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HOUSE BILL 3072

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State of Washington

56th Legislature

2000 Regular Session

By Representatives Kessler, Mulliken, Cairnes, Dunshee, G. Chandler, McDonald and Delvin

Read first time 01/27/2000. Referred to Committee on Finance.

1 AN ACT Relating to municipal tax fairness; amending RCW 35.21.860;  
2 adding a new section to chapter 35.21 RCW; adding a new chapter to  
3 Title 35 RCW; creating a new section; recodifying RCW 35.21.717,  
4 35.21.718, 35.21.840, and 35.21.845; and repealing RCW 35.21.706,  
5 35.21.710, 35.21.711, 35.21.712, 35.21.714, 35.21.715, 35.21.850,  
6 35.21.865, 35.21.870, and 35.21.871.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

9 (a) Persons engaging in business in multiple local jurisdictions  
10 face inconsistent, complicated, and burdensome systems of local  
11 business taxation;

12 (b) In some instances, the same gross income may be taxed by more  
13 than one local jurisdiction resulting in unacceptable double taxation;

14 (c) While cities need flexibility and choices in the method of  
15 taxation they employ to support their public services, that flexibility  
16 and choice must not inhibit a person's right to expect predictability  
17 and ease of administration from a tax system that relies so heavily on  
18 voluntary compliance;

1 (d) Current statutes regarding city business tax authority are  
2 vague and scattered throughout the Revised Code of Washington leading  
3 to unnecessary and costly legal actions; and

4 (e) There is a need to investigate alternative ways of  
5 administering city business taxes to ensure the efficient use of both  
6 city and taxpayer resources.

7 (2) It is the intent of the legislature to produce a system of  
8 business taxation by cities that strives for uniform and consistent  
9 treatment of taxpayers, avoids multiple taxation of the same gross  
10 income, provides taxpayers with certainty in the determination of their  
11 tax liability, and allows for fair division of gross income of  
12 businesses between and among local jurisdictions.

13 (3) It is not the intent of the legislature to create any new or  
14 expand any existing city taxing authority upon business activities.  
15 Rather, it is an attempt to consolidate into a single chapter the  
16 current tax measures that cities use to tax business activities.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires otherwise.

19 (1) "Annualized full-time equivalent" means:

20 (a) For hourly employment positions, two thousand eighty paid  
21 hours, excluding overtime hours, during a tax year;

22 (b) For salaried employment positions, twelve months during a tax  
23 year.

24 (2) "Business" has the same meaning as that provided in RCW  
25 82.04.140.

26 (3) "City" means a first class city as defined in RCW 35.01.010, a  
27 second class city as defined in RCW 35.01.020, or a town as defined in  
28 RCW 35.01.040.

29 (4) "Employment position" means an employee of a business who  
30 engages in business activities in a local jurisdiction during a tax  
31 year.

32 (5) "Engaging in business" has the same meaning as that provided in  
33 RCW 82.04.150.

34 (6) "Gross income" means the gross income of the business as  
35 defined in RCW 82.04.080.

36 (7) "Gross receipts tax" means a tax which is imposed on or  
37 measured by the gross volume of business, in terms of gross income or  
38 in other terms, and in the determination of which the deductions

1 allowed would not constitute an income tax or value added tax and which  
2 is also not, pursuant to law or custom, separately stated from the  
3 sales price.

4 (8) "Local jurisdiction" means any city, town, county, municipal  
5 district or corporation, political subdivision, Indian reservation, or  
6 federal area located in the state of Washington.

7 (9) "Person" has the same meaning as that provided in RCW  
8 82.04.030.

9 (10) "Public service business" has the same meaning as that  
10 provided in RCW 82.16.010(10).

11 (11) "Return" means any document a person is required by a city to  
12 file to satisfy or establish a tax obligation that is administered or  
13 collected by the city, and that has a statutorily defined due date.

14 (12) "Square footage" means the product of the two horizontal  
15 dimensions of each area of a building or space used by a business  
16 measured from the inside finish of the permanent outer building walls  
17 or other walls enclosing the space used by a business. "Square  
18 footage" does not include (a) any areas that are not actually available  
19 to the business for its furnishings and personnel, such as elevator  
20 shafts, stairs, electrical closets, air conditioning rooms, and janitor  
21 closets or (b) any areas that are not used by the business to engage in  
22 business activities such as employee break rooms, employee gyms, or  
23 cafeterias.

