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**HOUSE BILL 2907**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Macri, Springer, Fitzgibbon, Frame, Pollet, Cody, Chopp, Tarleton, Slatter, Doglio, Hudgins, Senn, Gregerson, Bergquist, Duerr, J. Johnson, and Santos

Read first time 01/30/20. Referred to Committee on Finance.

1 AN ACT Relating to providing progressive tax reform by  
2 authorizing counties with populations exceeding two million to impose  
3 an excise tax on businesses in order to reduce homelessness, save  
4 lives, and improve public safety; amending RCW 48.14.080; adding a  
5 new chapter to Title 83 RCW; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that more than  
8 twenty-two thousand five hundred households experienced homelessness  
9 in 2018 in King county alone. In addition, over the past ten years,  
10 King county has lost more than one hundred twelve thousand units,  
11 over forty percent, of the housing affordable to those living below  
12 eighty percent of area median income. Only one-third of medicaid  
13 enrollees in King county and statewide with an identified need for  
14 substance use disorder treatment receive treatment, and only one-half  
15 of those needing mental health treatment receive treatment. The  
16 legislature further finds that the crisis of homelessness and lack of  
17 affordable housing is growing in our communities. To combat this  
18 crisis, the legislature finds there is need for a comprehensive  
19 approach that provides shelter and services for those experiencing  
20 homelessness, increases the supply of affordable housing, addresses

1 public safety challenges, and increases access to behavioral health  
2 services.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply  
4 throughout this chapter, unless the context clearly requires  
5 otherwise.

6 (1) "Business" has the meaning provided in RCW 82.04.140.  
7 Depending on the context, "business" may also mean an employer  
8 engaging in business in the county.

9 (2) (a) "Compensation" means remuneration as that term is defined  
10 in RCW 50A.05.010, net distributions, incentive payments, including  
11 guaranteed payments, whether based on profit or otherwise, earned for  
12 services rendered or work performed, whether paid directly or through  
13 an agent, and whether in cash or in property or the right to receive  
14 property.

15 (b) "Compensation" does not include payments to an owner of a  
16 pass-through entity that is not earned for services rendered or work  
17 performed, such as return of capital, investment income, or other  
18 income from passive activities.

19 (3) "County" means a county with a population of at least two  
20 million organized under the laws of the state of Washington and  
21 includes the entire county, including the incorporated and  
22 unincorporated areas.

23 (4) (a) "Employee" has the meaning provided in RCW 50A.05.010.

24 (b) "Employee" also includes individuals who are:

25 (i) Members of limited liability companies;

26 (ii) Members of professional limited liability companies;

27 (iii) Partners;

28 (iv) Other owners of pass-through entities; and

29 (v) Sole proprietors.

30 (5) "Employer" has the meaning provided in RCW 50A.05.010.

31 (6) (a) "Employment" has the meaning provided in RCW 50A.05.010.

32 (b) "Employment" also includes self-employed individuals.

33 (7) "Engaging in business" has the meaning provided in RCW  
34 82.04.150.

35 (8) "Grocery business" means:

36 (a) A business whose primary business is making retail sales of  
37 food and food ingredients to consumers that are exempt from the  
38 retail sales tax under RCW 82.08.0293; or

1 (b) A business whose primary business is making wholesale sales  
2 of food and food ingredients that will be exempt from the retail  
3 sales tax under RCW 82.08.0293 when resold by the purchaser. For  
4 purposes of this subsection, "primary business" means that seventy-  
5 five percent of the gross income of the business for purposes of  
6 calculating the state business and occupation tax under chapter 82.04  
7 RCW is attributable to that business activity.

8 (9) "Grocery worker" means an individual employed at a grocery  
9 business whose primary duties:

10 (a) Include: (i) The selling, stocking, or handling of food and  
11 food ingredients that, when sold at retail, are exempt from the  
12 retail sales tax under RCW 82.08.0293; or (ii) providing janitorial  
13 services to the grocery business; or

14 (b) Consist of directly supervising the individuals described in  
15 (a) of this subsection.

16 (10) "Local government entity" has the meaning provided in RCW  
17 4.96.010.

