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HOUSE BILL 3179

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Springer and Ericks

Read first time 02/08/10. Referred to Committee on Finance.

1            AN ACT Relating to local excise tax provisions for counties and  
2 cities; amending RCW 82.14.450, 82.14.460, 82.14.340, 82.46.035,  
3 82.12.010, 82.14.230, 9.46.113, and 67.28.1815; reenacting and amending  
4 RCW 82.46.035; adding a new section to chapter 35.21 RCW; adding a new  
5 chapter to Title 36 RCW; repealing 2009 c 551 s 12 (uncodified);  
6 providing an effective date; and providing an expiration date.

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

8            **Sec. 1.** RCW 82.14.450 and 2009 c 551 s 1 are each amended to read  
9 as follows:

10            (1) A county legislative authority may (~~submit an authorizing~~  
11 ~~proposition to the county voters at a primary or general election and,~~  
12 ~~if the proposition is approved by a majority of persons voting,)~~  
13 authorize, fix, and impose a sales and use tax ((in accordance with the  
14 terms of this chapter)) until January 1, 2015. For counties that have  
15 not received voter approval to impose the tax under this section, to  
16 retain or impose the tax after December 31, 2014, the county must  
17 submit an authorizing proposition to the county voters at a primary or  
18 general election and a majority of persons voting must approve the  
19 continuation or imposition of the sales and use tax. The title of each

1 ballot measure must clearly state the purposes for which the proposed  
2 sales and use tax will be used. (~~Funds raised under this tax shall~~  
3 ~~not supplant existing funds used for these purposes, except as follows:~~  
4 ~~Up to one hundred percent may be used to supplant existing funding in~~  
5 ~~calendar year 2010; up to eighty percent may be used to supplant~~  
6 ~~existing funding in calendar year 2011; up to sixty percent may be used~~  
7 ~~to supplant existing funding in calendar year 2012; up to forty percent~~  
8 ~~may be used to supplant existing funding in calendar year 2013; and up~~  
9 ~~to twenty percent may be used to supplant existing funding in calendar~~  
10 ~~year 2014. For purposes of this subsection, existing funds means the~~  
11 ~~actual operating expenditures for the calendar year in which the ballot~~  
12 ~~measure is approved by voters. Actual operating expenditures excludes~~  
13 ~~lost federal funds, lost or expired state grants or loans,~~  
14 ~~extraordinary events not likely to reoccur, changes in contract~~  
15 ~~provisions beyond the control of the county or city receiving the~~  
16 ~~services, and major nonrecurring capital expenditures.)) The tax must  
17 be imposed in accordance with this chapter. Subject to the conditions  
18 in subsection 2 of this section, the rate of tax under this ((section))  
19 subsection may not exceed three-tenths of one percent of the selling  
20 price in the case of a sales tax, or value of the article used, in the  
21 case of a use tax.~~

22 (2)(a) Beginning January 1, 2011, a city legislative authority may  
23 authorize, fix, and impose a sales and use tax under this section until  
24 January 1, 2015. To retain or impose the tax after December 31, 2014,  
25 the city must submit an authorizing proposition to the city voters at  
26 a primary or general election and a majority of persons voting must  
27 approve the continuation or imposition of the sales and use tax. The  
28 title of each ballot measure must clearly state the purposes for which  
29 the proposed sales and use tax will be used. The tax must be imposed  
30 in accordance with this chapter. The rate of tax under this subsection  
31 may not exceed one-tenth of one percent of the selling price in the  
32 case of a sales tax, or value of the article used, in the case of a use  
33 tax.

34 (b) If a county imposes the sales and use tax under subsection (1)  
35 of this section prior to a city within the county imposing the tax  
36 under this subsection, the rate of tax by the city under this  
37 subsection may not exceed an amount that would cause the total county

1 and city tax rate under this section to exceed three-tenths of one  
2 percent. This subsection (b) also applies if the county and city begin  
3 imposing sales and use taxes under this section at the same time.

4 (c) If the city imposes the sales and use tax under this subsection  
5 prior to the county in which the city is located, the county must  
6 provide a credit against its tax under subsection (1) of this section  
7 for the city tax under this subsection.

8 (3) The tax authorized in this section is in addition to any other  
9 taxes authorized by law and must be collected from those persons who  
10 are taxable by the state under chapters 82.08 and 82.12 RCW upon the  
11 occurrence of any taxable event within the county.

