
SENATE BILL 6529

State of Washington**55th Legislature****1998 Regular Session**

By Senators Schow, McAuliffe, Spanel, Goings, Oke and Kohl; by request of Superintendent of Public Instruction and Governor Locke

Read first time 01/21/98. Referred to Committee on Ways & Means.

1 AN ACT Relating to a tax exemption from the state share of labor
2 and services on K-12 facility construction; amending RCW 81.104.170 and
3 82.14.820; reenacting and amending RCW 82.04.190; adding new sections
4 to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding
5 a new section to chapter 82.14 RCW; adding a new section to chapter
6 82.32 RCW; creating a new section; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
9 relieve public schools from the burden of the state share of the sales
10 tax related to construction of school improvements. Furthermore, in
11 order to maintain the current distribution of tax revenue to the local
12 jurisdictions, the schools shall continue to pay the local sales tax on
13 the entire construction contract amount, which represents construction
14 services, and includes the value of materials, labor, and services. To
15 achieve this end it is necessary to: (1) Maintain the existing law,
16 which imposes a tax on construction services, but provide an exemption
17 from the state share of this tax; (2) revise existing law so that the
18 contractor is the consumer of materials incorporated into a project.
19 State use tax will be imposed on the contractor as the consumer, but an

1 exemption will be provided for local use tax, as this value is already
2 contained in the total contract amount, and will continue to be taxed
3 at the local level; and (3) exempt the contractor from the sales tax on
4 materials, and impose a use tax, which the contractor will remit and
5 report, therefore relieving the burden on the seller of having to
6 collect and remit two different tax rates.

7 **Sec. 2.** RCW 82.04.190 and 1996 c 173 s 2, 1996 c 148 s 4, and 1996
8 c 112 s 2 are each reenacted and amended to read as follows:

9 "Consumer" means the following:

10 (1) Any person who purchases, acquires, owns, holds, or uses any
11 article of tangible personal property irrespective of the nature of the
12 person's business and including, among others, without limiting the
13 scope hereof, persons who install, repair, clean, alter, improve,
14 construct, or decorate real or personal property of or for consumers
15 other than for the purpose (a) of resale as tangible personal property
16 in the regular course of business or (b) of incorporating such property
17 as an ingredient or component of real or personal property when
18 installing, repairing, cleaning, altering, imprinting, improving,
19 constructing, or decorating such real or personal property of or for
20 consumers or (c) of consuming such property in producing for sale a new
21 article of tangible personal property or a new substance, of which such
22 property becomes an ingredient or component or as a chemical used in
23 processing, when the primary purpose of such chemical is to create a
24 chemical reaction directly through contact with an ingredient of a new
25 article being produced for sale or (d) purchases for the purpose of
26 consuming the property purchased in producing ferrosilicon which is
27 subsequently used in producing magnesium for sale, if the primary
28 purpose of such property is to create a chemical reaction directly
29 through contact with an ingredient of ferrosilicon;

30 (2)(a) Any person engaged in any business activity taxable under
31 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
32 telephone service as defined in RCW 82.04.065, other than for resale in
33 the regular course of business; and (c) any person who purchases,
34 acquires, or uses any amusement and recreation service defined in RCW
35 82.04.050(3)(a), other than for resale in the regular course of
36 business;

37 (3) Any person engaged in the business of contracting for the
38 building, repairing or improving of any street, place, road, highway,

1 easement, right of way, mass public transportation terminal or parking
2 facility, bridge, tunnel, or trestle which is owned by a municipal
3 corporation or political subdivision of the state of Washington or by
4 the United States and which is used or to be used primarily for foot or
5 vehicular traffic including mass transportation vehicles of any kind as
6 defined in RCW 82.04.280, in respect to tangible personal property when
7 such person incorporates such property as an ingredient or component of
8 such publicly owned street, place, road, highway, easement, right of
9 way, mass public transportation terminal or parking facility, bridge,
10 tunnel, or trestle by installing, placing or spreading the property in
11 or upon the right of way of such street, place, road, highway,
12 easement, bridge, tunnel, or trestle or in or upon the site of such
13 mass public transportation terminal or parking facility;

14 (4) Any person who is an owner, lessee or has the right of
15 possession to or an easement in real property which is being
16 constructed, repaired, decorated, improved, or otherwise altered by a
17 person engaged in business, excluding only (a) municipal corporations
18 or political subdivisions of the state in respect to labor and services
19 rendered to their real property which is used or held for public road
20 purposes, and (b) the United States, instrumentalities thereof, and
21 county and city housing authorities created pursuant to chapter 35.82
22 RCW in respect to labor and services rendered to their real property.
23 Nothing contained in this or any other subsection of this definition
24 shall be construed to modify any other definition of "consumer";

25 (5) Any person who is an owner, lessee, or has the right of
26 possession to personal property which is being constructed, repaired,
27 improved, cleaned, imprinted, or otherwise altered by a person engaged
28 in business;

29 (6) Any person engaged in the business of constructing, repairing,
30 decorating, or improving new or existing buildings or other structures
31 under, upon, or above real property of or for the United States, any
32 instrumentality thereof, or a county or city housing authority created
33 pursuant to chapter 35.82 RCW, including the installing or attaching of
34 any article of tangible personal property therein or thereto, whether
35 or not such personal property becomes a part of the realty by virtue of
36 installation; also, any person engaged in the business of clearing land
37 and moving earth of or for the United States, any instrumentality
38 thereof, or a county or city housing authority created pursuant to
39 chapter 35.82 RCW; also any person engaged in the business of clearing

