
HOUSE BILL 2712

State of Washington 61st Legislature 2010 Regular Session

By Representatives Shea, Condotta, Kristiansen, Klippert, Haler, Anderson, Taylor, Short, Kretz, Crouse, McCune, Hinkle, Ross, Roach, Schmick, Campbell, Warnick, and Angel

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1 AN ACT Relating to creating the Washington state sovereignty and
2 federal tax escrow account act of 2010; reenacting and amending RCW
3 43.84.092; adding a new chapter to Title 83 RCW; and creating a new
4 section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 Washington state sovereignty and federal tax escrow account act of
8 2010.

9 NEW SECTION. **Sec. 2.** By this act the legislature intends to:
10 Create the federal tax escrow account in the state treasury to provide
11 that moneys collected by the state for payment to the federal
12 government are paid into the account; provide that any private person
13 liable for a federal tax must pay the tax into the account; provide
14 that should the federal government, including, but not limited to, the
15 federal courts, act toward the state of Washington or any of its
16 citizens in a manner deemed unconstitutional by the Washington state
17 legislature, the state treasury must withhold a certain portion of the
18 funds due the federal government; provide that if the federal

1 government takes any punitive action against the state in any manner
2 for failure to comply with a federal statute or directive of any kind
3 that the Washington state legislature deems unconstitutional, the state
4 treasury must withhold from payment a certain portion of the funds due
5 the federal government; provide sanctions for failure to comply with
6 such provisions; provide that state officials must comply with such
7 provisions without regard to any action taken by the federal
8 government; provide for a special session of the Washington state
9 legislature; provide that unconstitutional measures taken by the
10 federal authorities constitute an action against the state of
11 Washington and must be met with all necessary measures to safeguard the
12 sovereignty of the state and the constitutional rights of its citizens;
13 provide for retroactive application; provide for the expenditure of
14 funds withheld from the federal government; provide for other matters
15 relative to the foregoing; provide an effective date; and repeal all
16 conflicting laws.

17 NEW SECTION. **Sec. 3.** (1) The legislature finds that the
18 Constitution of the United States is a compact between the people of
19 the sovereign states creating a general or federal government as their
20 agent and endowing it with only enumerated powers. That the general or
21 federal government is not, and can never be, the sole and exclusive
22 authority in determining what powers were enumerated, or delegated, and
23 what powers were reserved to the states and to the people thereof.

24 (2)(a) The tenth amendment to the Constitution of the United States
25 states: "The powers not delegated to the United States by the
26 Constitution, nor prohibited by it to the States, are reserved to the
27 States respectively, or to the people."

28 (b) The Washington state legislature finds that the tenth amendment
29 to the Constitution of the United States defines the entire scope of
30 federal power as being limited to that specifically delegated in the
31 Constitution and no more.

32 (3) The Washington state legislature finds that the congress of the
33 United States has the power to lay and collect taxes pursuant only to
34 clause 1 of Section 8 of Article 1; and clauses 4 and 5 of Section 9 of
35 Article 1 of the Constitution of the United States.

36 (4) The Washington state legislature finds that the federal
37 government, its agencies or agents, including the congress of the

1 United States, does not have the power under the Constitution of the
2 United States to withhold from the states the benefits of those taxes
3 as stated in subsection (2)(b) of this section by the use of federal
4 mandates or other means that fall outside the scope of the powers
5 delegated to the federal government by the Constitution of the United
6 States.

7 (5) In consideration of the continuing unconstitutional federal
8 mandates, directives, laws, court orders, and other usurpations that
9 withhold the benefits of those taxes as stated in subsection (2)(b) of
10 this section to the states, the state of Washington reasserts its claim
11 of sovereignty pursuant to the original compact between the several
12 states and the tenth amendment to the Constitution of the United
13 States.

14 NEW SECTION. **Sec. 4.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Consumer tax" means any tax imposed by the federal government
17 on any beer, liquor, wine, or similar alcoholic beverage, tobacco,
18 gasoline, or any other consumer goods.

19 (2) "Excise tax" means any tax restricted by Article II, section 40
20 of the state Constitution.

21 (3) "Federal tax escrow account" means the federal tax escrow
22 account created in section 5 of this act.

23 (4) "Person" means natural persons, corporations, partnerships,
24 limited liability companies, associations, and other legal entities.