12 ~~((+3))~~ (4) The retail sale or use of motor vehicles, and the lease  
13 of motor vehicles for up to the first thirty-six months of the lease,  
14 are exempt from tax imposed under this section.

15 ~~((+4))~~ (5) One-third of all money received under this section must  
16 be used solely for criminal justice purposes, fire protection purposes,  
17 or both. For the purposes of this subsection, "criminal justice  
18 purposes" has the same meaning as provided in RCW 82.14.340.

19 ~~((+5))~~ (6) Money received by a county under subsection (1) of this  
20 section must be shared between the county and the cities as follows:  
21 Sixty percent must be retained by the county and forty percent must be  
22 distributed on a per capita basis to cities in the county.

23 (7) Tax proceeds received by a city imposing a tax under this  
24 section must be shared between the county and city as follows: Eighty-  
25 five percent must be distributed to the county and fifteen percent is  
26 retained by the city.

27 **Sec. 2.** RCW 82.14.460 and 2009 c 551 s 2 are each amended to read  
28 as follows:

29 (1) (a) Except as provided in (b) of this subsection, a county  
30 legislative authority may authorize, fix, and impose a sales and use  
31 tax in accordance with the terms of this chapter.

32 (b) Any city with a population in excess of two hundred thousand  
33 and located in a county with a population over eight hundred thousand  
34 may authorize, fix, and impose the sales and use tax in lieu of the  
35 county if the county has not imposed the tax authorized under (a) of  
36 this subsection by January 1, 2011. If a city imposes the tax under

1 this subsection (1)(b) the county within which the city is located may  
2 not impose the tax authorized under (a) of this subsection.

3 (2) The tax authorized in this section (~~(shall be)~~) is in addition  
4 to any other taxes authorized by law and (~~(shall)~~) must be collected  
5 from those persons who are taxable by the state under chapters 82.08  
6 and 82.12 RCW upon the occurrence of any taxable event within the  
7 county. The rate of tax (~~(shall)~~) equals one-tenth of one percent of  
8 the selling price in the case of a sales tax, or value of the article  
9 used, in the case of a use tax.

10 (3) Moneys collected under this section (~~(shall)~~) must be used  
11 solely for the purpose of providing for the operation or delivery of  
12 chemical dependency or mental health treatment programs and services  
13 and for the operation or delivery of therapeutic court programs and  
14 services. For the purposes of this section, "programs and services"  
15 includes, but is not limited to, treatment services, case management,  
16 and housing that are a component of a coordinated chemical dependency  
17 or mental health treatment program or service.

18 ~~((4) All moneys collected under this section must be used solely~~  
19 ~~for the purpose of providing new or expanded programs and services as~~  
20 ~~provided in this section, except a portion of moneys collected under~~  
21 ~~this section may be used to supplant existing funding for these~~  
22 ~~purposes in any county as follows: Up to fifty percent may be used to~~  
23 ~~supplant existing funding in calendar year 2010; up to forty percent~~  
24 ~~may be used to supplant existing funding in calendar year 2011; up to~~  
25 ~~thirty percent may be used to supplant existing funding in calendar~~  
26 ~~year 2012; up to twenty percent may be used to supplant existing~~  
27 ~~funding in calendar year 2013; and up to ten percent may be used to~~  
28 ~~supplant existing funding in calendar year 2014.~~

29 ~~(5) Nothing in this section may be interpreted to prohibit the use~~  
30 ~~of moneys collected under this section for the replacement of lapsed~~  
31 ~~federal funding previously provided for the operation or delivery of~~  
32 ~~services and programs as provided in this section.))~~

33 **Sec. 3.** RCW 82.14.340 and 1995 c 309 s 1 are each amended to read  
34 as follows:

35 The legislative authority of any county may fix and impose a sales  
36 and use tax in accordance with the terms of this chapter, provided that  
37 such sales and use tax is subject to repeal by referendum, using the

1 procedures provided in RCW 82.14.036. The referendum procedure  
2 provided in RCW 82.14.036 is the exclusive method for subjecting any  
3 county sales and use tax ordinance or resolution to a referendum vote.

