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HOUSE BILL 1721

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Hunter, Orcutt and McIntire

Read first time 02/02/2005. Referred to Committee on Finance.

1            AN ACT Relating to simplifying the concurrent taxing jurisdictions  
2 of the tribal municipalities and the state; amending RCW 82.14.030,  
3 82.14.040, and 82.14.060; reenacting and amending RCW 82.14.050; adding  
4 a new section to chapter 82.14 RCW; creating a new section; providing  
5 an effective date; and declaring an emergency.

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

7            NEW SECTION.    **Sec. 1.** The legislature recognizes that state and  
8 tribal jurisdiction to tax the same transaction results in confusion  
9 regarding the imposition and collection of tax. It is the  
10 legislature's intent to allow tribal municipalities to contract with  
11 the department of revenue for the distribution of tax in the same  
12 manner as other cities and towns within the state of Washington.  
13 Additionally, it is the legislature's intent that the tribal municipal  
14 tax be treated the same as a tax imposed by a city or town tax insofar  
15 as calculating the percentage of tax to be shared between the county  
16 and the city or town.

17            NEW SECTION.    **Sec. 2.** A new section is added to chapter 82.14 RCW  
18 to read as follows:

1 (1) For the sole purposes of tax administration, in addition to the  
2 meaning given it in RCW 82.14.020, the word "city" includes an  
3 incorporated political subdivision of the Tulalip Tribes of Washington  
4 when that incorporated political subdivision, with defined boundaries  
5 within the reservation of the tribe, has received approval from the  
6 United States department of the treasury pursuant to 26 U.S.C. Sec.  
7 7871(d) and the regulations and procedures of the United States under  
8 26 U.S.C. Sec. 7871(d) to be treated as a political subdivision of an  
9 Indian tribal government for purposes of 26 U.S.C. Sec. 7871(d).

10 (2) As a pilot project, the department may enter into an interlocal  
11 cooperation agreement pursuant to chapter 39.34 RCW with any Indian  
12 tribe that has a city, as that term is used in subsection (1) of this  
13 section, to administer and collect tax under the provisions of RCW  
14 82.14.050 to be levied on activities occurring on federal Indian trust  
15 or restricted fee lands within the boundaries of the city as the  
16 boundaries are defined by the charter of the city. Any such agreement  
17 is subject to the following provisions:

18 (a) The tribal sales and use tax definitions must be uniform with  
19 the state and local sales and use tax definitions under chapters 82.08  
20 and 82.12 RCW and this chapter.

21 (b) The tribal tax rate must be no greater than that allowed cities  
22 under RCW 82.14.030.

23 (c) The tribe must agree to provide the county with a percentage of  
24 its revenue, in accordance with the provisions of RCW 82.14.030; this  
25 percentage subject to distribution by the department.

26 (3) The agreement may also cover additional areas of tax  
27 administration, including audit and compliance, and other  
28 administrative provisions of chapters 82.03, 82.08, 82.12, and 82.32  
29 RCW, as may be required to simplify tax administration and tax  
30 reporting. The department shall report to the legislature by December  
31 1, 2006, regarding the agreement. The report shall contain information  
32 on the fiscal impact of the agreement, administrative issues  
33 encountered during implementation, any legal issues that need to be  
34 addressed in state law, and any other matter significant to the  
35 agreement. The report shall contain a recommendation on the  
36 feasibility of extending this pilot project.

1       **Sec. 3.** RCW 82.14.030 and 1989 c 384 s 6 are each amended to read  
2 as follows:

3       (1) The governing body of any county or city while not required by  
4 legislative mandate to do so, may, by resolution or ordinance for the  
5 purposes authorized by this chapter, fix and impose a sales and use tax  
6 in accordance with the terms of this chapter. Such tax shall be  
7 collected from those persons who are taxable by the state pursuant to  
8 chapters 82.08 and 82.12 RCW, upon the occurrence of any taxable event  
9 within the county or city as the case may be: PROVIDED, That except as  
10 provided in RCW 82.14.230, this sales and use tax shall not apply to  
11 natural or manufactured gas. The rate of such tax imposed by a county  
12 shall be five-tenths of one percent of the selling price (in the case  
13 of a sales tax) or value of the article used (in the case of a use  
14 tax). The rate of such tax imposed by a city shall not exceed five-  
15 tenths of one percent of the selling price (in the case of a sales tax)  
16 or value of the article used (in the case of a use tax): PROVIDED,  
17 HOWEVER, That in the event a county shall impose a sales and use tax  
18 under this subsection, the rate of such tax imposed under this  
19 subsection by any city therein shall not exceed four hundred and  
20 twenty-five one-thousandths of one percent.

