
SUBSTITUTE HOUSE BILL 3179

State of Washington **61st Legislature** **2010 Regular Session**

By House Finance (originally sponsored by Representatives Springer and Ericks)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to local excise tax provisions for counties and
2 cities; amending RCW 82.14.450, 82.14.460, 82.14.340, 82.46.035,
3 82.12.010, 82.14.230, 9.46.113, and 67.28.1815; reenacting and amending
4 RCW 82.46.035; adding a new section to chapter 35.21 RCW; adding a new
5 chapter to Title 36 RCW; repealing 2009 c 551 s 12 (uncodified);
6 providing an effective date; and providing an expiration date.

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

8 **Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read
9 as follows:

10 (1) A county legislative authority may (~~submit an authorizing~~
11 ~~proposition to the county voters at a primary or general election and,~~
12 ~~if the proposition is approved by a majority of persons voting,)~~
13 authorize, fix, and impose a sales and use tax ((in accordance with the
14 terms of this chapter)) until January 1, 2015. For counties that have
15 not received voter approval to impose the tax under this section, to
16 retain or impose the tax after December 31, 2014, the county must
17 submit an authorizing proposition to the county voters at a primary or
18 general election and a majority of persons voting must approve the
19 continuation or imposition of the sales and use tax. The title of each

1 ballot measure must clearly state the purposes for which the proposed
2 sales and use tax will be used. (~~Funds raised under this tax shall~~
3 ~~not supplant existing funds used for these purposes, except as follows:~~
4 ~~Up to one hundred percent may be used to supplant existing funding in~~
5 ~~calendar year 2010; up to eighty percent may be used to supplant~~
6 ~~existing funding in calendar year 2011; up to sixty percent may be used~~
7 ~~to supplant existing funding in calendar year 2012; up to forty percent~~
8 ~~may be used to supplant existing funding in calendar year 2013; and up~~
9 ~~to twenty percent may be used to supplant existing funding in calendar~~
10 ~~year 2014. For purposes of this subsection, existing funds means the~~
11 ~~actual operating expenditures for the calendar year in which the ballot~~
12 ~~measure is approved by voters. Actual operating expenditures excludes~~
13 ~~lost federal funds, lost or expired state grants or loans,~~
14 ~~extraordinary events not likely to reoccur, changes in contract~~
15 ~~provisions beyond the control of the county or city receiving the~~
16 ~~services, and major nonrecurring capital expenditures.)) The tax must
17 be imposed in accordance with this chapter. Subject to the conditions
18 in subsection 2 of this section, the rate of tax under this ((section))
19 subsection may not exceed three-tenths of one percent of the selling
20 price in the case of a sales tax, or value of the article used, in the
21 case of a use tax.~~

22 (2)(a) Beginning January 1, 2011, a city legislative authority may
23 authorize, fix, and impose a sales and use tax under this section until
24 January 1, 2015. To retain or impose the tax after December 31, 2014,
25 the city must submit an authorizing proposition to the city voters at
26 a primary or general election and a majority of persons voting must
27 approve the continuation or imposition of the sales and use tax. The
28 title of each ballot measure must clearly state the purposes for which
29 the proposed sales and use tax will be used. The tax must be imposed
30 in accordance with this chapter. The rate of tax under this subsection
31 may not exceed one-tenth of one percent of the selling price in the
32 case of a sales tax, or value of the article used, in the case of a use
33 tax.

34 (b) If a county adopts an ordinance or resolution to impose the
35 sales and use tax under subsection (1) of this section prior to a city
36 within the county adopting an ordinance or resolution to impose the tax
37 under this subsection, the rate of tax by the city under this
38 subsection may not exceed an amount that would cause the total county

1 and city tax rate under this section to exceed three-tenths of one
2 percent. This subsection (2)(b) also applies if the county and city
3 adopt an ordinance or resolution to impose sales and use taxes under
4 this section on the same date.

5 (c) If the city adopts an ordinance or resolution to impose the
6 sales and use tax under this subsection prior to the county in which
7 the city is located, the county must provide a credit against its tax
8 under subsection (1) of this section for the city tax under this
9 subsection to the extent the total county and city tax rate under this
10 section would exceed three-tenths of one percent.

