admission tax will first go to bond retirement for the capital improvements. Any excess revenues will be used to fund future capital improvements to the arena.

A state and local retail sales and use tax exemption is authorized for the capital improvements. In addition, an exemption for the state and local leasehold excise taxes is authorized for the public and entertainment areas.

Flow of Stadium Tax Revenues

From 2013 to 2020, the first \$4 million dollars in stadium tax revenues collected shall be used for the arts. Then, upon certification by the city that owns the arena that a basketball lessee has entered into a qualified lease agreement, the stadium tax revenues may be applied to the scheduled principal and interest on bonds issued in an aggregate principal amount of up to \$60 million dollars for the Phase I of the capital improvements. After Phase I bonds are retired, the stadium tax revenues will then be applied to pay the scheduled principal and interest on bonds or refunding bonds issued in an aggregate principal amount necessary to finance or refinance Phase II of the capital improvements of up to \$205 million (adjusted for inflation annually), the costs of issuing the bonds, and the costs associated with interim financing pending the issuance of the bonds.

Capital Improvements

The city owner of the arena, after consulting with the basketball lessee, has the authority to determine the overall scope and components, to approve the design and specifications, and to approve the budget of any capital improvements. The city must enter into a development agreement with the basketball lessee under which the basketball lessee undertakes and controls the capital improvements. Subject to city approval, the basketball lessee shall: determine project design, specifications and budget; procurement procedures; and select and engage an architect, other professional service providers and a contractor.

Any contracts for capital improvements to the arena shall be subject to the state's prevailing wage requirements and to any goals, if any, established by the city for women and minority business participation. To the extent feasible, the basketball lessee will hire local residents in connection to the capital improvements. The public contribution to the capital improvements is limited to the bonds. Any cost overruns are the sole responsibility of the basketball lessee.

In return for the city's agreement to issue bonds to finance the capital improvements, the basketball lessee agrees to enter into a new sole master tenant lease agreement for the arena and related facilities for not less than 20 years. In addition, the basketball lessee shall agree to assume responsibility for the marketing, operation, and routine maintenance of the area at no cost to the city. The lessee has the authority to sublease and enter into use, license and concession agreements with various lessees, users, licensees and concessionaires of the arena. Also, the basketball lessee has the right to retain all basketball and nonbasketball revenues derived from the operation of the arena. The basketball lessee is required to use good faith best efforts to maintain the use profile of the arena as a multipurpose facility. Subject to the reasonable approval of the city, the naming rights for all or a portion of the arena and the revenue derived from the sale of the name shall belong to the basketball lessee.

In addition, the NBA and WNBA teams owned or controlled by the basketball lessee commit to play at least 90 percent of all regular season home games and all of its home playoff game for not less than 20 years.

The city owner of the arena and the basketball lessee must enter into an agreement regarding the capital improvements. The agreement, at a minimum, must address an expedited permit process for the design and construction of the capital improvements, expedited environmental review

processing, and expedited processing of requests for street, right of way, and easement vacations necessary for the capital improvements.

The capital improvements to the arena are not subject to the state law regarding competitive bidding for public works project.

Appropriation: None.

Fiscal Note: Requested on February 23, 2005.

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