18 (11) "Net distribution" means the draws from net income by any  
19 owner of a pass-through entity. Taxable distributions are limited by  
20 the amount of draws or net income for that owner, whichever is less.  
21 If the owner's draw exceeds that individual's net profit, the excess  
22 draw is a return of capital. A return of capital is not taxable  
23 because it is a liquidation of an owner's assets.

24 (12) "Pass-through entity" includes a trust, partnership,  
25 corporation described in subchapter S of the internal revenue code of  
26 1986, as amended, limited liability company, limited liability  
27 partnership, professional corporation, and any other person or entity  
28 which is not subject to the income tax imposed by subtitle A, chapter  
29 1 of the internal revenue code of 1986, as amended, or which is  
30 allowed a deduction in computing such tax for distributions to the  
31 owners or beneficiaries of such person or entity.

32 (13) "Payroll expense" means the compensation paid to employees  
33 who, during any tax year, perform work or render any services in the  
34 county.

35 (14) "Person" has the meaning provided in RCW 82.04.030.

36 (15) "Small business" means any business: (a) With fifty  
37 employees or less; and (b) that pays an annual compensation and  
38 remuneration of at most one hundred fifty thousand dollars, as  
39 adjusted under section 4 of this act, for at least fifty percent of  
40 its employees.

1 (16) "Tax year" means a twelve-month period from January 1st to  
2 December 31st.

3 (17) "Taxpayer" means any employer who engages in any business in  
4 the county or who performs any act for which a tax is imposed under  
5 this chapter.

6 NEW SECTION. **Sec. 3.** (1) Subject to this chapter, a county may,  
7 by ordinance enacted by its county legislative authority, impose an  
8 annual payroll expense tax on employers engaging in business in the  
9 county. The tax imposed by this chapter is levied on employers. The  
10 employer is responsible for paying the tax required under this  
11 chapter, and the employer may not make any deductions from the  
12 employees' compensation to pay for this tax.

13 (2) (a) The tax is measured by the employer's payroll expense for  
14 the tax year attributable to work performed or services rendered by  
15 the employer's employees in the county, subject to deductions  
16 authorized under subsection (3) of this section, multiplied by a rate  
17 of not more than two-tenths of one percent, but not less than one-  
18 tenth of one percent.

19 (b) The tax rates must be the same for all businesses subject to  
20 the tax, except the county may impose graduated tax rates that  
21 increase based on employee compensation.

22 (3) Taxpayers may deduct the following from the measure of the  
23 tax, as adjusted under section 4 of this act:

24 (a) The payroll expense attributable to any employee with annual  
25 compensation that is less than one hundred fifty thousand dollars;  
26 and

27 (b) The payroll expense attributable to any employee who is  
28 employed as a grocery worker.

29 (4) (a) The following are exempt from the payroll expense tax  
30 authorized by this chapter:

31 (i) Businesses that only sell, manufacture, or distribute motor  
32 vehicle fuel as defined in RCW 82.38.020 and exempted under RCW  
33 82.38.080;

34 (ii) Businesses that only sell, manufacture, or distribute liquor  
35 as defined in RCW 66.04.010 and exempted in RCW 66.08.120;

36 (iii) Federal and state government agencies and subdivisions, and  
37 any local governmental entity;

38 (iv) Other businesses that a county may not tax based on federal  
39 or state law;

1 (v) A small business; and

2 (vi) A comprehensive cancer center as defined in RCW 82.04.4265.

3 (b) The county may also grant an employer a one-year exemption  
4 from the tax due to extreme financial hardship.

5 (5) A county imposing the tax under this section may not enact  
6 any exemptions, deductions, or credits not authorized by this  
7 chapter.

8 (6) Nothing in this chapter shall be construed as requiring the  
9 payment of any tax for engaging in business when such payment would  
10 be in violation of any federal or state law. If imposition of the  
11 county's tax would place an undue burden upon interstate commerce or  
12 violate other constitutional requirements, a taxpayer shall be  
13 allowed a credit to the extent necessary to preserve the validity of  
14 the county's tax, and still apply the county's tax to as much of the  
15 taxpayer's activities as may be subject to the county's taxing  
16 authority.