11 (3) The tax authorized in this section is in addition to any other
12 taxes authorized by law and must be collected from those persons who
13 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
14 occurrence of any taxable event within the county.

15 ~~((+3))~~ (4) The retail sale or use of motor vehicles, and the lease
16 of motor vehicles for up to the first thirty-six months of the lease,
17 are exempt from tax imposed under this section.

18 ~~((+4))~~ (5) One-third of all money received under this section must
19 be used solely for criminal justice purposes, fire protection purposes,
20 or both. For the purposes of this subsection, "criminal justice
21 purposes" has the same meaning as provided in RCW 82.14.340.

22 ~~((+5))~~ (6) Money received by a county under subsection (1) of this
23 section must be shared between the county and the cities as follows:
24 Sixty percent must be retained by the county and forty percent must be
25 distributed on a per capita basis to cities in the county.

26 (7) Tax proceeds received by a city imposing a tax under this
27 section must be shared between the county and city as follows: Fifteen
28 percent must be distributed to the county and eighty-five percent is
29 retained by the city.

30 **Sec. 2.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read
31 as follows:

32 (1) (a) Except as provided in (b) of this subsection, a county
33 legislative authority may authorize, fix, and impose a sales and use
34 tax in accordance with the terms of this chapter.

35 (b) Any city with a population in excess of two hundred thousand
36 and located in a county with a population over eight hundred thousand
37 may authorize, fix, and impose the sales and use tax in lieu of the

1 county if the county has not imposed the tax authorized under (a) of
2 this subsection by January 1, 2011. If a city imposes the tax under
3 this subsection (1)(b) the county within which the city is located may
4 not impose the tax authorized under (a) of this subsection.

5 (2) The tax authorized in this section (~~shall be~~) is in addition
6 to any other taxes authorized by law and (~~shall~~) must be collected
7 from those persons who are taxable by the state under chapters 82.08
8 and 82.12 RCW upon the occurrence of any taxable event within the
9 county. The rate of tax (~~shall~~) equals one-tenth of one percent of
10 the selling price in the case of a sales tax, or value of the article
11 used, in the case of a use tax.

12 (3) Moneys collected under this section (~~shall~~) must be used
13 solely for the purpose of providing for the operation or delivery of
14 chemical dependency or mental health treatment programs and services
15 and for the operation or delivery of therapeutic court programs and
16 services. For the purposes of this section, "programs and services"
17 includes, but is not limited to, treatment services, case management,
18 and housing that are a component of a coordinated chemical dependency
19 or mental health treatment program or service.

20 (4) All moneys collected under this section must be used solely for
21 the purpose of providing new or expanded programs and services as
22 provided in this section, except a portion of moneys collected under
23 this section may be used to supplant existing funding for these
24 purposes in any county as follows: Up to fifty percent may be used to
25 supplant existing funding in calendar year 2010; up to forty percent
26 may be used to supplant existing funding in calendar year 2011; up to
27 thirty percent may be used to supplant existing funding in calendar
28 year 2012; up to twenty percent may be used to supplant existing
29 funding in calendar year 2013; and up to ten percent may be used to
30 supplant existing funding in calendar year 2014.

31 (5) Nothing in this section may be interpreted to prohibit the use
32 of moneys collected under this section for the replacement of lapsed
33 federal funding previously provided for the operation or delivery of
34 services and programs as provided in this section.

35 **Sec. 3.** RCW 82.14.340 and 1995 c 309 s 1 are each amended to read
36 as follows:

37 The legislative authority of any county may fix and impose a sales

1 and use tax in accordance with the terms of this chapter, provided that
2 such sales and use tax is subject to repeal by referendum, using the
3 procedures provided in RCW 82.14.036. The referendum procedure
4 provided in RCW 82.14.036 is the exclusive method for subjecting any
5 county sales and use tax ordinance or resolution to a referendum vote.

6 The tax authorized in this section shall be in addition to any
7 other taxes authorized by law and shall be collected from those persons
8 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW
9 upon the occurrence of any taxable event within such county. The rate
10 of tax shall equal one-tenth of one percent of the selling price (in
11 the case of a sales tax) or value of the article used (in the case of
12 a use tax).