24 (13) "Tax year" means either the calendar year, or, if given the  
25 permission of the city, the taxpayer's fiscal year may be used in lieu  
26 of the calendar year.

27 NEW SECTION. **Sec. 3.** (1) A city may levy and collect from every  
28 person a tax for the act or privilege of engaging in a public service  
29 business activity within the geographical boundaries of the city. The  
30 tax shall be measured by the application of rates against the gross  
31 income of a public service business.

32 (2) In addition to the tax authorized in subsection (1) of this  
33 section, a city may levy and collect from every person a tax for the  
34 act or privilege of engaging in a business activity within the  
35 geographical boundaries of the city. The tax is measured by the  
36 application of rates against either:

37 (a) The gross income of a business other than a public service  
38 business;

1 (b) The number of annualized full-time equivalents of a business  
2 other than a public service business; or

3 (c) The square footage of a business other than a public service  
4 business.

5 (3) The taxes authorized under this section are imposed at a single  
6 uniform rate upon all persons engaging in the same business activity.

7 (4) Notwithstanding the license fee authorized in section 11 of  
8 this act, the taxes authorized in subsections (1) and (2) of this  
9 section constitute the sole authority to tax the act or privilege of  
10 engaging in business activities within the geographical limits of a  
11 city.

12 NEW SECTION. **Sec. 4.** (1) The department of revenue shall, by  
13 December 1, 2000, create and publish a model resolution and ordinance  
14 regarding the implementation of the gross receipts taxes authorized  
15 under section 3(1) and (2)(a) of this act. Annually thereafter, the  
16 department of revenue shall review changes to the state's gross  
17 receipts taxes and update the model ordinance to:

18 (a) Adopt the changes made to the state's gross receipts taxes into  
19 the model ordinance;

20 (b) Amend the model ordinance to address, in a different manner,  
21 the substance of the changes made to the state's gross receipts taxes;

22 (c) Reject the changes made to the state's gross receipts taxes  
23 related to deductions, credits, or exemptions, and maintain the model  
24 ordinance in its current form; or

25 (d) Perform a combination of the actions provided for in (a), (b),  
26 or (c) of this subsection.

27 (2) To ensure ease of administration and compliance, the department  
28 of revenue shall make every effort to ensure that the model ordinance  
29 and any updates are as consistent and uniform as possible with the  
30 state's gross receipts taxes. Appropriate deviations from the state's  
31 gross receipts tax provisions related to deductions, credits, or  
32 exemptions are authorized to be made to the model resolution and any  
33 updates.

34 (3) To assist in the drafting of the model resolution and ordinance  
35 and any updates, the department of revenue shall convene an advisory  
36 group which consists of a balanced representation of cities that apply  
37 a gross receipts tax and persons affected by gross receipts taxes  
38 levied by cities. An individual from each of the largest state-wide

1 organizations representing these parties shall also be members of the  
2 advisory group.

3 (4) By January 1, 2001, any city levying a gross receipts tax must  
4 either:

5 (a) Adopt the model resolution and ordinance and all updates  
6 developed under subsection (1) of this section; or

7 (b) Adopt and follow all statutory and regulatory provisions in  
8 existence for the state's gross receipts taxes.

9 (5) The initial action taken under subsection (4) of this section  
10 by a city levying a gross receipts tax at the time of the action is  
11 exempt from the public vote requirements of RCW 43.135.090.

12 (6) A city taking either of the actions allowed in subsection (4)  
13 of this section may, on January 1st of any subsequent year, choose the  
14 alternative action allowed in subsection (4) of this section. However,  
15 the city must follow the public vote requirements of RCW 43.135.090 if  
16 the change results in a tax increase as defined in RCW 43.135.090.

17 NEW SECTION. **Sec. 5.** (1) Subject to the limitations contained in  
18 this section, a city imposing a tax authorized under section 3 of this  
19 act has the sole authority to set the rate of tax on any particular  
20 business activity.