25 NEW SECTION. **Sec. 5.** (1) The federal tax escrow account is
26 created in the state treasury. All federal tax moneys collected by the
27 state of Washington on behalf of the federal government, or any of its
28 agencies or agents, must be deposited by the state treasurer into the
29 federal tax escrow account.

30 (2) The state treasurer, on a quarterly basis, must disburse the
31 funds to the appropriate federal recipient if the Washington state
32 legislature deems that the federal government, and its agencies or
33 agents, have acted in a constitutional manner toward the state of
34 Washington or its citizens. If, as a result of state action taken
35 pursuant to this chapter, the federal government imposes or mandates
36 any financial sanctions or penalties or otherwise acts in a punitive

1 manner toward the state of Washington and its citizens, the state
2 treasurer must withhold from payment all or part of the quarterly
3 disbursement that otherwise would be disbursed or transferred to the
4 appropriate federal recipient.

5 (3) Funds that are withheld by the state treasurer from the federal
6 recipient must be transferred to and deposited in the state general
7 fund for general use.

8 NEW SECTION. **Sec. 6.** (1) Any person liable for any federal excise
9 or consumer tax must remit such tax when due along with a federal
10 taxpayer identification number, if applicable, to the state treasurer
11 for deposit into the federal tax escrow account created in section 5 of
12 this act. A social security number, according to statute, is not to be
13 defined as a federal tax identification number.

14 (2) All moneys collected under this section must be transmitted to
15 the state treasurer, who, as a fiduciary agent, must credit such funds
16 to the federal tax escrow account on behalf of the person who remitted
17 the tax.

18 (3) The state treasurer must submit to the federal internal revenue
19 service, or other such tax-collecting agencies that the congress of the
20 United States may from time to time establish, the names and tax
21 identification numbers, where applicable and excluding social security
22 numbers, of, and the amounts deposited by, persons liable for any
23 federal excise or consumer tax so that the federal internal revenue
24 service can credit the state of Washington's taxpayers for federal tax
25 obligations.

26 (4) Upon the effective date of this act, no federal agent or agents
27 may operate within the borders of the state of Washington, as described
28 in section 7 of this act, for the purpose of collecting taxes or of
29 exacting punitive measures because of the exercise by the state of
30 Washington of any provision or provisions of this chapter.

31 (5) Except as provided in section 5(2) of this act, the state
32 treasurer must transfer at the end of each quarter the moneys held in
33 the federal tax escrow account, less any interest earned on the
34 deposit, to the appropriate federal recipient in payment of the tax
35 obligations of those persons who remitted the tax funds to the state
36 treasurer.

1 (6) If the federal government, or any of its agencies or agents,
2 impose sanctions on or take punitive actions of any sort against the
3 state of Washington for failing to enact legislation called for by a
4 mandate from the federal government, or any of its agencies or agents,
5 a vote must be taken by the state legislature as to the
6 constitutionality of the sanctions or punitive actions. By a simple
7 majority vote in each house of the state legislature, if the federal
8 government, or any of its agencies or agents, is found to be operating
9 beyond the scope of its constitutionally delegated powers, and
10 therefore unlawfully, the state treasurer must be notified in writing
11 within two days by the attorney general of the vote of each house of
12 the state legislature, and the state legislature must instruct the
13 state treasurer to carry out the procedure specified in section 5(2) of
14 this act.

15 (7) It must be determined by a simple majority vote in each house
16 of the state legislature when the federal government, or its agencies
17 or agents, have properly rescinded or removed any sanctions or have
18 ceased punitive actions against Washington state and its citizens.
19 Until both houses of the state legislature have determined by a simple
20 majority vote that the federal government, or its agencies or agents,
21 are operating within the scope of its constitutionally delegated
22 powers, and therefore lawfully, the state treasurer must disburse or
23 transfer no funds from the federal tax escrow account to the federal
24 tax recipient.

25 (8) Any person liable for any federal excise or consumer tax who
26 fails to forward the federal tax moneys to the state treasurer is
27 subject to penalties assessed according to the applicable state laws.

28 NEW SECTION. **Sec. 7.** (1) The governor, members of each house of
29 the state legislature, judges, the attorney general, the secretary of
30 state, the state treasurer, the state auditor, and all other state
31 officers and employees must implement the provisions of this chapter
32 regardless of any sanctions, threats, punitive actions, federal court
33 orders, or other measures brought to bear against them by any and all
34 federal authorities and their agencies or agents.

