

SENATE BILL REPORT

ESHB 1839

As Reported by Senate Committee On:
Ways & Means, April 26, 2019

Title: An act relating to requiring eligible arena projects to fully pay the state and local sales tax within ten years of commencing construction.

Brief Description: Requiring eligible arena projects to fully pay the state and local sales tax within ten years of commencing construction.

Sponsors: House Committee on Finance (originally sponsored by Representatives Sullivan, MacEwen, Pettigrew, Springer, Vick and Valdez).

Brief History: Passed House: 3/11/19, 94-4.

Committee Activity: Ways & Means: 4/03/19, 4/26/19 [DPA, DNP].

Brief Summary of Amended Bill

- Allows the deferral of state and local sales and use taxes for the construction or improvement of a multipurpose sports and entertainment facility and an ice hockey practice facility.
- Requires the state portion of deferred state sales and use taxes to be repaid by June 30, 2023.
- Directs repayments of deferred state retail sales and use taxes to be deposited into the state general fund.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hunt, Keiser, Liias, Palumbo, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Minority Report: Do not pass.

Signed by Senators Hasegawa and Pedersen.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jeffrey Mitchell (786-7438)

Background: Retail Sales and Use Taxes. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Local Option Taxes for High Capacity Transportation. Regional transit authorities (RTA), certain transit authorities, and high capacity transportation (HCT) corridor areas may enact certain local option taxes for planning, constructing, and operating HCT, commuter rail, and feeder transportation systems. These local option taxes must be approved by voters. The local taxes include a rental car tax of up to 2.172 percent, an employer tax of up to \$2 per employee per month, and a sales and use tax of up to 1 percent. If a county has imposed the 0.1 percent sales tax for criminal justice, and in RTAs in which any member county has imposed the 0.1 percent sales tax for criminal justice, the local option sales and use tax for HCT may not exceed 0.9 percent. The maximum rate that may be imposed for an RTA that includes a county with a population of more than 1.5 million residents is 1.4 percent.

Interest Rates for Excise Tax Assessments. The interest rate assessed on delinquent excise is calculated on an annual basis. The rate that must be charged shall be an average of the federal short-term rate plus 2 percentage points. The rate must be calculated by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. The average must be calculated using rates from four months—January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. Since 1992, the interest rate on excise tax assessments has ranged from 2 to 9 percent. The interest rate for calendar year 2019 is 4 percent.

Tax Preference Performance Statement. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Home Security Fund Account. The state's share of the \$62 homeless housing and assistance surcharge is deposited into the home security fund account (fund). The fund is an appropriated account and may be used only for homeless housing programs. Expenditures from the fund must be made by the director of the Department of Commerce or the Director's designee. The Office of Financial Management must secure an independent expenditure review of state homeless assistance and housing surcharge funds received and deposited into

the fund on a biennial basis. The stated purpose of the expenditure review is to assess the consistency in achieving policy priorities within the private market rental housing segment for housing persons experiencing homelessness. The first biennial expenditure review is due February 1, 2020.

Fair Fund. State law requires that each fiscal year the state treasurer transfer \$2 million from the state general fund into the fair fund administered by the Washington State Department of Agriculture. Qualifying agricultural fairs are eligible to receive allocations from the fair fund after conducting two successful, consecutive annual fairs. With the exception of county fairs and some youth fairs, all allocations must be made only as reimbursement for premiums or prizes awarded to fair participants. Eighty-five percent of all allocations from the fair fund must be distributed to agricultural fairs based on merit. The remaining 15 percent may be split between administrative expenses, which cannot exceed 5 percent, and special assistance for participating fairs.

Summary of Amended Bill: A qualifying business may apply to the Department of Revenue (DOR) for a tax deferral and payment plan for state and local sales and use taxes related to an eligible project. An eligible project is a project consisting of either or both a qualifying arena and an ice hockey practice facility.