21 (2) Unless otherwise specifically provided for by law, a city may  
22 not impose a tax under section 3 of this act at a rate that exceeds:

23 (a) In the case of a tax measured by the gross income of a public  
24 service business, six percent;

25 (b) In the case of a tax measured by the gross income of a business  
26 other than a public service business, two-tenths of one percent;

27 (c) In the case of a tax measured by the number of employees,  
28 ninety dollars per employee; or

29 (d) In the case of a tax measured by the square footage of a  
30 business, 0.1522 dollars per square foot.

31 (3) If a city imposed a tax on one of the tax measures allowed in  
32 section 3 of this act prior to January 1, 2000, at rates in excess of  
33 those allowed in subsection (1) of this section, it may continue to  
34 apply those same rates after the effective date of this act. However,  
35 any increase in a rate after December 31, 1999, is subject to the  
36 provisions of subsection (6) of this section.

37 (4) A city first imposing any of the tax measures provided for in  
38 section 3 of this act may do so only if:

1 (a) The tax is authorized by a proposition approved by a majority  
2 of the qualified voters of the city at a general election held within  
3 the city or at a special election called by the city for the purpose of  
4 submitting the proposition to the voters; and

5 (b) The initial rate of tax does not exceed thirty percent of the  
6 limits set forth in subsection (1) of this section.

7 (5) A city may impose rates in excess of those provided for in  
8 subsection (1) of this section only upon the approval of a majority of  
9 the qualified voters of the city at a general election held within the  
10 city or at a special election called by the city for the purpose of  
11 submitting the proposition to the voters.

12 (6) A city may increase the rate of a tax authorized under section  
13 3 of this act only upon the approval of a majority of the qualified  
14 voters of the city at a general election held within the city or at a  
15 special election called by the city for the purpose of submitting the  
16 proposition to the voters. In addition, the rate of a tax may not be  
17 increased by more than ten percent of the rate in effect as of the date  
18 of the submittal of the proposal to the people.

19 NEW SECTION. **Sec. 6.** (1) If payment of any tax owed by a taxpayer  
20 is not received by a city by the due date, there is assessed a penalty  
21 of five percent of the amount of the tax or five dollars, whichever is  
22 greater; and if the tax is not received on or before the last day of  
23 the month following the due date, there is assessed a total penalty of  
24 ten percent of the amount of the tax or ten dollars, whichever is  
25 greater; and if the tax is not received on or before the last day of  
26 the second month following the due date, there is assessed a total  
27 penalty of twenty percent of the amount of the tax or twenty dollars,  
28 whichever is greater.

29 (2) If payment of any tax assessed by a city is not received by a  
30 city by the due date specified in the notice, or any extension, the  
31 city shall add a penalty of ten percent of the amount of the additional  
32 tax found due or ten dollars, whichever is greater.

33 (3) If a city finds that all or any part of a deficiency resulted  
34 from the disregard of specific written instructions as to reporting or  
35 tax liabilities, the city shall add a penalty of ten percent of the  
36 amount of the additional tax found due because of the failure to follow  
37 the instructions. A taxpayer disregards specific written instructions  
38 when the city has informed the taxpayer in writing of the taxpayer's

1 tax obligations and the taxpayer fails to act in accordance with those  
2 instructions unless the city has not issued final instructions because  
3 the matter is under appeal. A city shall not assess the penalty under  
4 this subsection upon any taxpayer who has made a good faith effort to  
5 comply with the specific written instructions provided by the city to  
6 that taxpayer. Specific written instructions may be given as a part of  
7 a tax assessment, audit, determination, or closing agreement, provided  
8 that these specific written instructions shall apply only to the  
9 taxpayer addressed or referenced on such documents. Any specific  
10 written instructions by a city shall be clearly identified and inform  
11 the taxpayer that failure to follow the instructions may subject the  
12 taxpayer to the penalties imposed by this subsection.

13 (4) If a city finds that all or any part of the deficiency resulted  
14 from an intent to evade a tax payable under this chapter, a further  
15 penalty of fifty percent of the additional tax found to be due shall be  
16 added.