35 (2) If the federal government, or its agencies or agents, impose
36 any sanctions on or execute any punitive action against the state or

1 any of its citizens while the state legislature is not in session, the
2 governor must call the state legislature into special session for the
3 purpose of implementing the appropriate provision of this chapter.

4 (3) Any action by the federal government, or its agencies or
5 agents, including the president of the United States, the congress of
6 the United States, and the federal courts, against any person in
7 Washington state for compliance with the provisions of this chapter is
8 considered a hostile and unconstitutional action against Washington
9 state and its citizens, and the state of Washington will by all
10 necessary measures act to preserve its sovereignty.

11 (4) The Washington state legislature, by a simple majority vote in
12 each house, must determine how the moneys transferred from the federal
13 tax escrow account to the state general fund, including accrued
14 interest, are to be used for the benefit of the people of Washington
15 state. These moneys must be used only for the benefit of the people of
16 Washington state.

17 **Sec. 8.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and
18 2009 c 451 s 8 are each reenacted and amended to read as follows:

19 (1) All earnings of investments of surplus balances in the state
20 treasury shall be deposited to the treasury income account, which
21 account is ((hereby)) established in the state treasury.

22 (2) The treasury income account shall be utilized to pay or receive
23 funds associated with federal programs as required by the federal cash
24 management improvement act of 1990. The treasury income account is
25 subject in all respects to chapter 43.88 RCW, but no appropriation is
26 required for refunds or allocations of interest earnings required by
27 the cash management improvement act. Refunds of interest to the
28 federal treasury required under the cash management improvement act
29 fall under RCW 43.88.180 and shall not require appropriation. The
30 office of financial management shall determine the amounts due to or
31 from the federal government pursuant to the cash management improvement
32 act. The office of financial management may direct transfers of funds
33 between accounts as deemed necessary to implement the provisions of the
34 cash management improvement act, and this subsection. Refunds or
35 allocations shall occur prior to the distributions of earnings set
36 forth in subsection (4) of this section.

1 (3) Except for the provisions of RCW 43.84.160, the treasury income
2 account may be utilized for the payment of purchased banking services
3 on behalf of treasury funds including, but not limited to, depository,
4 safekeeping, and disbursement functions for the state treasury and
5 affected state agencies. The treasury income account is subject in all
6 respects to chapter 43.88 RCW, but no appropriation is required for
7 payments to financial institutions. Payments shall occur prior to
8 distribution of earnings set forth in subsection (4) of this section.

9 (4) Monthly, the state treasurer shall distribute the earnings
10 credited to the treasury income account. The state treasurer shall
11 credit the general fund with all the earnings credited to the treasury
12 income account except:

13 The following accounts and funds shall receive their proportionate
14 share of earnings based upon each account's and fund's average daily
15 balance for the period: The aeronautics account, the aircraft search
16 and rescue account, the budget stabilization account, the capitol
17 building construction account, the Cedar River channel construction and
18 operation account, the Central Washington University capital projects
19 account, the charitable, educational, penal and reformatory
20 institutions account, the cleanup settlement account, the Columbia
21 river basin water supply development account, the common school
22 construction fund, the county arterial preservation account, the county
23 criminal justice assistance account, the county sales and use tax
24 equalization account, the data processing building construction
25 account, the deferred compensation administrative account, the deferred
26 compensation principal account, the department of licensing services
27 account, the department of retirement systems expense account, the
28 developmental disabilities community trust account, the drinking water
29 assistance account, the drinking water assistance administrative
30 account, the drinking water assistance repayment account, the Eastern
31 Washington University capital projects account, the education
32 construction fund, the education legacy trust account, the election
33 account, the energy freedom account, the energy recovery act account,
34 the essential rail assistance account, The Evergreen State College
35 capital projects account, the federal forest revolving account, the
36 federal tax escrow account, the ferry bond retirement fund, the freight
37 congestion relief account, the freight mobility investment account, the
38 freight mobility multimodal account, the grade crossing protective