17 (7) Temporary employment agencies that supply temporary employees  
18 to businesses engaging in business within the county, and pay the  
19 temporary employee's compensation, shall report and pay the tax on  
20 all such temporary employees. Businesses engaging temporary employees  
21 who are on the business' payroll shall report and pay the tax on the  
22 payroll expense of such temporary employees, whether or not they are  
23 from an employment agency.

24 (8) The county may impose the tax authorized by this chapter on  
25 insurers and their appointed insurance producers and all other  
26 persons engaged in the business of making contracts of insurance.

27 NEW SECTION. **Sec. 4.** Beginning on January 1, 2021, and on  
28 January 1st of every year thereafter, the county must adjust the  
29 amounts in section 3(3) of this act and the dollar threshold used to  
30 define small business in section 2(15) of this act as follows:

31 (1) The amounts shall increase commensurate with the rate of  
32 growth of the prior year's June-to-June consumer price index (CPI-U)  
33 for the Seattle-Tacoma-Bellevue area as published by the United  
34 States department of labor;

35 (2) If the annual change in the CPI-U is negative, no adjustment  
36 to the amounts must be made; and

37 (3) The amounts calculated must be rounded to the nearest whole  
38 dollar.

1        NEW SECTION.    **Sec. 5.**    (1) A county may enact ordinances, or rely  
2 on existing laws, to implement any measures it deems necessary to  
3 facilitate:

4        (a) The imposition, collection, and administration of the tax  
5 authorized by this chapter, including measures to govern the timing,  
6 form, content, and filing of returns;

7        (b) The allocation and apportionment of payroll expense;

8        (c) Recordkeeping;

9        (d) Audits;

10       (e) Assessments;

11       (f) Appeals;

12       (g) Refunds;

13       (h) The adoption of administrative rules;

14       (i) Enforcement and remedies; and

15       (j) The imposition of interest and penalties.

16       (2) A county may enter into an interlocal agreement with a city  
17 or state agency for the administration and collection of the tax  
18 authorized by this chapter. The agreement shall allow for full cost  
19 recovery and require the same confidentiality protections as  
20 established in section 6 of this act.

21       NEW SECTION.    **Sec. 6.**    A county imposing the tax shall, by  
22 ordinance, provide that return and tax information are confidential,  
23 privileged, and only subject to disclosure in the manner provided by  
24 RCW 82.32.330.

25       NEW SECTION.    **Sec. 7.**    (1) A county imposing the tax authorized  
26 under this chapter may use the money collected to cover the necessary  
27 costs of tax administration, including recovery of amounts used to  
28 initially set up the administration system. Remaining money or bonds  
29 issued under this chapter may only be used for the following  
30 purposes:

31       (a)(i) Acquire, rehabilitate, or construct affordable housing,  
32 which may include units of affordable housing within an existing  
33 structure or facilities providing supportive housing services under  
34 RCW 71.24.385;

35       (ii) Fund the operations and maintenance costs of units of  
36 affordable or supportive housing including services in supportive  
37 housing; and

1 (iii) Provide rental assistance to low-income individuals and  
2 families;

3 (b) Provide for housing, shelter, and evidence-based  
4 interventions that address and prevent homelessness, which uses shall  
5 prioritize serving youth and young adults while also serving families  
6 and adults, including but not limited to: Grants to operate, repair,  
7 and staff shelters; grants to operate transitional housing; partial  
8 payments for rental assistance; consolidated emergency assistance;  
9 grants and vouchers designated for victims of human trafficking and  
10 their families; and emergency shelter assistance;

11 (c) Acquire, construct, start up, or operate community-based  
12 behavioral health-related facilities including, but not limited to,  
13 facilities serving people who meet or are at risk of meeting  
14 involuntary behavioral health commitment criteria under chapter 71.05  
15 or 71.34 RCW; and

16 (d) Support operations or services that improve public safety by  
17 providing supportive services to persons with behavioral health  
18 conditions with frequent criminal justice system involvement.

19 (2) To carry out this section including financing loans or grants  
20 to nonprofit organizations or public housing authorities, the  
21 legislative authority of the county imposing the tax and the  
22 legislative authority of the city receiving a share of the tax  
23 proceeds may issue general obligation or revenue bonds within the  
24 limitations prescribed by state law, and may use and pledge the money  
25 collected under this section for repayment of the bonds.