13 When distributing moneys collected under this section, the state
14 treasurer shall distribute ten percent of the moneys to the county in
15 which the tax was collected. The remainder of the moneys collected
16 under this section shall be distributed to the county and the cities
17 within the county ratably based on population as last determined by the
18 office of financial management. In making the distribution based on
19 population, the county shall receive that proportion that the
20 unincorporated population of the county bears to the total population
21 of the county and each city shall receive that proportion that the city
22 incorporated population bears to the total county population.

23 Moneys received from any tax imposed under this section shall be
24 expended (~~(exclusively)~~) for criminal justice purposes (~~((and shall not
25 be used to replace or supplant existing funding))~~). Criminal justice
26 purposes are defined as activities that substantially assist the
27 criminal justice system, which may include circumstances where
28 ancillary benefit to the civil justice system occurs, and which
29 include(~~(s)~~) human services, domestic violence services such as those
30 provided by domestic violence programs, community advocates, and legal
31 advocates, as defined in RCW 70.123.020. (~~((Existing funding for
32 purposes of this subsection is defined as calendar year 1989 actual
33 operating expenditures for criminal justice purposes. Calendar year
34 1989 actual operating expenditures for criminal justice purposes
35 exclude the following: Expenditures for extraordinary events not
36 likely to reoccur, changes in contract provisions for criminal justice
37 services, beyond the control of the local jurisdiction receiving the
38 services, and major nonrecurring capital expenditures.))~~)

1 In the expenditure of funds for criminal justice purposes as
2 provided in this section, cities and counties, or any combination
3 thereof, are expressly authorized to participate in agreements,
4 pursuant to chapter 39.34 RCW, to jointly expend funds for criminal
5 justice purposes of mutual benefit. Such criminal justice purposes of
6 mutual benefit include, but are not limited to, the construction,
7 improvement, and expansion of jails, court facilities, ~~((and))~~ juvenile
8 justice facilities, and services with ancillary benefits to the civil
9 justice system.

10 NEW SECTION. **Sec. 4.** (1) Subject to the conditions and
11 requirements of this section, a county may impose an excise tax on the
12 privilege of engaging in business as a utility. The tax is equal to
13 the gross income derived from providing service to consumers within the
14 county multiplied by the rate provided in subsection (3) of this
15 section. A county may submit a ballot proposition to the voters to
16 seek voter approval to impose the utility tax under this section, but
17 is not required to do so.

18 (2) A county with a population of one million five hundred thousand
19 persons or less may not impose an excise tax on the privilege of
20 engaging in business as a gas utility.

21 (3) A county may not impose a rate of tax that exceeds six percent,
22 except a county with a population of one million five hundred thousand
23 persons or less may not impose a rate that exceeds one percent on an
24 electrical power utility.

25 (4) A county must use taxes collected under the authority of this
26 section only for public safety, infrastructure, capital projects, and
27 other services.

28 (5) A utility subject to tax under this section must add the tax to
29 the rates or charges it makes for utility services and separately state
30 the amount of tax on billings.

31 (6) A county may initially impose the tax authorized under this
32 section only on the first day of a calendar quarter and no sooner than
33 seventy-five days from the date the county adopts the ordinance or
34 resolution imposing the tax.

35 (7) A county may provide exemptions for sales by utilities to
36 business customers, such as manufacturing facilities, aircraft repair
37 facilities, industrial parks, industrial facilities, farm businesses,

1 and computer data centers. A county may not provide a general
2 exemption for sales by utilities to residential customers unless
3 business customers are also exempt.

4 (8) A county must allow a credit against the cable service utility
5 tax for any franchise fee paid by the cable service utility to the
6 county.

7 (9) A county must allow a credit against the tax imposed under the
8 authority of this section for the amount of any similar utility tax
9 imposed by a city or town on the same taxable event. The credit
10 required by this subsection may not exceed the amount of tax otherwise
11 due.

12 (10) The following definitions apply throughout this section unless
13 the context clearly requires otherwise.

