

# SENATE BILL REPORT

## ESHB 3179

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As Reported by Senate Committee On:  
Ways & Means, March 1, 2010

**Title:** An act relating to local excise tax provisions for counties and cities.

**Brief Description:** Concerning local excise tax provisions for counties and cities.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Springer and Ericks).

**Brief History:** Passed House: 2/16/10, 51-47.

**Committee Activity:** Ways & Means: 2/27/10, 3/01/10 [DPA, DNP, w/oRec].

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Keiser, Kline, Kohl-Welles, McDermott, Murray, Oemig, Pridemore, Regala and Rockefeller.

**Minority Report:** Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Carrell, Hewitt, Honeyford and Schoesler.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Brandland and Parlette.

**Staff:** Dianne Criswell (786-7433)

**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 2010, tax receipts could not supplant (replace) existing funds being used for the purpose of the sales and use tax as provided in the ballot proposition. In 2009 the Legislature amended this non-supplant restriction, allowing counties to partially supplant existing funds until January 1, 2015.

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*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.*

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 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.

Counties may impose a local sales and use tax of 0.1 percent for criminal justice programs. This tax may be levied only by counties; however, the receipts are shared with cities: 10 percent goes to the county and the remaining 90 percent is apportioned to the county and all cities within the county on the basis of population. The initial imposition of the tax is subject to potential referendum by the voters. Currently 32 counties are levying the tax.

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.

Counties, cities, and towns are authorized to impose a tax on gambling activities. Tax rates vary depending upon the type of activity. State law requires any jurisdiction imposing a gambling tax to use the revenue primarily for local gambling enforcement programs.

**Summary of Bill (Recommended Amendments):** Cities may seek voter approval to impose the public safety sales and use tax at a rate not to exceed 0.1 percent. If a county imposes the public safety sales and use tax prior to a city within the county, the city tax rate may not exceed an amount that would cause the total tax rate for the county and city to exceed 0.3 percent. If a city imposes the tax prior to the county in which the city is located, the county must provide a credit against its tax for the city tax. Fifteen percent of the tax proceeds received by a city imposing the public safety sales and use tax must be distributed to the county.

The non-supplant restrictions for the public safety sales and use tax are removed.

Beginning January 1, 2011, a city with a population in excess of 50,000 and located in a county with a population over 800,000 is authorized to imposed the mental health/chemical dependency sales and use tax if the county has not imposed the tax. A county may later impose the tax, but must credit any city tax against the county's tax.

With respect to the criminal justice sales and use tax, the non-supplant restrictions are eliminated.

The local 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.

The permitted uses of local gambling taxes are expanded to include any public safety purpose.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments):**

- Removes a repeated sentence in the 0.3 percent public safety sales/use tax.
- Clarifies the timing of the city and county voter-approved tax in the 0.3 percent public safety sales/use tax.
- Cities which may impose the 0.1 percent sales/use tax for mental health must have population of 50,000 (from 200,000) in a county with a population of 800,000.
- Clarifies that if a city imposes the 0.1 percent sales/use tax for mental health, counties subsequently imposing the same tax after January 1, 2011, must credit their tax against the city tax.
- Removes human services as one of the ancillary civil justice system purposes of the 0.1 percent criminal justice sales and use tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed Substitute House Bill:** PRO: Local governments are struggling to pay for essential government services and limiting the use of revenue to new and expanded services is impractical when local governments cannot pay for existing services. The Cities would like to impose a voter-approved city sales tax of 0.1 percent for public safety when the counties do not wish to impose the tax or impose less than the maximum rate. The Legislature intended for brokered natural gas to be taxed, and this proposal fixes a loophole for local governments. That fix is a fairness issue and ensures that an in-lieu of utility tax is paid. Need for mental health services exceeds capacity. Much of this demand is within cities, so it makes sense to allow cities to impose the 0.1 percent mental health sales/use tax when the county does not wish to do so because residents in unincorporated areas might not want to fund services in cities for which they do not directly benefit.

CON: There is litigation pending; that process should be allowed to proceed. Manufacturers cannot afford another tax. Also, this will increase rates for utility users.

**Persons Testifying:** PRO: Craig Engelking, City of Seattle; Jim Justin, Association of Cities; Chuck Williams, King County; Seth Dawson, National Alliance on Mental Illness.

CON: Dan Coyne, Darigold and Simpson; Lisa Thatcher, Park and Public Affairs.