4 The tax authorized in this section shall be in addition to any  
5 other taxes authorized by law and shall be collected from those persons  
6 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW  
7 upon the occurrence of any taxable event within such county. The rate  
8 of tax shall equal one-tenth of one percent of the selling price (in  
9 the case of a sales tax) or value of the article used (in the case of  
10 a use tax).

11 When distributing moneys collected under this section, the state  
12 treasurer shall distribute ten percent of the moneys to the county in  
13 which the tax was collected. The remainder of the moneys collected  
14 under this section shall be distributed to the county and the cities  
15 within the county ratably based on population as last determined by the  
16 office of financial management. In making the distribution based on  
17 population, the county shall receive that proportion that the  
18 unincorporated population of the county bears to the total population  
19 of the county and each city shall receive that proportion that the city  
20 incorporated population bears to the total county population.

21 Moneys received from any tax imposed under this section shall be  
22 expended (~~(exclusively)~~) for criminal justice purposes (~~(and shall not  
23 be used to replace or supplant existing funding)~~). Criminal justice  
24 purposes are defined as activities that substantially assist the  
25 criminal justice system, which may include circumstances where  
26 ancillary benefit to the civil justice system occurs, and which  
27 include(~~(s)~~) human services, domestic violence services such as those  
28 provided by domestic violence programs, community advocates, and legal  
29 advocates, as defined in RCW 70.123.020. (~~(Existing funding for  
30 purposes of this subsection is defined as calendar year 1989 actual  
31 operating expenditures for criminal justice purposes. Calendar year  
32 1989 actual operating expenditures for criminal justice purposes  
33 exclude the following: Expenditures for extraordinary events not  
34 likely to reoccur, changes in contract provisions for criminal justice  
35 services, beyond the control of the local jurisdiction receiving the  
36 services, and major nonrecurring capital expenditures.)~~)

37 In the expenditure of funds for criminal justice purposes as  
38 provided in this section, cities and counties, or any combination

1   thereof, are expressly authorized to participate in agreements,  
2   pursuant to chapter 39.34 RCW, to jointly expend funds for criminal  
3   justice purposes of mutual benefit. Such criminal justice purposes of  
4   mutual benefit include, but are not limited to, the construction,  
5   improvement, and expansion of jails, court facilities, ~~((and))~~ juvenile  
6   justice facilities, and services with ancillary benefits to the civil  
7   justice system.

8       NEW SECTION.     **Sec. 4.**     (1) Subject to the conditions and  
9   requirements of this section, a county may impose an excise tax on the  
10  privilege of engaging in business as a utility. The tax is equal to  
11  the gross income derived from providing service to consumers within the  
12  county multiplied by the rate provided in subsection (3) of this  
13  section. A county may submit a ballot proposition to the voters to  
14  seek voter approval to impose the utility tax under this section, but  
15  is not required to do so.

16       (2) A county with a population of one million five hundred thousand  
17  persons or less may not impose an excise tax on the privilege of  
18  engaging in business as a gas utility.

19       (3) A county may not impose a rate of tax that exceeds six percent,  
20  except a county with a population of one million five hundred thousand  
21  persons or less may not impose a rate that exceeds one percent on an  
22  electrical power utility.

23       (4) A county must use taxes collected under the authority of this  
24  section only for public safety, infrastructure, capital projects, and  
25  other services.

26       (5) A utility subject to tax under this section must add the tax to  
27  the rates or charges it makes for utility services and separately state  
28  the amount of tax on billings.

29       (6) A county may initially impose the tax authorized under this  
30  section only on the first day of a calendar quarter and no sooner than  
31  seventy-five days from the date the county adopts the ordinance or  
32  resolution imposing the tax.

33       (7) A county may provide exemptions for sales by utilities to  
34  business customers, such as manufacturing facilities, aircraft repair  
35  facilities, industrial parks, industrial facilities, farm businesses,  
36  and computer data centers. A county may not provide a general

1 exemption for sales by utilities to residential customers unless  
2 business customers are also exempt.

3 (8) A county must allow a credit against the cable service utility  
4 tax for any franchise fee paid by the cable service utility to the  
5 county.

6 (9) A county must provide a deduction for gross income derived from  
7 providing utility service to consumers located within the incorporated  
8 areas of the county.

9 (10) The following definitions apply throughout this section unless  
10 the context clearly requires otherwise.

11 (a) "Cable service utility" means a person providing cable service  
12 as defined in the federal telecommunications act of 1996.

