
HOUSE BILL 3172

State of Washington 56th Legislature 2000 1 Special Session

By Representatives Koster and Thomas

Read first time . Referred to Committee on .

1 AN ACT Relating to limiting taxes and fees; adding new sections to
2 chapter 43.135 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.135 RCW
5 to read as follows:

6 The legislature recognizes the following:

7 (1) Article I, section 29 of the Washington state Constitution
8 provides that a frequent recurrence to fundamental principles is
9 essential to the security of individual rights and the perpetuity of
10 free government.

11 Article I, section 1 of the Washington state Constitution expresses
12 the fundamental principle that all political power is inherent in the
13 people, and governments derive their just powers from the consent of
14 the governed, and are established to protect and maintain individual
15 rights.

16 Article II, section 1 of the Washington state Constitution provides
17 that the legislative authority of the state of Washington is vested in
18 the legislature, but the people reserve to themselves the power to

1 propose laws and to enact or reject the same at the polls independent
2 of the legislature.

3 (2) The state Constitution, in contrast to the federal
4 Constitution, does not operate as a grant of powers to government but
5 rather as a limitation on the powers of government. The federal
6 government has no powers other than those which are expressly delegated
7 to it by the people or their representatives. The people and the state
8 governments have all powers other than those which the people or their
9 representatives have delegated pursuant to the federal Constitution or
10 limited pursuant to the state Constitution.

11 The people and their representatives have the legislative power to
12 act in any given field unless affirmatively restrained by the state
13 Constitution, and their legislative power is absolute unless expressly
14 limited in the state Constitution. The legislative power of the people
15 and their representatives to condition the imposition of tax or fee
16 increases upon popular approval is not affirmatively restrained or
17 expressly limited by the state Constitution and the people and their
18 representatives retain the right to make tax and fee increases
19 conditional upon popular approval.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.135 RCW
21 to read as follows:

22 (1) Except as otherwise provided in this act, any tax or fee
23 increase shall be submitted to the voters of the taxing jurisdiction in
24 which the tax or fee is to be imposed for their approval before it is
25 imposed by a governmental entity.

26 (2) This section requires a popular vote on proposed tax and fee
27 increases as a condition precedent that must be fulfilled before a tax
28 or fee increase can be enacted and imposed. This section is not
29 intended, and shall not be construed, to be a referendum under Article
30 II, section 1 of the Washington state Constitution.

31 (3) In the event this section is determined by a court to be
32 invalid and unenforceable for any reason, section 3 of this act shall
33 apply.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.135 RCW
35 to read as follows:

36 (1) Except as otherwise provided in this act, any tax or fee
37 increase shall be submitted to the voters of the taxing jurisdiction in

1 which the tax or fee is to be imposed for their advisory vote before it
2 is imposed by a governmental entity.

3 (2) In the event section 2 of this act is determined by a court to
4 be invalid and unenforceable for any reason, this section shall apply.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.135 RCW
6 to read as follows:

7 (1) For the purposes of this act, "tax" means any charge imposed by
8 a governmental entity on a person, property, or transaction for the
9 general funding of government without any direct connection between the
10 amount charged and the benefit received.

11 (2) For the purposes of this act, "fee" means any charge that is
12 not a tax that is imposed by a governmental entity on a person,
13 property, or transaction when the governmental entity is operating in
14 a capacity other than a proprietary capacity.

15 (3) For the purposes of this act, "tax" or "fee" does not include
16 any civil or criminal fine or other obligation imposed as a result of
17 a violation of law or contract, or any tax or fee otherwise approved by
18 a vote of the people.

19 (4) For the purposes of this act, "tax increase" or "fee increase"
20 includes, but is not necessarily limited to, a new tax or fee, a
21 monetary increase in an existing tax or fee, a tax or fee rate
22 increase, an expansion in the legal definition of a tax base or fee
23 formula, and an extension of an expiring tax or fee.

24 (5) For the purposes of this act, "governmental entity" includes,
25 but is not necessarily limited to, the state itself and all its
26 departments and agencies, any county, city, town, special district, and
27 other political subdivision or governmental instrumentality of or
28 within the state.

29 (6) This act does not apply to any specific emergency tax increase
30 measure authorized by vote of two-thirds of a legislative body,
31 otherwise authorized by law, that expires not later than twelve months
32 from the effective date of the emergency act.

33 (7)(a) This act does not apply to any specific emergency fee
34 increase measure authorized by vote of a legislative body or act of a
35 nonlegislative body, otherwise authorized by law, that expires not
36 later than thirty-six months from the effective date of the emergency
37 act, is not adopted less than thirty-six months from the adoption of

1 any previous specific emergency fee increase measure, and does not
2 exceed the fee increase limit established in this subsection.

3 (b)(i) The fee increase limit for any fiscal year shall be the
4 previous fiscal year's fee increased by a percentage rate that equals
5 the fee growth factor.

6 (ii) "Fee growth factor" means the average of the percentage change
7 in the implicit price deflator for the United States for each fiscal
8 year as published by the federal bureau of labor statistics for each of
9 the prior three fiscal years.

10 (8)(a) Any tax or fee increase adopted by a governmental entity
11 from July 2, 1999, through the effective date of this act is null and
12 void and of no effect unless the tax or fee increase was adopted in
13 accordance with the requirements of subsections (1) through (7) of this
14 section.

15 (b) Any tax or fee collected from a tax or fee increase not adopted
16 in accordance with the requirements of subsections (1) through (7) of
17 this section shall be refunded to the person or entity that paid the
18 tax or fee.

19 (9) This act is not intended, and shall not be construed, to
20 unlawfully impair any contract determined to exist by a court,
21 including any revenues or funds derived from any tax or fee increase
22 that are specifically dedicated or pledged to repay existing bonded
23 indebtedness.

24 (10)(a) This act shall be operative for all intents and purposes
25 unless preempted by federal law under Article VI of the United States
26 Constitution.

27 (b) If any provision of this act is found to be in conflict with
28 federal requirements that are a prescribed condition to the allocation
29 of federal funds to a governmental entity, the conflicting part of this
30 act remains operative regardless of the conflict.

31 (11) This act is intended to add to, and not replace, the
32 requirements for tax increases set forth in RCW 43.135.035.

33 NEW SECTION. **Sec. 5.** The provisions of this act are to be
34 liberally construed to effectuate the policies and purposes of this
35 act.

36 NEW SECTION. **Sec. 6.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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