1 fund, the public health services account, the health system capacity
2 account, the personal health services account, the high capacity
3 transportation account, the state higher education construction
4 account, the higher education construction account, the highway bond
5 retirement fund, the highway infrastructure account, the highway safety
6 account, the high occupancy toll lanes operations account, the
7 industrial insurance premium refund account, the judges' retirement
8 account, the judicial retirement administrative account, the judicial
9 retirement principal account, the local leasehold excise tax account,
10 the local real estate excise tax account, the local sales and use tax
11 account, the medical aid account, the mobile home park relocation fund,
12 the motor vehicle fund, the motorcycle safety education account, the
13 multimodal transportation account, the municipal criminal justice
14 assistance account, the municipal sales and use tax equalization
15 account, the natural resources deposit account, the oyster reserve land
16 account, the pension funding stabilization account, the perpetual
17 surveillance and maintenance account, the public employees' retirement
18 system plan 1 account, the public employees' retirement system combined
19 plan 2 and plan 3 account, the public facilities construction loan
20 revolving account beginning July 1, 2004, the public health
21 supplemental account, the public transportation systems account, the
22 public works assistance account, the Puget Sound capital construction
23 account, the Puget Sound ferry operations account, the Puyallup tribal
24 settlement account, the real estate appraiser commission account, the
25 recreational vehicle account, the regional mobility grant program
26 account, the resource management cost account, the rural arterial trust
27 account, the rural Washington loan fund, the site closure account, the
28 small city pavement and sidewalk account, the special category C
29 account, the special wildlife account, the state employees' insurance
30 account, the state employees' insurance reserve account, the state
31 investment board expense account, the state investment board commingled
32 trust fund accounts, the state patrol highway account, the state route
33 number 520 corridor account, the supplemental pension account, the
34 Tacoma Narrows toll bridge account, the teachers' retirement system
35 plan 1 account, the teachers' retirement system combined plan 2 and
36 plan 3 account, the tobacco prevention and control account, the tobacco
37 settlement account, the transportation 2003 account (nickel account),
38 the transportation equipment fund, the transportation fund, the

1 transportation improvement account, the transportation improvement
2 board bond retirement account, the transportation infrastructure
3 account, the transportation partnership account, the traumatic brain
4 injury account, the tuition recovery trust fund, the University of
5 Washington bond retirement fund, the University of Washington building
6 account, the urban arterial trust account, the volunteer firefighters'
7 and reserve officers' relief and pension principal fund, the volunteer
8 firefighters' and reserve officers' administrative fund, the Washington
9 fruit express account, the Washington judicial retirement system
10 account, the Washington law enforcement officers' and firefighters'
11 system plan 1 retirement account, the Washington law enforcement
12 officers' and firefighters' system plan 2 retirement account, the
13 Washington public safety employees' plan 2 retirement account, the
14 Washington school employees' retirement system combined plan 2 and 3
15 account, the Washington state health insurance pool account, the
16 Washington state patrol retirement account, the Washington State
17 University building account, the Washington State University bond
18 retirement fund, the water pollution control revolving fund, and the
19 Western Washington University capital projects account. Earnings
20 derived from investing balances of the agricultural permanent fund, the
21 normal school permanent fund, the permanent common school fund, the
22 scientific permanent fund, and the state university permanent fund
23 shall be allocated to their respective beneficiary accounts. All
24 earnings to be distributed under this subsection (4) shall first be
25 reduced by the allocation to the state treasurer's service fund
26 pursuant to RCW 43.08.190.

27 (5) In conformance with Article II, section 37 of the state
28 Constitution, no treasury accounts or funds shall be allocated earnings
29 without the specific affirmative directive of this section.

30 NEW SECTION. **Sec. 9.** This chapter applies to all federal actions
31 within the state of Washington, including, but not limited to, the
32 collection of federal excise and consumer taxes upon the date which it
33 is enacted. Because the Constitution of the United States has been
34 the fundamental law of the land since its ratification by the requisite
35 nine states in 1788, this chapter must be enforced retroactively to
36 repeal any unconstitutional federal laws, mandates, edicts, and court

1 orders that have been imposed on the state of Washington and its
2 citizens.

3 NEW SECTION. **Sec. 10.** The provisions of this chapter control in
4 the event of a conflict between the provisions of this chapter and
5 other state or local laws and regulations.

6 NEW SECTION. **Sec. 11.** Any federal law, rule, order, or other act
7 by the federal government violating the provisions of this chapter is
8 invalid in this state, is not recognized by and is specifically
9 rejected by this state, and is considered as null and void and of no
10 effect in this state.

11 NEW SECTION. **Sec. 12.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 13.** Sections 1 through 7 and 9 through 11 of
16 this act constitute a new chapter in Title 83 RCW.

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