13 (b) "Electrical power utility" means a "light and power business"  
14 as defined in RCW 82.16.010.

15 (c) "Gas utility" means a "gas distribution business" as defined in  
16 RCW 82.16.010.

17 (d) "Gross income" has the same meaning as provided in RCW  
18 82.16.010.

19 (e) "Sewer utility" means a sewerage collection business as that  
20 term is used in chapter 82.16 RCW.

21 (f) "Solid waste utility" means a "solid waste collection business"  
22 as defined in RCW 82.18.010.

23 (g) "Telephone utility" means a person providing  
24 "telecommunications service" as defined in RCW 82.04.065.

25 (h) "Water utility" means a "water distribution business" as  
26 defined in RCW 82.16.010.

27 (i) "Utility" means an electrical power utility, gas utility,  
28 telephone utility, water utility, sewer utility, solid waste utility,  
29 or cable service utility. "Utility" also means a water-sewer district  
30 formed under Title 57 RCW.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.21 RCW  
32 to read as follows:

33 (1) Subject to the requirements of this section, a city or town may  
34 impose a tax upon the gross income of a water-sewer district formed  
35 under Title 57 RCW.

36 (2) A city or town imposing the tax authorized under this section

1 may not impose a rate of tax that exceeds six percent. A city or town  
2 may impose the tax only upon the gross income of a water-sewer district  
3 derived from services provided within the city or town.

4 (3) A city or town imposing the tax authorized under this section  
5 must allow a credit against the tax for any franchise fee paid by a  
6 water-sewer district to the city or town.

7 **Sec. 6.** RCW 82.46.035 and 2009 c 211 s 1 are each amended to read  
8 as follows:

9 (1) The legislative authority of any county or city (~~shall~~) must  
10 identify in the adopted budget the capital projects and park  
11 maintenance and operation expenditures, or both, funded in whole or in  
12 part from the proceeds of the tax authorized in this section(~~, and~~  
13 ~~shall indicate that such tax is intended to be in addition to other~~  
14 ~~funds that may be reasonably available for such capital projects~~)).

15 (2) The legislative authority of any county or any city that plans  
16 under RCW 36.70A.040(1) may impose an additional excise tax on each  
17 sale of real property in the unincorporated areas of the county for the  
18 county tax and in the corporate limits of the city for the city tax at  
19 a rate not exceeding one-quarter of one percent of the selling price.  
20 Any county choosing to plan under RCW 36.70A.040(2) and any city within  
21 such a county may only adopt an ordinance imposing the excise tax  
22 authorized by this section if the ordinance is first authorized by a  
23 proposition approved by a majority of the voters of the taxing district  
24 voting on the proposition at a general election held within the  
25 district or at a special election within the taxing district called by  
26 the district for the purpose of submitting such proposition to the  
27 voters.

28 (3) Revenues generated from the tax imposed under subsection (2) of  
29 this section (~~shall~~) must be used by such counties and cities  
30 (~~solely~~) for financing capital projects specified in a capital  
31 facilities plan element of a comprehensive plan and, until January 1,  
32 2014, park maintenance and operation expenditures. A county or city  
33 using a portion of revenues from the tax for park maintenance and  
34 operation expenditures may not use revenues to finance park facilities.  
35 However, revenues (a) pledged by such counties and cities to debt  
36 retirement prior to March 1, 1992, may continue to be used for that  
37 purpose until the original debt for which the revenues were pledged is



1 retired, or (b) committed prior to March 1, 1992, by such counties or  
2 cities to a project may continue to be used for that purpose until the  
3 project is completed.

4 (4) Revenues generated by the tax imposed by this section (~~shall~~)  
5 must be deposited in a separate account.

6 (5) As used in this section: (a) "City" means any city or town;  
7 (b) "capital project" means those public works projects of a local  
8 government for planning, acquisition, construction, reconstruction,  
9 repair, replacement, rehabilitation, or improvement of streets, roads,  
10 highways, sidewalks, street and road lighting systems, traffic signals,  
11 bridges, municipally owned heavy rail short line railroads, domestic  
12 water systems, storm and sanitary sewer systems, (~~and planning,~~  
13 ~~construction, reconstruction, repair, rehabilitation, or improvement of~~  
14 ~~parks~~) parks, recreational facilities, law enforcement facilities,  
15 fire protection facilities, trails, libraries, administrative and/or  
16 judicial facilities, and river and water flood control facilities; and  
17 (c) "short line railroads" means class III railroads as defined by the  
18 United States surface transportation board.