17 (5) The aggregate of penalties imposed under subsections (1), (2),  
18 and (3) of this section shall not exceed thirty-five percent of the tax  
19 due, or twenty dollars, whichever is greater. This subsection does not  
20 prohibit or restrict the application of other penalties authorized by  
21 law.

22 (6) A city may not impose both the evasion penalty and the penalty  
23 for disregarding specific written instructions on the same tax found to  
24 be due.

25 NEW SECTION. **Sec. 7.** (1) If the city finds that the payment by a  
26 taxpayer of a tax less than that properly due or the failure of a  
27 taxpayer to pay any tax by the due date was the result of circumstances  
28 beyond the control of the taxpayer, then the city shall waive or cancel  
29 any penalties imposed under this chapter with respect to the tax.

30 (2) The city shall waive or cancel the penalties imposed under  
31 section 6 of this act when the circumstances under which the  
32 delinquency occurred do not qualify for waiver or cancellation under  
33 subsection (1) of this section if:

34 (a) The taxpayer requests the waiver for a tax return required to  
35 be filed under section 6(1) of this act; and

36 (b) The taxpayer has timely filed and remitted payment on all tax  
37 returns due for that tax program for a period of twenty-four months

1 immediately preceding the period covered by the return for which the  
2 waiver is being requested.

3 (3) The city shall waive or cancel interest imposed under this  
4 chapter if:

5 (a) The failure to timely pay the tax was the direct result of  
6 written instructions given the taxpayer by the city; or

7 (b) The extension of a due date for payment of an assessment of  
8 deficiency was not at the request of the taxpayer and was for the sole  
9 convenience of the city.

10 NEW SECTION. **Sec. 8.** (1)(a) If upon examination of any returns or  
11 from other information obtained by a city it appears that a tax or  
12 penalty has been paid less than that properly due, the city shall  
13 assess against the taxpayer the additional amount found to be due and  
14 shall add interest on the tax only. A city shall notify the taxpayer  
15 by mail of the additional amount and the additional amount shall become  
16 due and shall be paid within thirty days from the date of the notice,  
17 or within such further time as the city may provide.

18 (b) For tax liabilities arising after December 31, 1999, the rate  
19 of interest shall be variable and computed as provided in subsection  
20 (3) of this section from the last day of the month following each  
21 calendar year included in a notice, and the last day of the month  
22 following the final month included in a notice if not the end of a  
23 calendar year, until the due date of the notice. If payment in full is  
24 not made by the due date of the notice, additional interest shall be  
25 computed until the date of payment. The rate computed shall be  
26 adjusted on the first day of January of each year for use in computing  
27 interest for that calendar year.

28 (2)(a) If, upon receipt of an application by a taxpayer for a  
29 refund or for an audit of the taxpayer's records, or upon an  
30 examination of the returns or records of any taxpayer, it is determined  
31 by a city that within the statutory period for assessment of taxes,  
32 penalties, or interest provided in subsection (4) of this section any  
33 amount of tax, penalty, or interest has been paid in excess of that  
34 properly due, the excess amount paid within, or attributable to, the  
35 period shall be credited to the taxpayer's account or shall be refunded  
36 to the taxpayer, at the taxpayer's option.

37 (b) For refunds or credits of amounts paid or other recovery  
38 allowed to a taxpayer after December 31, 1999, the rate of interest

1 shall be variable and computed as provided in subsection (3) of this  
2 section from the last day of the month following each calendar year  
3 included in the period, and the last day of the month following the  
4 final month included in a period if not the end of a calendar year,  
5 until the date the refund or credit is paid by the city. The rate  
6 computed shall be adjusted on the first day of January of each year for  
7 use in computing interest for that calendar year.

8 (3) For the purposes of this section, the rate of interest to be  
9 charged shall be the same as that established by the department of  
10 revenue under RCW 82.32.050(2).