26 (3) (a) The housing, services, and rental assistance provided  
27 under subsection (1) (a) of this section may only be provided to  
28 persons whose income is at or below eighty percent of the median  
29 income of the county providing the assistance. At least fifty percent  
30 of these funds must be provided to persons whose income is at or  
31 below thirty percent of the median income of the county providing the  
32 assistance.

33 (b) Over a five-year period, the distributions made under  
34 subsection (1) of this section must provide at least fifty percent of  
35 the total funds to purposes authorized under subsection (1) (a) of  
36 this section and no more than ten percent of the total funds to  
37 purposes authorized under subsection (1) (d) of this section.

38 (4) (a) The county and city receiving revenue from the tax imposed  
39 under this chapter must each designate a committee to act as an

1 advisory and accountability commission. For the county and city  
2 respectively, the commissions must:

3 (i) Advise on spending plans developed by the city and county  
4 proposing the allocation of money provided by the tax;

5 (ii) Advise on measures to evaluate the effectiveness of  
6 allocations, including providing recommendations for corrective  
7 actions that may be needed if established measures are not being met;

8 (iii) Monitor the use of the funds to ensure it remains  
9 consistent with the uses of this section; and

10 (iv) Receive biannual reports on the programs, services,  
11 projects, measures, and outcomes funded by the tax.

12 (b) The membership of each advisory and accountability commission  
13 must consist of one-half members who represent employers paying the  
14 tax of which one-half must include members who represent the highest  
15 ten percent of taxpayers. The membership must also include members  
16 who represent persons or communities served by the tax.

17 (5) Beginning December 1, 2025, and every five years thereafter,  
18 the county and city shall provide an implementation report to the  
19 appropriate committees of the legislature.

20 (6) The county and city shall ensure a performance audit is  
21 conducted no later than five years after the date the tax is imposed  
22 and periodically thereafter.

23 NEW SECTION. **Sec. 8.** The county shall disburse the revenue  
24 collected from the tax authorized by this section as follows:

25 (1) The funds allocated in section 7(1) (a), (c), and (d) of this  
26 act must be split such that forty-three percent of the revenue is  
27 provided to the city with the highest population of people  
28 experiencing homelessness. The county shall work with the other  
29 cities and regional housing partnerships created under an interlocal  
30 agreement to distribute the remaining fifty-seven percent of the  
31 funds equitably throughout the rest of the county.

32 (2) The funds allocated in section 7(1)(b) of this act must be  
33 allocated directly to the regional homelessness authority or such  
34 successor entity to be distributed equitably throughout the county.

35 NEW SECTION. **Sec. 9.** A tax authorized under this chapter  
36 expires twenty-five years after the date of imposition. A county  
37 legislative authority may by ordinance reauthorize the imposition of  
38 the tax subject to the conditions and restrictions of this chapter.



1       **Sec. 10.** RCW 48.14.080 and 2010 1st sp.s. c 23 s 520 are each  
2 amended to read as follows:

3       (1) As to insurers, other than title insurers and taxpayers under  
4 RCW 48.14.0201, the taxes imposed by this title are in lieu of all  
5 other taxes, except as otherwise provided in this section.

6       (2) Subsection (1) of this section does not apply with respect  
7 to:

8       (a) Taxes on real and tangible personal property;

9       (b) Excise taxes on the sale, purchase, use, or possession of (i)  
10 real property; (ii) tangible personal property; (iii) extended  
11 warranties; (iv) services, including digital automated services as  
12 defined in RCW 82.04.192; and (v) digital goods and digital codes as  
13 those terms are defined in RCW 82.04.192; (~~and~~)

14       (c) The tax imposed in RCW 82.04.260(~~(+9)~~) (10), regarding  
15 public and nonprofit hospitals; and

16       (d) The tax imposed by section 3 of this act.

17       (3) For the purposes of this section, the term "taxes" includes  
18 taxes imposed by the state or any county, city, town, municipal  
19 corporation, quasi-municipal corporation, or other political  
20 subdivision.

21       NEW SECTION.       **Sec. 11.** Sections 1 through 9 of this act  
22 constitute a new chapter in Title 83 RCW.

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

27       NEW SECTION.       **Sec. 13.** This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of  
29 the state government and its existing public institutions, and takes  
30 effect immediately.

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