
SENATE BILL 6874

State of Washington 61st Legislature 2010 Regular Session

By Senators Tom, Keiser, and Kohl-Welles

Read first time 02/24/10. Referred to Committee on Ways & Means.

1 AN ACT Relating to providing funding for the basic health plan by
2 increasing the taxes on certain tobacco products and facilitating the
3 funding within the state expenditure limit; amending RCW 82.24.020,
4 82.24.026, and 43.135.035; adding a new section to chapter 70.47 RCW;
5 repealing RCW 82.24.027 and 82.24.028; making an appropriation;
6 providing an effective date; and declaring an emergency.

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

8 **Sec. 1.** RCW 82.24.020 and 2009 c 479 s 66 are each amended to read
9 as follows:

10 (1) There is levied and (~~there shall be~~) collected as provided in
11 this chapter, a tax upon the sale, use, consumption, handling,
12 possession, or distribution of all cigarettes, in an amount equal to
13 (~~one and fifteen one hundredths~~) 12.125 cents per cigarette. All
14 revenues collected from the tax in this section must be deposited into
15 the state general fund.

16 (2) (~~An additional tax is imposed upon the sale, use, consumption,~~
17 ~~handling, possession, or distribution of all cigarettes, in an amount~~
18 ~~equal to five hundred twenty five one thousandths of a cent per~~

1 cigarette. ~~All revenues collected during any month from this~~
2 ~~additional tax shall be deposited in the state general fund by the~~
3 ~~twenty fifth day of the following month.~~

4 ~~(3) An additional tax is imposed upon the sale, use, consumption,~~
5 ~~handling, possession, or distribution of all cigarettes, in an amount~~
6 ~~equal to two and five one hundredths cents per cigarette. All revenues~~
7 ~~collected during any month from this additional tax shall be deposited~~
8 ~~in the state general fund by the twenty fifth day of the following~~
9 ~~month.~~

10 ~~(4))~~ Wholesalers subject to the payment of this tax may, if they
11 wish, absorb five one-hundredths cents per cigarette of the tax and not
12 pass it on to purchasers without being in violation of this section or
13 any other act relating to the sale or taxation of cigarettes.

14 ~~((+5))~~ (3) For purposes of this chapter, "possession" ~~((shall))~~
15 means both (a) physical possession by the purchaser and, (b) when
16 cigarettes are being transported to or held for the purchaser or his or
17 her designee by a person other than the purchaser, constructive
18 possession by the purchaser or his or her designee, which constructive
19 possession ~~((shall be))~~ is deemed to occur at the location of the
20 cigarettes being so transported or held.

21 ~~((+6))~~ (4) In accordance with federal law and rules prescribed by
22 the department, an enrolled member of a federally recognized Indian
23 tribe may purchase cigarettes from an Indian tribal organization under
24 the jurisdiction of the member's tribe for the member's own use exempt
25 from the applicable taxes imposed by this chapter. Except as provided
26 in subsection ~~((+7))~~ (5) of this section, any person, who purchases
27 cigarettes from an Indian tribal organization and who is not an
28 enrolled member of the federally recognized Indian tribe within whose
29 jurisdiction the sale takes place, is not exempt from the applicable
30 taxes imposed by this chapter.

31 ~~((+7))~~ (5) If the state enters into a cigarette tax contract or
32 agreement with a federally recognized Indian tribe under chapter 43.06
33 RCW, the terms of the contract or agreement ~~((shall))~~ take precedence
34 over any conflicting provisions of this chapter while the contract or
35 agreement is in effect.

36 **Sec. 2.** RCW 82.24.026 and 2009 c 479 s 67 are each amended to read
37 as follows:

1 (1) In addition to the tax imposed upon the sale, use, consumption,
2 handling, possession, or distribution of cigarettes set forth in RCW
3 82.24.020, there is imposed a tax in an amount equal to three cents per
4 cigarette.

5 (2) The revenue collected under this section (~~shall~~) must be
6 deposited as follows:

7 (a) (~~28.5~~) 14 percent (~~shall~~) must be deposited into the
8 general fund.

9 (b) The remainder (~~shall~~) must be deposited into the education
10 legacy trust account.

11 NEW SECTION. Sec. 3. The following acts or parts of acts are each
12 repealed:

13 (1) RCW 82.24.027 (Additional tax imposed--Rate--Deposited into the
14 general fund) and 2009 c 479 s 68, 2008 c 86 s 303, 1999 c 309 s 925,
15 & 1986 c 3 s 12; and

16 (2) RCW 82.24.028 (Additional tax imposed--Rate--Deposited into the
17 general fund) and 2009 c 479 s 69, 2008 c 86 s 304, & 2002 c 2 s 3.