11 (4) No assessment or correction of an assessment for additional  
12 taxes, penalties, or interest due may be made by a city more than four  
13 years after the close of the tax year, except:

14 (a) Against a taxpayer who has not registered to engage in a  
15 business activity within the city pursuant to statute. However, no  
16 assessment or correction of an assessment for additional taxes,  
17 penalties, or interest due shall be made by a city against an  
18 unregistered taxpayer more than seven years after the close of the tax  
19 year;

20 (b) Upon a showing of fraud or misrepresentation of a material fact  
21 by the taxpayer; or

22 (c) Where a taxpayer has executed a written waiver of this  
23 limitation. However, the execution of a written waiver shall  
24 identically extend the period for making a refund request as provided  
25 in subsection (5) of this section.

26 (5) No refund or credit shall be made for taxes, penalties, or  
27 interest paid more than four years prior to the beginning of the  
28 calendar year in which refund application is made or examination of  
29 records is completed.

30 NEW SECTION. **Sec. 9.** (1) For the purposes of apportioning or  
31 allocating gross income for taxes authorized under section 3(1) and  
32 (2)(a) of this act, the total tax measure apportioned or allocated to  
33 the applicable local jurisdictions shall not exceed the total tax  
34 measure computed for the purpose of state gross receipts taxation.

35 (2) The following specific guidelines shall be applied by any city  
36 that imposes a gross receipts tax under section 3(2)(a) of this act:

37 (a) For the purposes of imposing a gross receipts tax on  
38 extracting, manufacturing, or processing for-hire activities, the

1 activities are subject to tax in the local jurisdiction where the  
2 activities occur. If the activities occur in more than one local  
3 jurisdiction, the activities are consistently, equitably, and  
4 reasonably apportioned between or among those local jurisdictions.

5 For the purposes of imposing a gross receipts tax on retail or  
6 wholesale sales, all sales are subject to tax in the local jurisdiction  
7 where the sales occur. The following provisions are to be followed in  
8 determining where a sale occurs:

9 (i) A retail or wholesale sale consisting solely of the sale of  
10 tangible personal property is deemed to have occurred at the retail or  
11 wholesale outlet at or from which delivery is made to the purchaser.  
12 The term retail or wholesale outlet shall not include a sales office  
13 unless purchasers regularly visit the sales office to place orders.  
14 Dock sales or other sales of tangible personal property where the  
15 purchaser takes possession of the tangible personal property is deemed  
16 to have occurred at the location where the purchaser takes possession  
17 of the tangible personal property regardless of where the purchaser may  
18 ultimately transport the tangible personal property. Where a common  
19 carrier, a private carrier or a seller's own transportation is used to  
20 deliver tangible personal property, other than from a retail or  
21 wholesale outlet, the sale of tangible personal property is deemed to  
22 have occurred at the location where the carrier or seller delivers the  
23 tangible personal property to the purchaser regardless of who pays the  
24 carrier and notwithstanding any other terms of sale.

25 (ii) A retail sale consisting essentially of the performance of  
26 professional business or professional services is deemed to have  
27 occurred at the place at which the services were primarily performed,  
28 except that for the performance of a tow truck service, as defined in  
29 RCW 46.55.010, the retail or wholesale sale is deemed to have occurred  
30 at the place of the business of the tow truck service.

31 (iii) A retail or wholesale sale consisting of the rental of  
32 tangible personal property is deemed to have occurred, in the case of  
33 rental involving periodic rental payments, in the primary place of use  
34 by the lessee during the period covered by each payment, and in all  
35 other cases, at the place of first use by the lessee.

36 (iv) A retail sale within the scope of RCW 82.04.050(2), and a  
37 retail sale of tangible personal property to be installed by the seller  
38 is deemed to have occurred at the place where the labor and services  
39 involved were primarily performed.

1 (c) For the purposes of imposing a gross receipts tax on any person  
2 taxed by the state under RCW 82.04.290, the services are subject to tax  
3 in the local jurisdiction where the services were primarily performed.  
4 If the person rendering services performs substantial service  
5 activities in more than one local jurisdiction, the person shall  
6 apportion to each local jurisdiction that portion of the total gross  
7 income which is derived from services rendered in each local  
8 jurisdiction. Where apportionment cannot be accurately made by  
9 separate accounting methods, the person shall apportion to each local  
10 jurisdiction that portion of the total gross income which is derived  
11 from services which the cost of performing the services within a local  
12 jurisdiction bears to the total cost of performing the services in all  
13 local jurisdictions.

