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HOUSE BILL 2797

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Williams and Nelson

Read first time 01/14/10. Referred to Committee on Finance.

1            AN ACT Relating to creating a mineral severance tax; reenacting and  
2 amending RCW 43.84.092; adding a new chapter to Title 82 RCW; creating  
3 a new section; and providing an effective date.

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

5            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
6 throughout this chapter unless the context clearly requires otherwise.

- 7            (1) "Mineral" means rock, stone, sand, and gravel.
- 8            (2) "Person" means "person" as defined in RCW 82.04.030.
- 9            (3) "Producer" means any person subject to tax under chapter 82.04  
10 RCW who, from the person's own land or from the land of another under  
11 a right or license granted by lease or other contract, either directly  
12 or by contracting with others for the necessary labor or mechanical  
13 services, severs minerals for sale or for commercial or industrial use.
- 14            (4) "Severance" or "sever" means the taking or producing from the  
15 lands or waters of this state of any mineral by whatever means used.
- 16            (5) "Value" means "value of products" as defined in RCW 82.04.450.

17            NEW SECTION.    **Sec. 2.**    (1) The legislative body of any county, by  
18 ordinance, may impose an excise tax upon the privilege of severing

1 minerals from the land or waters within the county. The tax is imposed  
2 upon the entire production in the county regardless of the place of  
3 sale or that delivery may be made outside the county or the state. The  
4 tax authorized in this section is in addition to any other taxes  
5 authorized by law.

6 (2) The tax imposed by this chapter on the severance of minerals is  
7 the liability of the producer.

8 (3) The rate of the tax imposed is five percent, to be divided as  
9 follows: One percent to the state general fund and four percent to the  
10 county imposing the tax.

11 (4) The measure of the tax is the value of the minerals.

12 NEW SECTION. **Sec. 3.** (1) Counties must contract, no less than  
13 seventy-five days prior to the effective date of an ordinance imposing  
14 the severance tax, for the administration and collection of the tax by  
15 the department. The department will deduct an amount, as provided by  
16 contract, not to exceed one percent of the taxes collected for  
17 administration and collection expenses incurred by the department. The  
18 remainder of any portion of any tax authorized by this chapter that is  
19 collected by the department must be deposited in the county severance  
20 taxation account created in the state treasury.

21 (2) The state treasurer must distribute moneys in the county  
22 severance taxation account to counties imposing a county severance tax  
23 authorized in section 2 of this act. Except as provided in RCW  
24 43.08.190, all earnings of investments of balances in the county  
25 severance taxation account must be credited to the county severance  
26 taxation account and distributed monthly to the counties imposing the  
27 tax.

28 NEW SECTION. **Sec. 4.** (1) The taxes imposed under this chapter are  
29 due and payable monthly within twenty-five days after the end of the  
30 month in which the taxable activity occurs. The department may relieve  
31 any taxpayer from the obligation of filing a monthly return and may  
32 require the return to cover other periods, but in no event may periodic  
33 returns be filed for a period greater than one year. In such cases tax  
34 returns and payments are due on or before the last day of the month  
35 next succeeding the end of the period covered by the return. The

1 department must assign a reporting frequency for the tax authorized in  
2 this chapter that coincides with the taxpayer's reporting frequency for  
3 the tax imposed in chapter 82.04 RCW.

4 (2) The taxpayer must file a return, upon the forms, or  
5 electronically as provided in RCW 82.32.080, setting forth the  
6 information, as the department may require, showing the amount of tax  
7 for which the taxpayer is liable for the reporting period. The  
8 taxpayer must transmit the return and remit payment of the amount due  
9 to the department by the due date.

10 NEW SECTION. **Sec. 5.** The following are exempt from the taxes  
11 imposed under this chapter:

12 (1) The value of any minerals severed from the land or waters by a  
13 person and moved from one place to another in the course of  
14 construction on the same site.

15 (2) The value of any minerals owned by a producer exempt from tax  
16 by reason of federal law or a compact negotiated by the state with a  
17 tribal government.

18 NEW SECTION. **Sec. 6.** Chapter 82.32 RCW applies to the tax  
19 authorized in section 2 of this act. The department may adopt any  
20 administrative rules necessary for the effective administration of this  
21 chapter.

22 **Sec. 7.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and  
23 2009 c 451 s 8 are each reenacted and amended to read as follows:

24 (1) All earnings of investments of surplus balances in the state  
25 treasury shall be deposited to the treasury income account, which  
26 account is hereby established in the state treasury.

27 (2) The treasury income account shall be utilized to pay or receive  
28 funds associated with federal programs as required by the federal cash  
29 management improvement act of 1990. The treasury income account is  
30 subject in all respects to chapter 43.88 RCW, but no appropriation is  
31 required for refunds or allocations of interest earnings required by  
32 the cash management improvement act. Refunds of interest to the  
33 federal treasury required under the cash management improvement act  
34 fall under RCW 43.88.180 and shall not require appropriation. The  
35 office of financial management shall determine the amounts due to or

1 from the federal government pursuant to the cash management improvement  
2 act. The office of financial management may direct transfers of funds  
3 between accounts as deemed necessary to implement the provisions of the  
4 cash management improvement act, and this subsection. Refunds or  
5 allocations shall occur prior to the distributions of earnings set  
6 forth in subsection (4) of this section.

7 (3) Except for the provisions of RCW 43.84.160, the treasury income  
8 account may be utilized for the payment of purchased banking services  
9 on behalf of treasury funds including, but not limited to, depository,  
10 safekeeping, and disbursement functions for the state treasury and  
11 affected state agencies. The treasury income account is subject in all  
12 respects to chapter 43.88 RCW, but no appropriation is required for  
13 payments to financial institutions. Payments shall occur prior to  
14 distribution of earnings set forth in subsection (4) of this section.