14 (a) "Cable service utility" means a person providing cable service
15 as defined in the federal telecommunications act of 1996.

16 (b) "Electrical power utility" means a "light and power business"
17 as defined in RCW 82.16.010.

18 (c) "Gas utility" means a "gas distribution business" as defined in
19 RCW 82.16.010.

20 (d) "Gross income" has the same meaning as provided in RCW
21 82.16.010.

22 (e) "Sewer utility" means a sewerage collection business as that
23 term is used in chapter 82.16 RCW.

24 (f) "Solid waste utility" means a "solid waste collection business"
25 as defined in RCW 82.18.010.

26 (g) "Telephone utility" means a person providing
27 "telecommunications service" as defined in RCW 82.04.065.

28 (h) "Water utility" means a "water distribution business" as
29 defined in RCW 82.16.010.

30 (i) "Utility" means an electrical power utility, gas utility,
31 telephone utility, water utility, sewer utility, solid waste utility,
32 or cable service utility. "Utility" also means a water-sewer district
33 formed under Title 57 RCW.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.21 RCW
35 to read as follows:

36 (1) Subject to the requirements of this section, a city or town may

1 impose a tax upon the gross income of a water-sewer district formed
2 under Title 57 RCW.

3 (2) A city or town imposing the tax authorized under this section
4 may not impose a rate of tax that exceeds six percent. A city or town
5 may impose the tax only upon the gross income of a water-sewer district
6 derived from services provided within the city or town.

7 (3) A city or town imposing the tax authorized under this section
8 must allow a credit against the tax for any franchise fee paid by a
9 water-sewer district to the city or town.

10 **Sec. 6.** RCW 82.46.035 and 2009 c 211 s 1 are each amended to read
11 as follows:

12 (1) The legislative authority of any county or city (~~shall~~) must
13 identify in the adopted budget the capital projects and park
14 maintenance and operation expenditures, or both, funded in whole or in
15 part from the proceeds of the tax authorized in this section(~~(, and~~
16 ~~shall indicate that such tax is intended to be in addition to other~~
17 ~~funds that may be reasonably available for such capital projects))~~).

18 (2) The legislative authority of any county or any city that plans
19 under RCW 36.70A.040(1) may impose an additional excise tax on each
20 sale of real property in the unincorporated areas of the county for the
21 county tax and in the corporate limits of the city for the city tax at
22 a rate not exceeding one-quarter of one percent of the selling price.
23 Any county choosing to plan under RCW 36.70A.040(2) and any city within
24 such a county may only adopt an ordinance imposing the excise tax
25 authorized by this section if the ordinance is first authorized by a
26 proposition approved by a majority of the voters of the taxing district
27 voting on the proposition at a general election held within the
28 district or at a special election within the taxing district called by
29 the district for the purpose of submitting such proposition to the
30 voters.

31 (3) Revenues generated from the tax imposed under subsection (2) of
32 this section (~~shall~~) must be used by such counties and cities
33 (~~solely~~) for financing capital projects specified in a capital
34 facilities plan element of a comprehensive plan and, until January 1,
35 2014, park maintenance and operation expenditures. A county or city
36 using a portion of revenues from the tax for park maintenance and
37 operation expenditures may not use revenues to finance park facilities.

1 However, revenues (a) pledged by such counties and cities to debt
2 retirement prior to March 1, 1992, may continue to be used for that
3 purpose until the original debt for which the revenues were pledged is
4 retired, or (b) committed prior to March 1, 1992, by such counties or
5 cities to a project may continue to be used for that purpose until the
6 project is completed.

7 (4) Revenues generated by the tax imposed by this section (~~shall~~)
8 must be deposited in a separate account.

9 (5) As used in this section: (a) "City" means any city or town;
10 (b) "capital project" means those public works projects of a local
11 government for planning, acquisition, construction, reconstruction,
12 repair, replacement, rehabilitation, or improvement of streets, roads,
13 highways, sidewalks, street and road lighting systems, traffic signals,
14 bridges, municipally owned heavy rail short line railroads, domestic
15 water systems, storm and sanitary sewer systems, (~~and planning,~~
16 ~~construction, reconstruction, repair, rehabilitation, or improvement of~~
17 ~~parks~~) parks, recreational facilities, law enforcement facilities,
18 fire protection facilities, trails, libraries, administrative and/or
19 judicial facilities, and river and water flood control facilities; and
20 (c) "short line railroads" means class III railroads as defined by the
21 United States surface transportation board.