18 NEW SECTION. Sec. 4. A new section is added to chapter 70.47 RCW
19 to read as follows:

20 The basic health plan stabilization account is created in the state
21 treasury. Funds from the account must be used to fund enrollment in
22 the subsidized basic health plan under this chapter.

23 NEW SECTION. Sec. 5. The sum of eighty-five million six hundred
24 ninety-eight thousand dollars is appropriated from the general fund for
25 deposit into the basic health plan stabilization account for the fiscal
26 year ending June 30, 2011. The funds used from this appropriation must
27 be used to support enrollment for approximately thirty-six thousand six
28 hundred low-income individuals in the subsidized basic health plan for
29 fiscal year 2011.

30 Sec. 6. RCW 43.135.035 and 2010 c ... (ESSB 6130 as amended by the
31 House) s 2 are each amended to read as follows:

32 (1) After July 1, 2011, any action or combination of actions by the
33 legislature that raises taxes may be taken only if approved by a
34 two-thirds vote of each house of the legislature, and then only if

1 state expenditures in any fiscal year, including the new revenue, will
2 not exceed the state expenditure limits established under this chapter.
3 Pursuant to the referendum power set forth in Article II, section 1(b)
4 of the state Constitution, tax increases may be referred to the voters
5 for their approval or rejection at an election.

6 (2)(a) If the legislative action under subsection (1) of this
7 section will result in expenditures in excess of the state expenditure
8 limit, then the action of the legislature (~~shall~~) may not take effect
9 until approved by a vote of the people at a November general election.
10 The state expenditure limit committee (~~shall~~) must adjust the state
11 expenditure limit by the amount of additional revenue approved by the
12 voters under this section. This adjustment (~~shall~~) may not exceed
13 the amount of revenue generated by the legislative action during the
14 first full fiscal year in which it is in effect. The state expenditure
15 limit (~~shall~~) must be adjusted downward upon expiration or repeal of
16 the legislative action.

17 (b) The ballot title for any vote of the people required under this
18 section shall be substantially as follows:

19 "Shall taxes be imposed on in order to allow a
20 spending increase above last year's authorized spending adjusted for
21 personal income growth?"

22 (3)(a) The state expenditure limit may be exceeded upon declaration
23 of an emergency for a period not to exceed twenty-four months by a law
24 approved by a two-thirds vote of each house of the legislature and
25 signed by the governor. The law (~~shall~~) must set forth the nature of
26 the emergency, which is limited to natural disasters that require
27 immediate government action to alleviate human suffering and provide
28 humanitarian assistance. The state expenditure limit may be exceeded
29 for no more than twenty-four months following the declaration of the
30 emergency and only for the purposes contained in the emergency
31 declaration.

32 (b) Additional taxes required for an emergency under this section
33 may be imposed only until thirty days following the next general
34 election, unless an extension is approved at that general election.
35 The additional taxes (~~shall~~) expire upon expiration of the
36 declaration of emergency. The legislature (~~shall~~) may not impose
37 additional taxes for emergency purposes under this subsection unless
38 funds in the education construction fund have been exhausted.

1 (c) The state or any political subdivision of the state (~~shall~~)
2 may not impose any tax on intangible property listed in RCW 84.36.070
3 as that statute exists on January 1, 1993.

4 (4) If the cost of any state program or function is shifted from
5 the state general fund to another source of funding, or if moneys are
6 transferred from the state general fund to another fund or account, the
7 state expenditure limit committee, acting pursuant to RCW
8 43.135.025(5), (~~shall~~) must lower the state expenditure limit to
9 reflect the shift. For the purposes of this section, a transfer of
10 money from the state general fund to another fund or account includes
11 any state legislative action taken that has the effect of reducing
12 revenues from a particular source, where such revenues would otherwise
13 be deposited into the state general fund, while increasing the revenues
14 from that particular source to another state or local government
15 account. This subsection does not apply to: (a) The dedication or use
16 of lottery revenues under RCW 67.70.240(3), in support of education or
17 education expenditures; (~~or~~) (b) a transfer of moneys to, or an
18 expenditure from, the budget stabilization account; or (c) the deposit
19 of funds to the basic health plan stabilization account under section
20 5 of this act or the appropriation of those funds.

21 (5) If the cost of any state program or function and the ongoing
22 revenue necessary to fund the program or function are shifted to the
23 state general fund on or after January 1, 2007, the state expenditure
24 limit committee, acting pursuant to RCW 43.135.025(5), (~~shall~~) must
25 increase the state expenditure limit to reflect the shift unless the
26 shifted revenue had previously been shifted from the general fund.

27 (6) For the purposes of chapter 1, Laws of 2008, "raises taxes"
28 means any action or combination of actions by the legislature that
29 increases state tax revenue deposited in any fund, budget, or account,
30 regardless of whether the revenues are deposited into the general fund.

31 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of the
33 state government and its existing public institutions, and takes effect
34 June 1, 2010.

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