
Finance Committee

HB 2749

Brief Description: Concerning local government taxation.

Sponsors: Representatives Nelson, White and Chase.

Brief Summary of Bill

- Eliminates remaining non-supplant provisions for the county public safety sales and use tax, the county mental health/chemical dependency sales and use tax, and multi-year lid lifts.
- Authorizes counties to impose utility taxes.
- Authorizes cities to impose business taxes on water-sewer districts.
- Allows city and county real estate excise taxes to be used for park maintenance and operation expenditures and eliminates non-supplant restrictions.
- Imposes the brokered natural gas use tax at the location where the gas is consumed or stored.

Hearing Date: 1/19/10

Staff: Jeffrey Mitchell (786-7139).

Background:

A county public safety sales and use tax was authorized in 2003. Subject to voter approval, counties may impose a tax up to 0.3 percent. At least one-third of the tax receipts must be devoted to criminal justice purposes, fire protection purposes, or both. A levying county retains 60 percent of the receipts and the remaining 40 percent is distributed to cities within the county on a per capita basis. The use of tax receipts must be stated in the ballot proposition that goes before the voters. Until calendar year 2010, tax receipts could not supplant (replace) existing funds being used for the purpose of the tax as provided in the ballot proposition. In 2009, the Legislature amended this non-supplant restriction, allowing counties to partially supplant

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

existing funds until January 1, 2015. The sales and use tax has been implemented in five counties: Kittitas, Walla Walla, Spokane, Whatcom, and Yakima.

A county mental health/chemical dependency sales and use tax of 0.1 percent was authorized in 2005. The proceeds of the tax must be devoted to county mental health treatment, chemical dependency, and therapeutic court programs and services. Until calendar year 2010, tax receipts could not supplant (replace) existing funds being used for these programs and services. In 2009, the Legislature amended this non-supplant restriction, allowing counties to partially supplant existing funds until January 1, 2015. The sales and use tax has been imposed in 13 counties: Clallam, Clark, Island, Jefferson, King, Okanogan, San Juan, Skagit, Snohomish, Spokane, Thurston, Wahkiakum, and Whatcom.

Regular property tax revenue for local governments is restricted to a growth rate of one percent plus new construction. However, voters may approve regular property tax increases above this one percent amount. This voter-approved increase is referred to as a lid lift. A lid lift may be for a single year or for multiple years, not exceeding six years. Multi-year lid lifts must be for a specific purpose, and multi-year lid lift funds may not supplant (replace) existing funds used for the purpose specified in the lid lift ballot proposition. In 2009, the Legislature eliminated this non-supplant restriction for any lid lift ballot proposition approved after July 26, 2009, except in King County, where the non-supplant restriction is eliminated only for ballot propositions approved in calendar years 2009, 2010, or 2011.

County legislative authorities may impose an excise tax on each sale of real property in unincorporated areas of the county. Similarly, city and town legislative authorities also may impose an excise tax on each sale of real property within their corporate limits. The rate of this real estate excise tax (REET I) may not exceed 0.25 percent of the selling price. Revenues generated from REET I must be used for financing qualifying capital projects and for housing relocation assistance. Furthermore, revenue from REET I may not supplant other funds reasonably available for these capital projects.

Counties, cities, and towns that are required to fully plan under the Growth Management Act (GMA) may impose an additional REET on each sale of real property. The tax rate may not exceed 0.25 percent of the selling price (REET II). Counties that opted to fully plan under the GMA, and the cities and towns within, may impose REET II with voter approval. With some exceptions, revenues generated from REET II may only be used for financing capital projects specified in the capital facilities element of a comprehensive plan adopted under the GMA. Furthermore, revenue from REET II may not supplant other funds reasonably available for these capital projects.

Washington imposes a separate and distinct use tax on the use of natural gas or manufactured gas. This tax is referred to as the brokered natural gas (BNG) use tax. Cities may impose a local version of the BNG use tax. The purpose of BNG use taxes is to eliminate differential tax treatment for natural gas purchased from gas companies, which is subject to state and local utility taxes, and gas purchased directly from producers by large, commercial users, which is not subject to utility taxes. The BNG use tax rates are identical to state and local utility tax rates. On May 20, 2008, Division II of the Washington Court of Appeals rendered a decision addressing the location where natural gas is first used for the purposes of imposing BNG use taxes. The appellant in the case, G-P Gypsum Corporation (Gypsum), consumed natural gas during the

process of manufacturing wallboard in Tacoma. Gypsum purchased the natural gas near both Sumas and Sumner. The City of Tacoma imposed a local BNG use tax. The city argued that while Gypsum took control of the gas at a location outside the city, Gypsum first "used" the gas inside the city. The court held that, for purposes of the local use tax on BNG, the place of first use is where the taxpayer initially exercises dominion and control over the gas and not the location where it is burned or stored by the taxpayer.

Summary of Bill:

The non-supplant restrictions for the county public safety sales and use tax are completely eliminated.

The non-supplant restrictions for the county chemical dependency/mental health sales and use tax are completely eliminated.

The non-supplant restrictions for multi-year lid lifts are completely eliminated.

Counties are authorized to impose a tax on utility companies. Generally, this would include electric, gas, telephone, water, sewer, solid waste, and cable businesses; however, counties with a population of 1.5 million or less may not impose a utility tax on gas companies. The tax rate is generally capped at six percent; however, counties with a population of 1.5 million or less may not impose a rate that exceeds one percent on electric power companies. Counties must provide a business deduction for gross income derived from consumers located within an incorporated area or the non-incorporated area of the county that is outside any urban growth area.

Cities and towns are authorized to impose a business tax on water-sewer districts. The tax rate may not exceed six percent. The tax may only be imposed on the gross income of a district derived from services provided within the city or town.

Cities and counties may use the additional real estate excise tax (REET II) for park maintenance and operation purposes. The non-supplant restrictions for REET II are completely eliminated.

The brokered natural gas use tax is imposed at the location where the gas is burned by the taxpayer or stored in a facility of the taxpayer for later consumption.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for Sections 2 and 4, which take effect January 1, 2015, and Section 9, which takes effect June 30, 2012.