15 (4) Monthly, the state treasurer shall distribute the earnings  
16 credited to the treasury income account. The state treasurer shall  
17 credit the general fund with all the earnings credited to the treasury  
18 income account except:

19 The following accounts and funds shall receive their proportionate  
20 share of earnings based upon each account's and fund's average daily  
21 balance for the period: The aeronautics account, the aircraft search  
22 and rescue account, the budget stabilization account, the capitol  
23 building construction account, the Cedar River channel construction and  
24 operation account, the Central Washington University capital projects  
25 account, the charitable, educational, penal and reformatory  
26 institutions account, the cleanup settlement account, the Columbia  
27 river basin water supply development account, the common school  
28 construction fund, the county arterial preservation account, the county  
29 criminal justice assistance account, the county sales and use tax  
30 equalization account, the county severance taxation account, the data  
31 processing building construction account, the deferred compensation  
32 administrative account, the deferred compensation principal account,  
33 the department of licensing services account, the department of  
34 retirement systems expense account, the developmental disabilities  
35 community trust account, the drinking water assistance account, the  
36 drinking water assistance administrative account, the drinking water  
37 assistance repayment account, the Eastern Washington University capital  
38 projects account, the education construction fund, the education legacy

1 trust account, the election account, the energy freedom account, the  
2 energy recovery act account, the essential rail assistance account, The  
3 Evergreen State College capital projects account, the federal forest  
4 revolving account, the ferry bond retirement fund, the freight  
5 congestion relief account, the freight mobility investment account, the  
6 freight mobility multimodal account, the grade crossing protective  
7 fund, the public health services account, the health system capacity  
8 account, the personal health services account, the high capacity  
9 transportation account, the state higher education construction  
10 account, the higher education construction account, the highway bond  
11 retirement fund, the highway infrastructure account, the highway safety  
12 account, the high occupancy toll lanes operations account, the  
13 industrial insurance premium refund account, the judges' retirement  
14 account, the judicial retirement administrative account, the judicial  
15 retirement principal account, the local leasehold excise tax account,  
16 the local real estate excise tax account, the local sales and use tax  
17 account, the medical aid account, the mobile home park relocation fund,  
18 the motor vehicle fund, the motorcycle safety education account, the  
19 multimodal transportation account, the municipal criminal justice  
20 assistance account, the municipal sales and use tax equalization  
21 account, the natural resources deposit account, the oyster reserve land  
22 account, the pension funding stabilization account, the perpetual  
23 surveillance and maintenance account, the public employees' retirement  
24 system plan 1 account, the public employees' retirement system combined  
25 plan 2 and plan 3 account, the public facilities construction loan  
26 revolving account beginning July 1, 2004, the public health  
27 supplemental account, the public transportation systems account, the  
28 public works assistance account, the Puget Sound capital construction  
29 account, the Puget Sound ferry operations account, the Puyallup tribal  
30 settlement account, the real estate appraiser commission account, the  
31 recreational vehicle account, the regional mobility grant program  
32 account, the resource management cost account, the rural arterial trust  
33 account, the rural Washington loan fund, the site closure account, the  
34 small city pavement and sidewalk account, the special category C  
35 account, the special wildlife account, the state employees' insurance  
36 account, the state employees' insurance reserve account, the state  
37 investment board expense account, the state investment board commingled  
38 trust fund accounts, the state patrol highway account, the state route

1 number 520 corridor account, the supplemental pension account, the  
2 Tacoma Narrows toll bridge account, the teachers' retirement system  
3 plan 1 account, the teachers' retirement system combined plan 2 and  
4 plan 3 account, the tobacco prevention and control account, the tobacco  
5 settlement account, the transportation 2003 account (nickel account),  
6 the transportation equipment fund, the transportation fund, the  
7 transportation improvement account, the transportation improvement  
8 board bond retirement account, the transportation infrastructure  
9 account, the transportation partnership account, the traumatic brain  
10 injury account, the tuition recovery trust fund, the University of  
11 Washington bond retirement fund, the University of Washington building  
12 account, the urban arterial trust account, the volunteer firefighters'  
13 and reserve officers' relief and pension principal fund, the volunteer  
14 firefighters' and reserve officers' administrative fund, the Washington  
15 fruit express account, the Washington judicial retirement system  
16 account, the Washington law enforcement officers' and firefighters'  
17 system plan 1 retirement account, the Washington law enforcement  
18 officers' and firefighters' system plan 2 retirement account, the  
19 Washington public safety employees' plan 2 retirement account, the  
20 Washington school employees' retirement system combined plan 2 and 3  
21 account, the Washington state health insurance pool account, the  
22 Washington state patrol retirement account, the Washington State  
23 University building account, the Washington State University bond  
24 retirement fund, the water pollution control revolving fund, and the  
25 Western Washington University capital projects account. Earnings  
26 derived from investing balances of the agricultural permanent fund, the  
27 normal school permanent fund, the permanent common school fund, the  
28 scientific permanent fund, and the state university permanent fund  
29 shall be allocated to their respective beneficiary accounts. All  
30 earnings to be distributed under this subsection (4) shall first be  
31 reduced by the allocation to the state treasurer's service fund  
32 pursuant to RCW 43.08.190.

33 (5) In conformance with Article II, section 37 of the state  
34 Constitution, no treasury accounts or funds shall be allocated earnings  
35 without the specific affirmative directive of this section.

36 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute  
37 a new chapter in Title 82 RCW.

1        NEW SECTION.    **Sec. 9.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 10.**    This act takes effect July 1, 2010.

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