
HOUSE BILL 2910

State of Washington 53rd Legislature 1994 Regular Session

By Representatives R. Meyers and Ebersole

Read first time 02/04/94. Referred to Committee on Rules Review.

1 AN ACT Relating to local option excise tax on the sale of law
2 schools; adding a new chapter to Title 82 RCW; prescribing penalties;
3 providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Sale" has its ordinary meaning and includes any conveyance,
9 grant, assignment, quitclaim, or transfer of the ownership of or title,
10 including any contract for such conveyance, grant, assignment,
11 quitclaim, or transfer, and any lease with an option to purchase under
12 which possession is given to the purchaser, or any other person at the
13 purchaser's direction, and title is retained by the vendor as security
14 for the payment of the purchase price.

15 (2) "Selling price" means the true and fair value of the assets
16 conveyed, including goodwill and other intangible assets. If the
17 transfer is an arm's-length transaction between unrelated persons for
18 a valuable consideration, a rebuttable presumption exists that the
19 selling price is equal to the total consideration paid or contracted to

1 be paid to the transferor, or to another for the transferor's benefit.
2 As used in this section, "total consideration paid or contracted to be
3 paid" includes money or anything of value, paid or delivered or
4 contracted to be paid or delivered in return for the sale, and shall
5 include the amount of any lien, mortgage, contract indebtedness, or
6 other incumbrance, either given to secure the purchase price, or any
7 part thereof, or remaining unpaid at the time of sale. Total
8 consideration shall not include the amount of any outstanding lien or
9 incumbrance in favor of the United States, the state, or a municipal
10 corporation for taxes, special benefits, or improvements. If the total
11 consideration for the sale cannot reasonably be determined, the
12 department of revenue shall determine the true and fair value by
13 appraisal.

14 (3) "Sale of a law school" means a sale of all or substantially all
15 of the materials, supplies, inventory, and goodwill of a law school,
16 including but not limited to a law library, cabinets, furniture, office
17 equipment, motor vehicles, and other tangible property, and reports,
18 documents, surveys, books, records, files, papers, and other written or
19 electronically stored material in the possession of the school, and
20 operating fees, service and activities fees, other fees, and rights to
21 such fees, and materials and rights associated with in-service training
22 programs, faculty development programs, conferences developed or
23 presented by the school, curriculum, and publication projects, and
24 funds, credits, and assets, and employee contracts, other contracts,
25 and vendors agreements.

26 NEW SECTION. **Sec. 2.** (1) The governing body of a city or county
27 may impose an excise tax upon each sale of a law school at a rate of
28 percent of the selling price. A county ordinance adopted under
29 this section shall contain a provision allowing a credit against the
30 county tax imposed under this section for the full amount of a city tax
31 imposed under this section upon the same taxable event.

32 (2) The governing body of a city or county shall contract the
33 administration and collection of this tax to the state department of
34 revenue, which shall deduct a percentage amount, as provided by
35 contract, not to exceed two percent of the taxes collected for
36 administration and collection expenses incurred by the department. The
37 remainder of tax under this chapter that is collected by the department
38 of revenue shall be distributed to the counties and cities monthly.

1 NEW SECTION. **Sec. 3.** A tax imposed under this chapter and
2 interest or penalties on the tax shall be a specific lien upon each
3 piece of property included in the sale from the time of sale until the
4 tax shall have been paid, which lien may be enforced under Article 9 of
5 Title 62A RCW. A tax imposed under this chapter is the obligation of
6 the seller and the department of revenue may, at the department's
7 option, enforce the obligation through an action of debt against the
8 seller or under Article 9 of Title 62A RCW, and resort to one course of
9 enforcement shall not be an election not to pursue the other.

10 Each sale of a law school shall be reported to the department of
11 revenue within five days from the date of the sale, or five days from
12 the effective date of this section, whichever is later, on such returns
13 or forms and according to such procedures as the department may
14 prescribe. Such forms or returns shall be signed by both the
15 transferor and the transferee and shall be accompanied by payment of
16 the tax due. A person who intentionally makes a false statement on a
17 return or form required to be filed with the department under this
18 chapter is guilty of perjury.

19 NEW SECTION. **Sec. 4.** (1) The tax imposed under this chapter is
20 due and payable immediately at the time of sale, and if not paid within
21 thirty days after the time of sale shall bear interest at the rate of
22 one percent per month from the time of sale until the date of payment.

23 (2) In addition to the interest described in subsection (1) of this
24 section, if the payment of a tax is not received by the department of
25 revenue within thirty days of the date due, there shall be assessed a
26 penalty of five percent of the amount of the tax; if the tax is not
27 received within sixty days of the date due, there shall be assessed a
28 total penalty of ten percent of the amount of the tax; and if the tax
29 is not received within ninety days of the date due, there shall be
30 assessed a total penalty of twenty percent of the amount of the tax.

31 (3) If the tax imposed under this chapter is not received by the
32 due date, the transferee shall be personally liable for the tax, along
33 with interest as provided in subsection (1) of this section, unless
34 either the transferor or transferee notifies the department of revenue
35 in writing of the occurrence of the sale within thirty days following
36 the date of the sale.

37 (4) If upon examination of affidavits or from other information
38 obtained by the department or its agents it appears that all or a

1 portion of the tax is unpaid, the department shall assess against the
2 taxpayer the additional amount found to be due plus interest and
3 penalties as provided in subsections (1) and (2) of this section. If
4 the department finds that all or a part of the deficiency resulted from
5 an intent to evade the tax payable under this chapter, an additional
6 penalty of fifty percent of the additional tax found to be due shall be
7 added.

8 (5) No assessment or refund may be made by the department more than
9 four years after the date of sale except upon a showing of:

10 (a) Fraud or misrepresentation of a material fact by the taxpayer;

11 (b) A failure of the transferor or transferee to report the sale
12 under RCW 82.45.090(2).

13 NEW SECTION. **Sec. 5.** All of chapter 82.32 RCW, except RCW
14 82.32.030, 82.32.050, 82.32.140, and 82.32.270 and except for the
15 penalties and the limitations thereon imposed by RCW 82.32.090, applies
16 to the tax imposed by this chapter, in addition to any other provisions
17 of law for the payment and enforcement of the tax imposed by this
18 chapter. The department of revenue shall by rule provide for the
19 effective administration of this chapter.

20 NEW SECTION. **Sec. 6.** This act applies to all taxable events under
21 this chapter not final as of the effective date of this act.

22 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
23 constitute a new chapter in Title 82 RCW.

24 NEW SECTION. **Sec. 8.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and shall take
31 effect immediately.

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