14 (3) The following credits are allowed for persons performing  
15 multiple activities in multiple local jurisdictions:

16 (a) Every person engaged in manufacturing activities is allowed a  
17 credit against the measure of tax of any manufacturing gross receipts  
18 tax imposed by a local jurisdiction for any portion of the measure of  
19 tax which has been previously subjected to a local jurisdiction gross  
20 receipts tax on either extracting or previously performed manufacturing  
21 activities.

22 (b) Every person engaged in making retail or wholesale sales is  
23 allowed a credit against the measure of tax of any retailing or  
24 wholesaling gross receipts tax imposed by a local jurisdiction for any  
25 portion of the measure of tax which has been previously subjected to a  
26 local jurisdiction gross receipts tax on either extracting or  
27 manufacturing activities.

28 NEW SECTION. **Sec. 10.** (1) The legislature finds that the  
29 multitude of city gross receipts tax systems are a significant burden  
30 on taxpayers. The legislature also finds that the potential for the  
31 application of duplicative forms and enforcement procedures, as well as  
32 differential appeals processes, are daunting challenges to taxpayers in  
33 a voluntary compliance system. Therefore, the legislature intends to  
34 study the plausibility of simplifying the administrative complexities  
35 placed on both cities and taxpayers because of overlapping governance  
36 of gross receipts taxes.

1 (2) The department of revenue shall conduct a study of the gross  
2 receipts tax systems applied by cities in the state of Washington. The  
3 study shall, at a minimum, include an examination of:

4 (a) The costs to cities related to the administration and  
5 collection of gross receipts taxes;

6 (b) The possibility of creating a single reporting, enforcement,  
7 audit, and appeals system for city gross receipts taxes;

8 (c) The logistical and administrative requirements, including  
9 financial costs, of the department of revenue assuming the  
10 administration and collection of all or a portion of city gross  
11 receipts taxes;

12 (d) The potential savings that could be achieved by cities by  
13 transferring the administration and collection of all or a portion of  
14 city gross receipts taxes;

15 (e) The potential for increased compliance by taxpayers resulting  
16 from department of revenue administration and collection of city gross  
17 receipts taxes, including any financial gains for cities that may  
18 result from this action;

19 (f) The appropriate timeline, if necessary, for the implementation  
20 of a uniform administration and collection system for city gross  
21 receipts taxes.

22 (3) To perform the study, the department of revenue shall form a  
23 study advisory committee with balanced representation from different  
24 segments of cities imposing gross receipts taxes and persons obligated  
25 to pay city gross receipts taxes. The department shall ensure that the  
26 individuals appointed to the advisory committee are representative in  
27 terms of the size of the city or business.

28 (4) The department of revenue shall provide staff for the study  
29 advisory committee.

30 (5) The department of revenue shall report the findings and any  
31 recommendations to the committees of the legislature that deal with  
32 revenue matters no later than December 1, 2000.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 35.21 RCW  
34 to read as follows:

35 (1) A city may charge a general license fee upon a person for  
36 registration or certification purposes that ensures efficient  
37 administration of the taxes provided for in section 3 of this act.

1 (2) A city may only charge a person the general license fee  
2 provided in subsection (1) of this section when:

3 (a) The person's gross income earned within the geographical  
4 boundaries of the city triggers the city's gross receipts tax;

5 (b) The person engages in business activities within the  
6 geographical boundaries of the city for more than forty hours in a  
7 calendar year and the city imposes the tax provided for in section  
8 3(2)(b) of this act; or

9 (c) The person maintains a direct physical presence within the  
10 geographical boundaries of the city. For the purposes of this  
11 subsection, "direct physical presence" means (i) maintaining,  
12 occupying, or using a permanent building or facility, or fixed location  
13 as an office or location for conducting business; (ii) a location where  
14 the regular business of the taxpayer is conducted and which is either  
15 owned by the taxpayer or over which the taxpayer exercises legal  
16 dominion and control; and (iii) a place where the taxpayer holds  
17 himself or herself out to do business with the public at large.

18 (3) The rate of general license fee provided in subsection (1) of  
19 this section is applied uniformly among all persons regardless of  
20 employment levels, gross receipts, type of business, square footage, or  
21 any other measure and shall not exceed the equivalent of one hundred  
22 dollars per calendar year.