22 (6) When the governor files a notice of noncompliance under RCW
23 36.70A.340 with the secretary of state and the appropriate county or
24 city, the county or city's authority to impose the additional excise
25 tax under this section (~~shall~~) must be temporarily rescinded until
26 the governor files a subsequent notice rescinding the notice of
27 noncompliance.

28 (7) A city or county may use revenue generated under subsection (2)
29 of this section for municipally owned heavy short line railroads only
30 if the revenue was collected prior to December 31, 2008, and may not
31 use more than twenty-five percent of the total revenue generated under
32 subsection (2) of this section for municipally owned heavy short line
33 railroads.

34 **Sec. 7.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s. c 32 s 33
35 are each reenacted and amended to read as follows:

36 (1) The legislative authority of any county or city shall identify
37 in the adopted budget the capital projects and park maintenance and

1 operation expenditures, or both, funded in whole or in part from the
2 proceeds of the tax authorized in this section(~~(, and shall indicate~~
3 ~~that such tax is intended to be in addition to other funds that may be~~
4 ~~reasonably available for such capital projects)~~).

5 (2) The legislative authority of any county or any city that plans
6 under RCW 36.70A.040(1) may impose an additional excise tax on each
7 sale of real property in the unincorporated areas of the county for the
8 county tax and in the corporate limits of the city for the city tax at
9 a rate not exceeding one-quarter of one percent of the selling price.
10 Any county choosing to plan under RCW 36.70A.040(2) and any city within
11 such a county may only adopt an ordinance imposing the excise tax
12 authorized by this section if the ordinance is first authorized by a
13 proposition approved by a majority of the voters of the taxing district
14 voting on the proposition at a general election held within the
15 district or at a special election within the taxing district called by
16 the district for the purpose of submitting such proposition to the
17 voters.

18 (3) Revenues generated from the tax imposed under subsection (2) of
19 this section (~~(shall)~~) must be used by such counties and cities
20 (~~(solely)~~) for financing capital projects specified in a capital
21 facilities plan element of a comprehensive plan and, until January 1,
22 2014, park maintenance and operation expenditures. A county or city
23 using a portion of revenues from the tax for park maintenance and
24 operation expenditures may not use revenues to finance park facilities.
25 However, revenues (a) pledged by such counties and cities to debt
26 retirement prior to March 1, 1992, may continue to be used for that
27 purpose until the original debt for which the revenues were pledged is
28 retired, or (b) committed prior to March 1, 1992, by such counties or
29 cities to a project may continue to be used for that purpose until the
30 project is completed.

31 (4) Revenues generated by the tax imposed by this section (~~(shall)~~)
32 must be deposited in a separate account.

33 (5) As used in this section, "city" means any city or town and
34 "capital project" means those public works projects of a local
35 government for planning, acquisition, construction, reconstruction,
36 repair, replacement, rehabilitation, or improvement of streets, roads,
37 highways, sidewalks, street and road lighting systems, traffic signals,
38 bridges, domestic water systems, storm and sanitary sewer systems,

1 (~~and planning, construction, reconstruction, repair, rehabilitation,~~
2 ~~or improvement of parks~~) parks, recreational facilities, law
3 enforcement facilities, fire protection facilities, trails, libraries,
4 administrative and/or judicial facilities, and river and water flood
5 control facilities.

6 (6) When the governor files a notice of noncompliance under RCW
7 36.70A.340 with the secretary of state and the appropriate county or
8 city, the county or city's authority to impose the additional excise
9 tax under this section (~~shall~~) must be temporarily rescinded until
10 the governor files a subsequent notice rescinding the notice of
11 noncompliance.