19 (6) When the governor files a notice of noncompliance under RCW  
20 36.70A.340 with the secretary of state and the appropriate county or  
21 city, the county or city's authority to impose the additional excise  
22 tax under this section (~~shall~~) must be temporarily rescinded until  
23 the governor files a subsequent notice rescinding the notice of  
24 noncompliance.

25 (7) A city or county may use revenue generated under subsection (2)  
26 of this section for municipally owned heavy short line railroads only  
27 if the revenue was collected prior to December 31, 2008, and may not  
28 use more than twenty-five percent of the total revenue generated under  
29 subsection (2) of this section for municipally owned heavy short line  
30 railroads.

31 **Sec. 7.** RCW 82.46.035 and 1992 c 221 s 3 and 1991 sp.s. c 32 s 33  
32 are each reenacted and amended to read as follows:

33 (1) The legislative authority of any county or city shall identify  
34 in the adopted budget the capital projects and park maintenance and  
35 operation expenditures, or both, funded in whole or in part from the  
36 proceeds of the tax authorized in this section(~~, and shall indicate~~

1 ~~that such tax is intended to be in addition to other funds that may be~~  
2 ~~reasonably available for such capital projects)).~~

3 (2) The legislative authority of any county or any city that plans  
4 under RCW 36.70A.040(1) may impose an additional excise tax on each  
5 sale of real property in the unincorporated areas of the county for the  
6 county tax and in the corporate limits of the city for the city tax at  
7 a rate not exceeding one-quarter of one percent of the selling price.  
8 Any county choosing to plan under RCW 36.70A.040(2) and any city within  
9 such a county may only adopt an ordinance imposing the excise tax  
10 authorized by this section if the ordinance is first authorized by a  
11 proposition approved by a majority of the voters of the taxing district  
12 voting on the proposition at a general election held within the  
13 district or at a special election within the taxing district called by  
14 the district for the purpose of submitting such proposition to the  
15 voters.

16 (3) Revenues generated from the tax imposed under subsection (2) of  
17 this section (~~shall~~) must be used by such counties and cities  
18 (~~solely~~) for financing capital projects specified in a capital  
19 facilities plan element of a comprehensive plan and, until January 1,  
20 2014, park maintenance and operation expenditures. A county or city  
21 using a portion of revenues from the tax for park maintenance and  
22 operation expenditures may not use revenues to finance park facilities.  
23 However, revenues (a) pledged by such counties and cities to debt  
24 retirement prior to March 1, 1992, may continue to be used for that  
25 purpose until the original debt for which the revenues were pledged is  
26 retired, or (b) committed prior to March 1, 1992, by such counties or  
27 cities to a project may continue to be used for that purpose until the  
28 project is completed.

29 (4) Revenues generated by the tax imposed by this section (~~shall~~)  
30 must be deposited in a separate account.

31 (5) As used in this section, "city" means any city or town and  
32 "capital project" means those public works projects of a local  
33 government for planning, acquisition, construction, reconstruction,  
34 repair, replacement, rehabilitation, or improvement of streets, roads,  
35 highways, sidewalks, street and road lighting systems, traffic signals,  
36 bridges, domestic water systems, storm and sanitary sewer systems,  
37 (~~and planning, construction, reconstruction, repair, rehabilitation,~~  
38 ~~or improvement of parks)) parks, recreational facilities, law~~

1 enforcement facilities, fire protection facilities, trails, libraries,  
2 administrative and/or judicial facilities, and river and water flood  
3 control facilities.

4 (6) When the governor files a notice of noncompliance under RCW  
5 36.70A.340 with the secretary of state and the appropriate county or  
6 city, the county or city's authority to impose the additional excise  
7 tax under this section (~~shall~~) must be temporarily rescinded until  
8 the governor files a subsequent notice rescinding the notice of  
9 noncompliance.