23 (4) Nothing in this section prohibits a city from charging license  
24 fees on persons for a regulatory or nonrevenue generating purpose.

25 **Sec. 12.** RCW 35.21.860 and 1983 2nd ex.s. c 3 s 39 are each  
26 amended to read as follows:

27 ~~((1))~~ No city or town may impose a franchise fee or any other fee  
28 or charge of whatever nature or description upon the light and power,  
29 or gas distribution businesses, as defined in RCW 82.16.010, or  
30 telephone business, as defined in RCW 82.04.065, except that ~~((a))~~  
31 (1) a tax authorized by ~~((RCW 35.21.865))~~ section 3 of this act may be  
32 imposed and ~~((b))~~ (2) a fee may be charged to such businesses that  
33 recovers actual administrative expenses incurred by a city or town that  
34 are directly related to receiving and approving a permit, license, and  
35 franchise, to inspecting plans and construction, or to the preparation  
36 of a detailed statement pursuant to chapter 43.21C RCW.

37 ~~((2) Subsection (1) of this section does not prohibit franchise~~  
38 ~~fees imposed on an electrical energy, natural gas, or telephone~~

1 ~~business, by contract existing on April 20, 1982, with a city or town,~~  
2 ~~for the duration of the contract, but the franchise fees shall be~~  
3 ~~considered taxes for the purposes of the limitations established in RCW~~  
4 ~~35.21.865 and 35.21.870 to the extent the fees exceed the costs~~  
5 ~~allowable under subsection (1) of this section.)~~

6 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
7 each repealed:

8 (1) RCW 35.21.706 (Imposition or increase of business and  
9 occupation tax--Referendum procedure required--Exclusive procedure) and  
10 1983 c 99 s 6;

11 (2) RCW 35.21.710 (License fees or taxes on certain business  
12 activities--Uniform rate required--Maximum rate established) and 1983  
13 2nd ex.s. c 3 s 33, 1983 c 99 s 7, 1982 1st ex.s. c 49 s 7, 1981 c 144  
14 s 6, & 1972 ex.s. c 134 s 6;

15 (3) RCW 35.21.711 (License fees or taxes on certain business  
16 activities--Excess rates authorized by voters) and 1982 1st ex.s. c 49  
17 s 8;

18 (4) RCW 35.21.712 (License fees or taxes on telephone business to  
19 be at uniform rate) and 1983 2nd ex.s. c 3 s 35 & 1981 c 144 s 8;

20 (5) RCW 35.21.714 (License fees or taxes on telephone business--  
21 Imposition on certain gross revenues authorized--Limitations) and 1989  
22 c 103 s 1, 1986 c 70 s 1, 1983 2nd ex.s. c 3 s 37, & 1981 c 144 s 10;

23 (6) RCW 35.21.715 (Taxes on network telephone services) and 1989 c  
24 103 s 2 & 1986 c 70 s 2;

25 (7) RCW 35.21.850 (Taxation of motor carriers of freight for hire--  
26 Limitation--Exceptions) and 1982 c 169 s 3;

27 (8) RCW 35.21.865 (Electricity, telephone, or natural gas  
28 business--Limitations on tax rate changes) and 1983 c 99 s 4 & 1982 1st  
29 ex.s. c 49 s 3;

30 (9) RCW 35.21.870 (Electricity, telephone, natural gas, or steam  
31 energy business--Tax limited to six percent--Exception) and 1984 c 225  
32 s 6, 1983 c 99 s 5, & 1982 1st ex.s. c 49 s 4; and

33 (10) RCW 35.21.871 (Tax on telephone business--Deferral of rate  
34 reduction) and 1986 c 70 s 3.

35 NEW SECTION. **Sec. 14.** Sections 1 through 9 of this act constitute  
36 a new chapter in Title 35 RCW.

1        NEW SECTION.    **Sec. 15.**    RCW 35.21.717, 35.21.718, 35.21.840, and  
2    35.21.845 are recodified as sections in chapter 35.-- RCW (sections 1  
3    through 9 of this act).

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