A "qualifying arena" is defined as a multipurpose sports and entertainment facility owned by the largest city in a county with a population of at least 1.5 million persons that is being redeveloped to attract professional ice hockey and basketball league franchises. It includes the arena, associated parking structures, plazas, public spaces, and one or more tunnels connecting the parking structures to the arena. An ice hockey practice facility means one or more contiguous structures of up to 200,000 feet located within ten miles of the qualifying arena that contains at least three ice rinks and is being developed to attract a professional ice hockey franchise. It may include ice rinks, spectator viewing locations, locker rooms, strength and conditioning rooms, administrative offices, retail space, food service facilities, and other amenities related to the operation of a state-of-the-art ice hockey arena.

A qualifying business must be a business entity that exists for the primary purpose of engaging in commercial activity for profit and has entered into a lease or occupancy agreement with the fee owner of a qualifying arena and ice hockey practice facility or both to engage in the development of an eligible project.

The tax deferral and payment plan must be submitted by October 1, 2019. It must include information regarding the project location, estimated or actual costs of the project, time schedules for completion and operation of the project, and other required information. DOR must rule on the application within 60 days. The application and any other information received by DOR for the administration of a deferral is not considered confidential.

Upon approval of a payment plan, DOR must issue a sales and use tax certificate for state and local retail sales and use taxes. The certificate may only be used for sales and use tax liability incurred after the date of issue and expires once the eligible project becomes operationally complete. The eligible project will be considered operationally complete if it is capable of being used for its intended purpose as described in the application submitted to DOR.

The repayment of the deferred local portion of deferred sales and use taxes must begin in the first calendar year following the date the eligible project was certified as operationally complete. Repayments are due each January 1st for the next eight years; however, the qualifying business may request an accelerated repayment schedule. Each payment must be at least 12.5 percent of the tax due plus interest. The entire state portion of deferred sales and use taxes are due by June 30, 2023.

The interest rate assessed must be the same as the interest rate assessed on delinquent taxes. Interest begins accruing on the date the eligible project is certified as operationally complete and accrues until deferred taxes are fully repaid.

The repayment of the state taxes, including interest, are deposited into the state general fund. The repayment of local taxes, including interest, are deposited in the local sales and use tax account.

If the project is not operationally complete within three calendar years from the date DOR issued the certificate, or if DOR determines at any time that the project is no longer eligible for the deferral under this act, the amount of taxes outstanding for the project become immediately due and payable. Interest, but not penalties, must be assessed on the amount of taxes outstanding and must accrue retroactively to the date the certificate was originally issued.

This act expires January 1, 2030.

The tax preference performance statement indicates that this tax preference is intended to provide tax relief for certain businesses or individuals. The specific public policy objective is to increase the fiscal stability of multipurpose sports and entertainment arenas in Washington, thereby strengthening the economic vitality of the communities surrounding the arenas and practice facilities.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Requires the state portion of the deferred sales and use tax to be repaid by June 30, 2023.
- Redirects deferred state sales and use tax payments, including interest, into the state general fund.
- Clarifies that repayment of deferred local sales and use tax payments, including interest, are deposited into the local sales and use tax account.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: A unique aspect of this project is 100 percent of it is privately financed. This is almost \$1.6 billion of private investment with no public funds going into this project. This region has never seen a project like this before. This facility will serve as a catalyst for the Seattle Center and will also be a regional asset. This bill is critical to getting the work done related to the arena. The House bill provides important funding for homelessness and youth development.

Persons Testifying: PRO: Lance Lopes, NHL Seattle, OVG; Monty Anderson, King County Building Trades Council; Mari Horita, Community Focus, NHL Seattle; Jody Waits, Development and Communication Director, YouthCare; Doug Corley, SnoKing, President; Kelly Goscinski, Western Washington Female Hockey Association, President; Jaina Goscinski, citizen; Andy Cole, Greater Seattle Hockey League, President.

Persons Signed In To Testify But Not Testifying: No one.