12 **Sec. 8.** RCW 82.12.010 and 2009 c 535 s 304 are each amended to
13 read as follows:

14 For the purposes of this chapter:

15 (1) "Purchase price" means the same as sales price as defined in
16 RCW 82.08.010;

17 (2)(a) "Value of the article used" shall be the purchase price for
18 the article of tangible personal property, the use of which is taxable
19 under this chapter. The term also includes, in addition to the
20 purchase price, the amount of any tariff or duty paid with respect to
21 the importation of the article used. In case the article used is
22 acquired by lease or by gift or is extracted, produced, or manufactured
23 by the person using the same or is sold under conditions wherein the
24 purchase price does not represent the true value thereof, the value of
25 the article used (~~shall be~~) is determined as nearly as possible
26 according to the retail selling price at place of use of similar
27 products of like quality and character under such rules as the
28 department may prescribe.

29 (b) In case the articles used are acquired by bailment, the value
30 of the use of the articles so used (~~shall~~) must be in an amount
31 representing a reasonable rental for the use of the articles so bailed,
32 determined as nearly as possible according to the value of such use at
33 the places of use of similar products of like quality and character
34 under such rules as the department of revenue may prescribe. In case
35 any such articles of tangible personal property are used in respect to
36 the construction, repairing, decorating, or improving of, and which
37 become or are to become an ingredient or component of, new or existing

1 buildings or other structures under, upon, or above real property of or
2 for the United States, any instrumentality thereof, or a county or city
3 housing authority created pursuant to chapter 35.82 RCW, including the
4 installing or attaching of any such articles therein or thereto,
5 whether or not such personal property becomes a part of the realty by
6 virtue of installation, then the value of the use of such articles so
7 used (~~shall be~~) is determined according to the retail selling price
8 of such articles, or in the absence of such a selling price, as nearly
9 as possible according to the retail selling price at place of use of
10 similar products of like quality and character or, in the absence of
11 either of these selling price measures, such value may be determined
12 upon a cost basis, in any event under such rules as the department of
13 revenue may prescribe.

14 (c) In the case of articles owned by a user engaged in business
15 outside the state which are brought into the state for no more than one
16 hundred eighty days in any period of three hundred sixty-five
17 consecutive days and which are temporarily used for business purposes
18 by the person in this state, the value of the article used (~~shall~~)
19 must be an amount representing a reasonable rental for the use of the
20 articles, unless the person has paid tax under this chapter or chapter
21 82.08 RCW upon the full value of the article used, as defined in (a) of
22 this subsection.

23 (d) In the case of articles manufactured or produced by the user
24 and used in the manufacture or production of products sold or to be
25 sold to the department of defense of the United States, the value of
26 the articles used (~~shall be~~) is determined according to the value of
27 the ingredients of such articles.

28 (e) In the case of an article manufactured or produced for purposes
29 of serving as a prototype for the development of a new or improved
30 product, the value of the article used (~~shall be~~) is determined by:
31 (i) The retail selling price of such new or improved product when first
32 offered for sale; or (ii) the value of materials incorporated into the
33 prototype in cases in which the new or improved product is not offered
34 for sale.

35 (f) In the case of an article purchased with a direct pay permit
36 under RCW 82.32.087, the value of the article used (~~shall be~~) is
37 determined by the purchase price of such article if, but for the use of

1 the direct pay permit, the transaction would have been subject to sales
2 tax;

3 (3) "Value of the service used" means the purchase price for the
4 digital automated service or other service, the use of which is taxable
5 under this chapter. If the service is received by gift or under
6 conditions wherein the purchase price does not represent the true value
7 thereof, the value of the service used (~~shall be~~) is determined as
8 nearly as possible according to the retail selling price at place of
9 use of similar services of like quality and character under rules the
10 department may prescribe;

11 (4) "Value of the extended warranty used" means the purchase price
12 for the extended warranty, the use of which is taxable under this
13 chapter. If the extended warranty is received by gift or under
14 conditions wherein the purchase price does not represent the true value
15 of the extended warranty, the value of the extended warranty used
16 (~~shall be~~) is determined as nearly as possible according to the
17 retail selling price at place of use of similar extended warranties of
18 like quality and character under rules the department may prescribe;