10 **Sec. 8.** RCW 82.12.010 and 2009 c 535 s 304 are each amended to  
11 read as follows:

12 For the purposes of this chapter:

13 (1) "Purchase price" means the same as sales price as defined in  
14 RCW 82.08.010;

15 (2)(a) "Value of the article used" shall be the purchase price for  
16 the article of tangible personal property, the use of which is taxable  
17 under this chapter. The term also includes, in addition to the  
18 purchase price, the amount of any tariff or duty paid with respect to  
19 the importation of the article used. In case the article used is  
20 acquired by lease or by gift or is extracted, produced, or manufactured  
21 by the person using the same or is sold under conditions wherein the  
22 purchase price does not represent the true value thereof, the value of  
23 the article used (~~shall be~~) is determined as nearly as possible  
24 according to the retail selling price at place of use of similar  
25 products of like quality and character under such rules as the  
26 department may prescribe.

27 (b) In case the articles used are acquired by bailment, the value  
28 of the use of the articles so used (~~shall~~) must be in an amount  
29 representing a reasonable rental for the use of the articles so bailed,  
30 determined as nearly as possible according to the value of such use at  
31 the places of use of similar products of like quality and character  
32 under such rules as the department of revenue may prescribe. In case  
33 any such articles of tangible personal property are used in respect to  
34 the construction, repairing, decorating, or improving of, and which  
35 become or are to become an ingredient or component of, new or existing  
36 buildings or other structures under, upon, or above real property of or  
37 for the United States, any instrumentality thereof, or a county or city

1 housing authority created pursuant to chapter 35.82 RCW, including the  
2 installing or attaching of any such articles therein or thereto,  
3 whether or not such personal property becomes a part of the realty by  
4 virtue of installation, then the value of the use of such articles so  
5 used (~~shall be~~) is determined according to the retail selling price  
6 of such articles, or in the absence of such a selling price, as nearly  
7 as possible according to the retail selling price at place of use of  
8 similar products of like quality and character or, in the absence of  
9 either of these selling price measures, such value may be determined  
10 upon a cost basis, in any event under such rules as the department of  
11 revenue may prescribe.

12 (c) In the case of articles owned by a user engaged in business  
13 outside the state which are brought into the state for no more than one  
14 hundred eighty days in any period of three hundred sixty-five  
15 consecutive days and which are temporarily used for business purposes  
16 by the person in this state, the value of the article used (~~shall~~)  
17 must be an amount representing a reasonable rental for the use of the  
18 articles, unless the person has paid tax under this chapter or chapter  
19 82.08 RCW upon the full value of the article used, as defined in (a) of  
20 this subsection.

21 (d) In the case of articles manufactured or produced by the user  
22 and used in the manufacture or production of products sold or to be  
23 sold to the department of defense of the United States, the value of  
24 the articles used (~~shall be~~) is determined according to the value of  
25 the ingredients of such articles.

26 (e) In the case of an article manufactured or produced for purposes  
27 of serving as a prototype for the development of a new or improved  
28 product, the value of the article used (~~shall be~~) is determined by:  
29 (i) The retail selling price of such new or improved product when first  
30 offered for sale; or (ii) the value of materials incorporated into the  
31 prototype in cases in which the new or improved product is not offered  
32 for sale.

33 (f) In the case of an article purchased with a direct pay permit  
34 under RCW 82.32.087, the value of the article used (~~shall be~~) is  
35 determined by the purchase price of such article if, but for the use of  
36 the direct pay permit, the transaction would have been subject to sales  
37 tax;

1 (3) "Value of the service used" means the purchase price for the  
2 digital automated service or other service, the use of which is taxable  
3 under this chapter. If the service is received by gift or under  
4 conditions wherein the purchase price does not represent the true value  
5 thereof, the value of the service used (~~shall be~~) is determined as  
6 nearly as possible according to the retail selling price at place of  
7 use of similar services of like quality and character under rules the  
8 department may prescribe;

9 (4) "Value of the extended warranty used" means the purchase price  
10 for the extended warranty, the use of which is taxable under this  
11 chapter. If the extended warranty is received by gift or under  
12 conditions wherein the purchase price does not represent the true value  
13 of the extended warranty, the value of the extended warranty used  
14 (~~shall be~~) is determined as nearly as possible according to the  
15 retail selling price at place of use of similar extended warranties of  
16 like quality and character under rules the department may prescribe;

17 (5) "Value of the digital good or digital code used" means the  
18 purchase price for the digital good or digital code, the use of which  
19 is taxable under this chapter. If the digital good or digital code is  
20 acquired other than by purchase, the value of the digital good or  
21 digital code must be determined as nearly as possible according to the  
22 retail selling price at place of use of similar digital goods or  
23 digital codes of like quality and character under rules the department  
24 may prescribe;

