

# FINAL BILL REPORT

## ESHB 3179

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Synopsis as Enacted

**Brief Description:** Concerning local excise tax provisions for counties and cities.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Springer and Ericks).

**House Committee on Finance**  
**Senate Committee on Government Operations & Elections**  
**Senate Committee on Ways & Means**

### **Background:**

A county public safety sales and use tax was authorized in 2003. Subject to voter approval, counties may impose a tax of up to 0.3 percent. At least one-third of the tax receipts must be devoted to criminal justice purposes, fire protection purposes, or both. A levying county retains 60 percent of the receipts and the remaining 40 percent is distributed to cities within the county on a per capita basis. The use of tax receipts must be stated in the ballot proposition that goes before the voters. Until calendar 2010, tax receipts could not supplant (replace) existing funds being used for the purpose of the sales and use tax as provided in the ballot proposition. In 2009 this non-supplant restriction was amended, allowing counties to partially supplant existing funds until January 1, 2015. The sales and use tax has been implemented in five counties: Kittitas, Walla Walla, Spokane, Whatcom, and Yakima.

A county mental health/chemical dependency sales and use tax of 0.1 percent was authorized in 2005. The proceeds of the tax must be devoted to county mental health treatment, chemical dependency, and therapeutic court programs and services. Until calendar 2010, tax receipts could not supplant (replace) existing funds being used for these programs and services. In 2009 this non-supplant restriction was amended, allowing counties to partially supplant existing funds until January 1, 2015. The sales and use tax has been imposed in 13 counties: Clallam, Clark, Island, Jefferson, King, Okanogan, San Juan, Skagit, Snohomish, Spokane, Thurston, Wahkiakum, and Whatcom.

Counties may impose a local sales and use tax of 0.1 percent for criminal justice programs. This tax may be levied only by counties; however, the receipts are shared with cities: 10 percent goes to the county and the remaining 90 percent is apportioned to the county and all

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cities within the county on the basis of population. The initial imposition of the tax is subject to potential referendum by the voters. There are 32 counties levying the tax.

Washington imposes a separate and distinct use tax on the use of natural gas or manufactured gas. This tax is referred to as the brokered natural gas (BNG) use tax. Cities may impose a local version of the BNG use tax. The purpose of BNG use taxes is to eliminate differential tax treatment for natural gas purchased from gas companies, which is subject to state and local utility taxes, and gas purchased directly from producers by large, commercial users, which is not subject to utility taxes. The BNG use tax rates are identical to state and local utility tax rates. On May 20, 2008, Division II of the Washington Court of Appeals rendered a decision addressing the location where natural gas is first used for the purposes of imposing BNG use taxes. The appellant in the case, G-P Gypsum Corporation (Gypsum), consumed natural gas during the process of manufacturing wallboard in Tacoma. Gypsum purchased the natural gas near both Sumas and Sumner. The City of Tacoma imposed a local BNG use tax. The city argued that while Gypsum took control of the gas at a location outside the city, Gypsum first "used" the gas inside the city. The court held that, for purposes of the local use tax on BNG, the place of first use is where the taxpayer initially exercises dominion and control over the gas and not the location where it is burned or stored by the taxpayer.

Counties, cities, and towns are authorized to impose a tax on gambling activities. Tax rates vary depending upon the type of activity. State law requires any jurisdiction imposing a gambling tax to use the revenue primarily for local gambling enforcement programs.

**Summary:**

Cities may seek voter approval to impose the public safety sales and use tax at a rate not to exceed 0.1 percent. If a county imposes the public safety sales and use tax prior to a city within the county, the city tax rate may not exceed an amount that would cause the total tax rate for the county and city to exceed 0.3 percent. If a city imposes the tax prior to the county in which the city is located, the county must provide a credit against its tax for the city tax. Fifteen percent of the tax proceeds received by a city imposing the public safety sales and use tax must be distributed to the county.

The non-supplant restrictions for the public safety sales and use tax are completely eliminated.

Beginning January 1, 2011, a city with a population in excess of 30,000 and located in a county with a population over 800,000 is authorized to imposed the mental health/chemical dependency sales and use tax if the county has not imposed the tax. Once a city has imposed the tax, the county is required to provide a credit against its tax for any city tax.

The non-supplant restrictions for the criminal justice sales and use tax are completely eliminated.

The brokered natural gas use tax is imposed at the location where the gas is burned by the taxpayer or stored in a facility of the taxpayer for later consumption.

The permitted uses of local gambling taxes are expanded to include any public safety purpose.

**Votes on Final Passage:**

House	51	47	
Senate	28	18	(Senate amended)
House	58	39	(House concurred)

**Effective:** June 10, 2010