19 (5) "Value of the digital good or digital code used" means the
20 purchase price for the digital good or digital code, the use of which
21 is taxable under this chapter. If the digital good or digital code is
22 acquired other than by purchase, the value of the digital good or
23 digital code must be determined as nearly as possible according to the
24 retail selling price at place of use of similar digital goods or
25 digital codes of like quality and character under rules the department
26 may prescribe;

27 (6) "Use," "used," "using," or "put to use" have their ordinary
28 meaning, and mean:

29 (a) With respect to tangible personal property, except for natural
30 gas and manufactured gas, the first act within this state by which the
31 taxpayer takes or assumes dominion or control over the article of
32 tangible personal property (as a consumer), and include installation,
33 storage, withdrawal from storage, distribution, or any other act
34 preparatory to subsequent actual use or consumption within this state;

35 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
36 first act within this state after the service has been performed by
37 which the taxpayer takes or assumes dominion or control over the
38 article of tangible personal property upon which the service was

1 performed (as a consumer), and includes installation, storage,
2 withdrawal from storage, distribution, or any other act preparatory to
3 subsequent actual use or consumption of the article within this state;

4 (c) With respect to an extended warranty, the first act within this
5 state after the extended warranty has been acquired by which the
6 taxpayer takes or assumes dominion or control over the article of
7 tangible personal property to which the extended warranty applies, and
8 includes installation, storage, withdrawal from storage, distribution,
9 or any other act preparatory to subsequent actual use or consumption of
10 the article within this state;

11 (d) With respect to a digital good or digital code, the first act
12 within this state by which the taxpayer, as a consumer, views,
13 accesses, downloads, possesses, stores, opens, manipulates, or
14 otherwise uses or enjoys the digital good or digital code;

15 (e) With respect to a digital automated service, the first act
16 within this state by which the taxpayer, as a consumer, uses, enjoys,
17 or otherwise receives the benefit of the service;

18 (f) With respect to a service defined as a retail sale in RCW
19 82.04.050(6)(b), the first act within this state by which the taxpayer,
20 as a consumer, accesses the prewritten computer software; (~~and~~)

21 (g) With respect to a service defined as a retail sale in RCW
22 82.04.050(2)(g), the first act within this state after the service has
23 been performed by which the taxpayer, as a consumer, views, accesses,
24 downloads, possesses, stores, opens, manipulates, or otherwise uses or
25 enjoys the digital good upon which the service was performed; and

26 (h) With respect to natural gas or manufactured gas, the use of
27 which is taxable under RCW 82.12.022, including gas that is also
28 taxable under the authority of RCW 82.14.230, the first act within this
29 state by which the taxpayer consumes the gas by burning the gas or
30 storing the gas in the taxpayer's own facilities for later consumption
31 by the taxpayer;

32 (7) "Taxpayer" and "purchaser" include all persons included within
33 the meaning of the word "buyer" and the word "consumer" as defined in
34 chapters 82.04 and 82.08 RCW;

35 (8)(a)(i) Except as provided in (a)(ii) of this subsection (8),
36 "retailer" means every seller as defined in RCW 82.08.010 and every
37 person engaged in the business of selling tangible personal property at

1 retail and every person required to collect from purchasers the tax
2 imposed under this chapter.

3 (ii) "Retailer" does not include a professional employer
4 organization when a covered employee coemployed with the client under
5 the terms of a professional employer agreement engages in activities
6 that constitute a sale of tangible personal property, extended
7 warranty, digital good, digital code, or a sale of any digital
8 automated service or service defined as a retail sale in RCW 82.04.050
9 (2) (a) or (g), (3)(a), or (6)(b) that is subject to the tax imposed by
10 this chapter. In such cases, the client, and not the professional
11 employer organization, is deemed to be the retailer and is responsible
12 for collecting and remitting the tax imposed by this chapter.