25 (6) "Use," "used," "using," or "put to use" have their ordinary  
26 meaning, and mean:

27 (a) With respect to tangible personal property, except for natural  
28 gas and manufactured gas, the first act within this state by which the  
29 taxpayer takes or assumes dominion or control over the article of  
30 tangible personal property (as a consumer), and include installation,  
31 storage, withdrawal from storage, distribution, or any other act  
32 preparatory to subsequent actual use or consumption within this state;

33 (b) With respect to a service defined in RCW 82.04.050(2)(a), the  
34 first act within this state after the service has been performed by  
35 which the taxpayer takes or assumes dominion or control over the  
36 article of tangible personal property upon which the service was  
37 performed (as a consumer), and includes installation, storage,

1 withdrawal from storage, distribution, or any other act preparatory to  
2 subsequent actual use or consumption of the article within this state;

3 (c) With respect to an extended warranty, the first act within this  
4 state after the extended warranty has been acquired by which the  
5 taxpayer takes or assumes dominion or control over the article of  
6 tangible personal property to which the extended warranty applies, and  
7 includes installation, storage, withdrawal from storage, distribution,  
8 or any other act preparatory to subsequent actual use or consumption of  
9 the article within this state;

10 (d) With respect to a digital good or digital code, the first act  
11 within this state by which the taxpayer, as a consumer, views,  
12 accesses, downloads, possesses, stores, opens, manipulates, or  
13 otherwise uses or enjoys the digital good or digital code;

14 (e) With respect to a digital automated service, the first act  
15 within this state by which the taxpayer, as a consumer, uses, enjoys,  
16 or otherwise receives the benefit of the service;

17 (f) With respect to a service defined as a retail sale in RCW  
18 82.04.050(6)(b), the first act within this state by which the taxpayer,  
19 as a consumer, accesses the prewritten computer software; (~~and~~)

20 (g) With respect to a service defined as a retail sale in RCW  
21 82.04.050(2)(g), the first act within this state after the service has  
22 been performed by which the taxpayer, as a consumer, views, accesses,  
23 downloads, possesses, stores, opens, manipulates, or otherwise uses or  
24 enjoys the digital good upon which the service was performed; and

25 (h) With respect to natural gas or manufactured gas, the use of  
26 which is taxable under RCW 82.12.022, including gas that is also  
27 taxable under the authority of RCW 82.14.230, the first act within this  
28 state by which the taxpayer consumes the gas by burning the gas or  
29 storing the gas in the taxpayer's own facilities for later consumption  
30 by the taxpayer;

31 (7) "Taxpayer" and "purchaser" include all persons included within  
32 the meaning of the word "buyer" and the word "consumer" as defined in  
33 chapters 82.04 and 82.08 RCW;

34 (8)(a)(i) Except as provided in (a)(ii) of this subsection (8),  
35 "retailer" means every seller as defined in RCW 82.08.010 and every  
36 person engaged in the business of selling tangible personal property at  
37 retail and every person required to collect from purchasers the tax  
38 imposed under this chapter.

1 (ii) "Retailer" does not include a professional employer  
2 organization when a covered employee coemployed with the client under  
3 the terms of a professional employer agreement engages in activities  
4 that constitute a sale of tangible personal property, extended  
5 warranty, digital good, digital code, or a sale of any digital  
6 automated service or service defined as a retail sale in RCW 82.04.050  
7 (2) (a) or (g), (3)(a), or (6)(b) that is subject to the tax imposed by  
8 this chapter. In such cases, the client, and not the professional  
9 employer organization, is deemed to be the retailer and is responsible  
10 for collecting and remitting the tax imposed by this chapter.