1 land, moving earth, site preparation, constructing, repairing,
2 decorating, renovating, expanding, or improving of new or existing
3 buildings, structures, facilities, or any other school ground
4 improvement under, upon, or above real property of and for a school
5 district, as defined in chapter 28A.315 RCW, or an educational service
6 district under chapter 28A.310 RCW. Any such person shall be a
7 consumer within the meaning of this subsection in respect to tangible
8 personal property incorporated into, installed in, or attached to such
9 building or other structure by such person;

10 (7) Any person who is a lessor of machinery and equipment, the
11 rental of which is exempt from the tax imposed by RCW 82.08.020 under
12 RCW 82.08.02565, with respect to the sale of or charge made for
13 tangible personal property consumed in respect to repairing the
14 machinery and equipment, if the tangible personal property has a useful
15 life of less than one year; and

16 (8) Any person engaged in the business of cleaning up for the
17 United States, or its instrumentalities, radioactive waste and other
18 byproducts of weapons production and nuclear research and development.

19 Nothing contained in this or any other subsection of this
20 definition shall be construed to modify any other definition of
21 "consumer."

22 NEW SECTION. Sec. 3. A new section is added to chapter 82.08 RCW
23 to read as follows:

24 The tax levied by RCW 82.08.020 does not apply to sales of tangible
25 personal property to persons engaged in the business of clearing land,
26 moving earth, site preparation, constructing, repairing, decorating,
27 renovating, expanding, or improving of new or existing buildings,
28 structures, facilities, or any other school ground improvement under,
29 upon, or above real property of and for a school district, as defined
30 in chapter 28A.315 RCW, or an educational service district under
31 chapter 28A.310 RCW, when such property will be incorporated as an
32 ingredient or component of real or personal property pursuant to such
33 activity. However, use of such property in this state is subject to
34 the tax imposed by chapter 82.12 RCW. The exemption under this section
35 is not for tools, machinery, equipment, consumable supplies, and other
36 such items acquired by the person for his or her own use as a consumer,
37 as defined in RCW 82.04.190.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW
2 to read as follows:

3 Tangible personal property exempt from sales tax under section 3 of
4 this act is not exempt from and is subject to the state share of the
5 use tax.

6 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.14 RCW
7 to read as follows:

8 Tangible personal property that is described as subject to the use
9 tax under section 4 of this act is exempt from use tax under this
10 chapter.

11 **Sec. 6.** RCW 81.104.170 and 1997 c 450 s 5 are each amended to read
12 as follows:

13 Cities that operate transit systems, county transportation
14 authorities, metropolitan municipal corporations, public transportation
15 benefit areas, and regional transit authorities may submit an
16 authorizing proposition to the voters and if approved by a majority of
17 persons voting, fix and impose a sales and use tax in accordance with
18 the terms of this chapter, solely for the purpose of providing high
19 capacity transportation service.

20 The tax authorized pursuant to this section shall be in addition to
21 the tax authorized by RCW 82.14.030 and shall be collected from those
22 persons who are taxable by the state pursuant to chapters 82.08 and
23 82.12 RCW upon the occurrence of any taxable event within the taxing
24 district. The maximum rate of such tax shall be approved by the voters
25 and shall not exceed one percent of the selling price (in the case of
26 a sales tax) or value of the article used (in the case of a use tax).
27 The maximum rate of such tax that may be imposed shall not exceed
28 nine-tenths of one percent in any county that imposes a tax under RCW
29 82.14.340, or within a regional transit authority if any county within
30 the authority imposes a tax under RCW 82.14.340. The exemptions in RCW
31 82.08.820 (~~and~~), 82.12.820, and section 7 of this act, are for the
32 state portion of the sales and use tax and do not extend to the tax
33 authorized in this section.

34 Tangible personal property that is described as subject to the use
35 tax under section 4 of this act is exempt from use tax under this
36 chapter.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08 RCW
2 to read as follows:

3 The tax imposed by RCW 82.08.020 does not apply to the sale of or
4 charge made for labor and services rendered in respect to clearing
5 land, moving earth, site preparation, constructing, repairing,
6 decorating, renovating, expanding, or improving of new or existing
7 buildings, structures, facilities, or any other school ground
8 improvement under, upon, or above real property of or for a school
9 district, as defined in chapter 28A.315 RCW, or an educational service
10 district under chapter 28A.310 RCW. This exemption from sales tax is
11 limited to the state share of the sales tax and under RCW 82.14.820 and
12 81.104.170 does not apply to the local sales tax.

13 **Sec. 8.** RCW 82.14.820 and 1997 c 450 s 4 are each amended to read
14 as follows:

15 The exemptions in RCW 82.08.820 (~~and~~), 82.12.820, and section 7
16 of this act, are for the state portion of the sales and use tax and do
17 not extend to the tax imposed in this chapter.

18 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.32 RCW
19 to read as follows:

20 The department may develop and institute a tax reporting method
21 whereby the taxpayer uses deductions, credits, or other accounting
22 techniques, as directed by the department, to allow the department to
23 administer, and the taxpayer to report, tax as affected by chapter
24 . . . , Laws of 1998 (this act) simply and efficiently. Taxpayers and
25 sellers affected by chapter . . . , Laws of 1998 (this act) shall keep
26 their records in a form and manner as directed by the department so
27 that the department can distinguish between taxable and exempt
28 transactions. The department may develop an exemption certificate to
29 be used by the contractor in making sales tax-exempt purchases of
30 materials.

31 NEW SECTION. **Sec. 10.** This act takes effect July 1, 1998.

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