13 (b) For the purposes of (a) of this subsection, the terms "client,"
14 "covered employee," "professional employer agreement," and
15 "professional employer organization" have the same meanings as in RCW
16 82.04.540;

17 (9) "Extended warranty" has the same meaning as in RCW
18 82.04.050(7);

19 (10) The meaning ascribed to words and phrases in chapters 82.04
20 and 82.08 RCW, insofar as applicable, (~~shall have~~) has full force and
21 effect with respect to taxes imposed under the provisions of this
22 chapter. "Consumer," in addition to the meaning ascribed to it in
23 chapters 82.04 and 82.08 RCW insofar as applicable, (~~shall~~) also
24 means any person who distributes or displays, or causes to be
25 distributed or displayed, any article of tangible personal property,
26 except newspapers, the primary purpose of which is to promote the sale
27 of products or services. With respect to property distributed to
28 persons within this state by a consumer as defined in this subsection
29 (10), the use of the property shall be deemed to be by such consumer.

30 **Sec. 9.** RCW 82.14.230 and 1989 c 384 s 2 are each amended to read
31 as follows:

32 (1) The governing body of any city, while not required by
33 legislative mandate to do so, may, by resolution or ordinance for the
34 purposes authorized by this chapter, fix and impose on every person a
35 use tax for the privilege of using natural gas or manufactured gas in
36 the city as a consumer.

1 (2) The tax (~~shall be~~) is imposed in an amount equal to the value
2 of the article used by the taxpayer multiplied by the rate in effect
3 for the tax on natural gas businesses under RCW 35.21.870 in the city
4 in which the article is used. The "value of the article used," does
5 not include any amounts that are paid for the hire or use of a natural
6 gas business in transporting the gas subject to tax under this
7 subsection if those amounts are subject to tax under RCW 35.21.870.

8 (3) The tax imposed under this section (~~shall~~) does not apply to
9 the use of natural or manufactured gas if the person who sold the gas
10 to the consumer has paid a tax under RCW 35.21.870 with respect to the
11 gas for which exemption is sought under this subsection.

12 (4) There (~~shall be~~) is a credit against the tax levied under
13 this section in an amount equal to any tax paid by:

14 (a) The person who sold the gas to the consumer when that tax is a
15 gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by
16 another (~~state~~) municipality or other unit of local government with
17 respect to the gas for which a credit is sought under this subsection;
18 or

19 (b) The person consuming the gas upon which a use tax similar to
20 the tax imposed by this section was paid to another (~~state~~)
21 municipality or other unit of local government with respect to the gas
22 for which a credit is sought under this subsection.

23 (5) The use tax (~~hereby~~) imposed (~~shall~~) must be paid by the
24 consumer. The administration and collection of the tax (~~hereby~~)
25 imposed (~~shall be~~) is pursuant to RCW 82.14.050.

26 **Sec. 10.** RCW 9.46.113 and 1975 1st ex.s. c 166 s 11 are each
27 amended to read as follows:

28 Any county, city or town which collects a tax on gambling
29 activities authorized pursuant to RCW 9.46.110 shall use the revenue
30 from such tax primarily for the purpose of (~~enforcement of the~~
31 ~~provisions of this chapter by the county, city or town law enforcement~~
32 ~~agency~~) public safety.

33 **Sec. 11.** RCW 67.28.1815 and 2008 c 264 s 3 are each amended to
34 read as follows:

35 Except as provided in RCW 67.28.180, all revenue from taxes imposed
36 under this chapter shall be credited to a special fund in the treasury

1 of the municipality imposing such tax and used solely for the purpose
2 of paying all or any part of the cost of tourism promotion, acquisition
3 of tourism-related facilities, or operation of tourism-related
4 facilities. Municipalities may, under chapter 39.34 RCW, agree to the
5 utilization of revenue from taxes imposed under this chapter for the
6 purposes of funding a multijurisdictional tourism-related facility.
7 After the effective date of this section, revenue from taxes imposed
8 under this chapter may also be used for governmental purposes that will
9 maintain or enhance tourism, including public safety improvements.

10 NEW SECTION. **Sec. 12.** Section 4 of this act constitutes a new
11 chapter in Title 36 RCW.

12 NEW SECTION. **Sec. 13.** Section 7 of this act takes effect June 30,
13 2012.

14 NEW SECTION. **Sec. 14.** Section 6 of this act expires June 30,
15 2012.

16 NEW SECTION. **Sec. 15.** 2009 c 551 s 12 (uncodified) is hereby
17 repealed.

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