21       (2) Subject to the enactment into law of the 1982 amendment to RCW  
22 82.02.020 by section 5, chapter 49, Laws of 1982 1st ex. sess., in  
23 addition to the tax authorized in subsection (1) of this section, the  
24 governing body of any county or city may by resolution or ordinance  
25 impose an additional sales and use tax in accordance with the terms of  
26 this chapter. Such additional tax shall be collected upon the same  
27 taxable events upon which the tax imposed under subsection (1) of this  
28 section is levied. The rate of such additional tax imposed by a county  
29 shall be up to five-tenths of one percent of the selling price (in the  
30 case of a sales tax) or value of the article used (in the case of a use  
31 tax). The rate of such additional tax imposed by a city shall be up to  
32 five-tenths of one percent of the selling price (in the case of a sales  
33 tax) or value of the article used (in the case of a use tax): PROVIDED  
34 HOWEVER, That in the event a county shall impose a sales and use tax  
35 under this subsection at a rate equal to or greater than the rate  
36 imposed under this subsection by a city within the county, the county  
37 shall receive fifteen percent of the city tax: PROVIDED FURTHER, That  
38 in the event that the county shall impose a sales and use tax under

1 this subsection at a rate which is less than the rate imposed under  
2 this subsection by a city within the county, the county shall receive  
3 that amount of revenues from the city tax equal to fifteen percent of  
4 the rate of tax imposed by the county under this subsection. The  
5 authority to impose a tax under this subsection is intended in part to  
6 compensate local government for any losses from the phase-out of the  
7 property tax on business inventories.

8 (3) As used in this section, in addition to the meaning given in  
9 RCW 82.14.020, "city" has the meaning given in section 2 of this act.

10 **Sec. 4.** RCW 82.14.040 and 1982 1st ex.s. c 49 s 18 are each  
11 amended to read as follows:

12 (1) Any county ordinance adopted under RCW 82.14.030(1) shall  
13 contain, in addition to all other provisions required to conform to  
14 this chapter, a provision allowing a credit against the county tax  
15 imposed under RCW 82.14.030(1) for the full amount of any city sales or  
16 use tax imposed under RCW 82.14.030(1) or in conformance with an  
17 agreement subject to section 2 of this act upon the same taxable event.

18 (2) Any county ordinance adopted under RCW 82.14.030(2) shall  
19 contain, in addition to all other provisions required to conform to  
20 this chapter, a provision allowing a credit against the county tax  
21 imposed under RCW 82.14.030(2) for the full amount of any city sales or  
22 use tax imposed under RCW 82.14.030(2) or in conformance with an  
23 agreement subject to section 2 of this act upon the same taxable event  
24 up to the additional tax imposed by the county under RCW 82.14.030(2).

25 (3) As used in this section, in addition to the meaning given in  
26 RCW 82.14.020, "city" has the meaning given in section 2 of this act.

27 **Sec. 5.** RCW 82.14.050 and 2003 c 168 s 201 and 2003 c 83 s 208 are  
28 each reenacted and amended to read as follows:

29 (1) The counties, cities, and transportation authorities under RCW  
30 82.14.045, public facilities districts under chapters 36.100 and 35.57  
31 RCW, public transportation benefit areas under RCW 82.14.440, and  
32 regional transportation investment districts shall contract, prior to  
33 the effective date of a resolution or ordinance imposing a sales and  
34 use tax, the administration and collection to the state department of  
35 revenue, which shall deduct a percentage amount, as provided by

1 contract, not to exceed two percent of the taxes collected for  
2 administration and collection expenses incurred by the department.

3 (2) The remainder of any portion of any tax authorized by this  
4 chapter that is collected by the department of revenue shall be  
5 deposited by the state department of revenue in the local sales and use  
6 tax account hereby created in the state treasury. Moneys in the local  
7 sales and use tax account may be spent only for distribution to  
8 counties, cities, transportation authorities, public facilities  
9 districts, public transportation benefit areas, and regional  
10 transportation investment districts imposing a sales and use tax.

11 (3) All administrative provisions in chapters 82.03, 82.08, 82.12,  
12 and 82.32 RCW, as they now exist or may hereafter be amended, shall,  
13 insofar as they are applicable to state sales and use taxes, be  
14 applicable to taxes imposed pursuant to this chapter. Counties,  
15 cities, transportation authorities, public facilities districts, and  
16 regional transportation investment districts may not conduct  
17 independent sales or use tax audits of sellers registered under the  
18 streamlined sales tax agreement.

19 (4) Except as provided in RCW 43.08.190, all earnings of  
20 investments of balances in the local sales and use tax account shall be  
21 credited to the local sales and use tax account and distributed to the  
22 counties, cities, transportation authorities, public facilities  
23 districts, public transportation benefit areas, and regional  
24 transportation investment districts monthly.

25 (5) As used in this section, in addition to the meaning given in  
26 RCW 82.14.020, "city" has the meaning given in section 2 of this act.

27 **Sec. 6.** RCW 82.14.060 and 1991 c 207 s 3 are each amended to read  
28 as follows:

29 (1) Monthly the state treasurer shall make distribution from the  
30 local sales and use tax account to the counties, cities, transportation  
31 authorities, and public facilities districts the amount of tax  
32 collected on behalf of each taxing authority, less the deduction  
33 provided for in RCW 82.14.050. The state treasurer shall make the  
34 distribution under this section without appropriation.

35 (2) In the event that any ordinance or resolution imposes a sales  
36 and use tax at a rate in excess of the applicable limits contained

1 herein, such ordinance or resolution shall not be considered void in  
2 toto, but only with respect to that portion of the rate which is in  
3 excess of the applicable limits contained herein.

4 (3) As used in this section, in addition to the meaning given in  
5 RCW 82.14.020, "city" has the meaning given in section 2 of this act.

6 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 July 1, 2005.

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