11 (b) For the purposes of (a) of this subsection, the terms "client,"  
12 "covered employee," "professional employer agreement," and  
13 "professional employer organization" have the same meanings as in RCW  
14 82.04.540;

15 (9) "Extended warranty" has the same meaning as in RCW  
16 82.04.050(7);

17 (10) The meaning ascribed to words and phrases in chapters 82.04  
18 and 82.08 RCW, insofar as applicable, (~~shall have~~) has full force and  
19 effect with respect to taxes imposed under the provisions of this  
20 chapter. "Consumer," in addition to the meaning ascribed to it in  
21 chapters 82.04 and 82.08 RCW insofar as applicable, (~~shall~~) also  
22 means any person who distributes or displays, or causes to be  
23 distributed or displayed, any article of tangible personal property,  
24 except newspapers, the primary purpose of which is to promote the sale  
25 of products or services. With respect to property distributed to  
26 persons within this state by a consumer as defined in this subsection  
27 (10), the use of the property shall be deemed to be by such consumer.

28 **Sec. 9.** RCW 82.14.230 and 1989 c 384 s 2 are each amended to read  
29 as follows:

30 (1) The governing body of any city, while not required by  
31 legislative mandate to do so, may, by resolution or ordinance for the  
32 purposes authorized by this chapter, fix and impose on every person a  
33 use tax for the privilege of using natural gas or manufactured gas in  
34 the city as a consumer.

35 (2) The tax (~~shall be~~) is imposed in an amount equal to the value  
36 of the article used by the taxpayer multiplied by the rate in effect  
37 for the tax on natural gas businesses under RCW 35.21.870 in the city

1 in which the article is used. The "value of the article used," does  
2 not include any amounts that are paid for the hire or use of a natural  
3 gas business in transporting the gas subject to tax under this  
4 subsection if those amounts are subject to tax under RCW 35.21.870.

5 (3) The tax imposed under this section (~~((shall))~~) does not apply to  
6 the use of natural or manufactured gas if the person who sold the gas  
7 to the consumer has paid a tax under RCW 35.21.870 with respect to the  
8 gas for which exemption is sought under this subsection.

9 (4) There (~~((shall-be))~~) is a credit against the tax levied under  
10 this section in an amount equal to any tax paid by:

11 (a) The person who sold the gas to the consumer when that tax is a  
12 gross receipts tax similar to that imposed pursuant to RCW 35.21.870 by  
13 another (~~((state))~~) municipality or other unit of local government with  
14 respect to the gas for which a credit is sought under this subsection;  
15 or

16 (b) The person consuming the gas upon which a use tax similar to  
17 the tax imposed by this section was paid to another (~~((state))~~)  
18 municipality or other unit of local government with respect to the gas  
19 for which a credit is sought under this subsection.

20 (5) The use tax (~~((hereby))~~) imposed (~~((shall))~~) must be paid by the  
21 consumer. The administration and collection of the tax (~~((hereby))~~)  
22 imposed (~~((shall-be))~~) is pursuant to RCW 82.14.050.

23 **Sec. 10.** RCW 9.46.113 and 1975 1st ex.s. c 166 s 11 are each  
24 amended to read as follows:

25 Any county, city or town which collects a tax on gambling  
26 activities authorized pursuant to RCW 9.46.110 shall use the revenue  
27 from such tax primarily for the purpose of (~~((enforcement-of-the~~  
28 ~~provisions-of-this-chapter-by-the-county, city or town law-enforcement~~  
29 ~~agency))~~) public safety.

30 **Sec. 11.** RCW 67.28.1815 and 2008 c 264 s 3 are each amended to  
31 read as follows:

32 Except as provided in RCW 67.28.180, all revenue from taxes imposed  
33 under this chapter shall be credited to a special fund in the treasury  
34 of the municipality imposing such tax and used solely for the purpose  
35 of paying all or any part of the cost of tourism promotion, acquisition  
36 of tourism-related facilities, or operation of tourism-related



1 facilities. Municipalities may, under chapter 39.34 RCW, agree to the  
2 utilization of revenue from taxes imposed under this chapter for the  
3 purposes of funding a multijurisdictional tourism-related facility.  
4 After the effective date of this section, revenue from taxes imposed  
5 under this chapter may also be used for governmental purposes that will  
6 maintain or enhance tourism, including public safety improvements.

7 NEW SECTION. **Sec. 12.** Section 4 of this act constitutes a new  
8 chapter in Title 36 RCW.

9 NEW SECTION. **Sec. 13.** Section 7 of this act takes effect June 30,  
10 2012.

11 NEW SECTION. **Sec. 14.** Section 6 of this act expires June 30,  
12 2012.

13 NEW SECTION. **Sec. 15.** 2009 c 551 s 12 (uncodified) is hereby  
14 repealed.

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